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SENATE BILL 511

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO AUDITING; AMENDING THE AUDIT ACT; RESTRUCTURING
AUDIT REQUIREMENTS; EXPANDING THE DEFINITION OF "AGENCY";
AMENDING LOCAL PUBLIC BODY AUDIT THRESHOLDS; PROVIDING FOR
STATEWIDE SINGLE AUDITS; UPDATING TERMS; AMENDING THE AUDIT
FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 6-6-1 NMSA 1978 (being Laws 1957,
Chapter 250, Section 1, as amended) is amended to read:

"6-6-1. DEFINITIONS.--"Local public body" means every
political subdivision of the state that expends public money
from whatever source derived, including counties, county
institutions, boards, bureaus or commissions; incorporated
cities, towns or villages; drainage, conservancy, irrigation or
other districts; charitable institutions for which an

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1 appropriation is made by the legislature; and every office or
2 officer of any of the above. "Local public body" does not
3 include a mutual domestic water consumers association, a land
4 grant, an incorporated municipality or a special district with
5 an annual revenue [~~exclusive of capital outlay funds, federal~~
6 ~~or private grants or capital outlay funds disbursed directly by~~
7 ~~an administrating agency~~] of less than [~~fifty thousand dollars~~
8 ~~(\$50,000)~~] one hundred thousand dollars (\$100,000), nor county,
9 municipal, consolidated, union or rural school districts and
10 their officers or irrigation districts organized under Sections
11 73-10-1 through 73-10-47 NMSA 1978."

12 SECTION 2. Section 12-6-2 NMSA 1978 (being Laws 1969,
13 Chapter 68, Section 2, as amended) is amended to read:

14 "12-6-2. DEFINITIONS.--As used in the Audit Act:

15 A. "agency" means:

16 (1) any department, institution, board,
17 bureau, court, commission, district or committee of the
18 government of the state, including district courts, magistrate
19 or metropolitan courts, district attorneys and charitable
20 institutions for which appropriations are made by the
21 legislature;

22 (2) any political subdivision of the state,
23 created under either general or special act, that receives or
24 expends public money from whatever source derived, including
25 counties, county institutions, boards, bureaus or commissions;

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1 municipalities; drainage, conservancy, irrigation or other
2 special districts; and school districts;

3 (3) any entity or instrumentality of the state
4 specifically provided for by law, including the New Mexico
5 finance authority, the New Mexico mortgage finance authority
6 and the New Mexico lottery authority;

7 (4) any organization subject to the
8 requirements of Section 6-5A-1 NMSA 1978 that supports a public
9 post-secondary educational institution; and

10 [~~4~~] (5) every office or officer of any
11 entity listed in Paragraphs (1) through [~~3~~] (4) of this
12 subsection; and

13 B. "local public body" means a mutual domestic
14 water consumers association, a land grant, an incorporated
15 municipality or a special district."

16 SECTION 3. Section 12-6-3 NMSA 1978 (being Laws 1969,
17 Chapter 68, Section 3, as amended) is amended to read:

18 "12-6-3. ANNUAL AND SPECIAL AUDITS--FINANCIAL
19 EXAMINATIONS.--

20 A. Except as otherwise provided in Subsection B of
21 this section, the financial affairs of every agency shall be
22 thoroughly examined and audited each year by the state auditor,
23 personnel of the state auditor's office designated by the state
24 auditor, [~~or~~] independent auditors approved by the state
25 auditor or personnel of the state auditor's office designated

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1 by the state auditor working jointly with independent auditors
2 approved by the state auditor. The annual comprehensive
3 ~~[annual]~~ financial report for the state shall be thoroughly
4 examined and audited each year by the state auditor, personnel
5 of the state auditor's office designated by the state auditor,
6 ~~[or]~~ independent auditors approved by the state auditor or
7 personnel of the state auditor's office designated by the state
8 auditor working jointly with independent auditors approved by
9 the state auditor. The audits shall be conducted in accordance
10 with generally accepted auditing standards, generally accepted
11 government auditing standards and rules ~~[issued]~~ promulgated by
12 the state auditor; provided that for fiscal year 2028 and each
13 fiscal year thereafter:

14 (1) an annual statewide federal single audit
15 shall be performed for purposes of complying with 31 U.S.C.
16 7501 through 7507 pertaining to audit evaluation of the
17 internal controls of this state and the state's compliance with
18 material features of federal laws and regulations related to
19 major federal assistance programs; and

20 (2) funding for the statewide federal single
21 audit shall be allocated to federal programs based on a
22 methodology that is in accordance with federal compliance
23 requirements.

24 B. The examination of the financial affairs of a
25 local public body shall be determined according to its cash and

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1 investments assets, annual revenue or federal expenditures each
2 year. All examinations and compliance with agreed-upon
3 procedures engagements shall be conducted in accordance with
4 generally accepted auditing standards, generally accepted
5 government auditing standards and rules issued by the state
6 auditor [~~If a local public body has an annual revenue,~~
7 ~~calculated on a cash basis of accounting, exclusive of capital~~
8 ~~outlay funds, federal or private grants or capital outlay funds~~
9 ~~disbursed directly by an administrating agency, of:~~

10 (1) ~~less than ten thousand dollars (\$10,000)~~
11 ~~and does not directly expend at least fifty percent of, or the~~
12 ~~remainder of, a single capital outlay award, it is exempt from~~
13 ~~submitting and filing quarterly reports and final budgets for~~
14 ~~approval to the local government division of the department of~~
15 ~~finance and administration and from any financial reporting to~~
16 ~~the state auditor;~~

17 (2) ~~at least ten thousand dollars (\$10,000)~~
18 ~~but less than fifty thousand dollars (\$50,000), it shall comply~~
19 ~~only with the applicable provisions of Section 6-6-3 NMSA 1978;~~

20 (3) ~~less than fifty thousand dollars (\$50,000)~~
21 ~~and directly expends at least fifty percent of, or the~~
22 ~~remainder of, a single capital outlay award, it shall submit to~~
23 ~~the state auditor a financial report consistent with agreed-~~
24 ~~upon procedures for financial reporting that are:~~

25 (a) ~~focused solely on the capital outlay~~

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1 ~~funds directly expended;~~

2 ~~(b) economically feasible for the~~
3 ~~affected local public body; and~~

4 ~~(c) determined by the state auditor~~
5 ~~after consultation with the affected local public body;~~

6 ~~(4) at least fifty thousand dollars (\$50,000)~~
7 ~~but not more than two hundred fifty thousand dollars~~
8 ~~(\$250,000), it shall submit to the state auditor, at a minimum,~~
9 ~~a financial report that includes a schedule of cash basis~~
10 ~~comparison and that is consistent with agreed-upon procedures~~
11 ~~for financial reporting that are:~~

12 ~~(a) narrowly tailored to the affected~~
13 ~~local public body;~~

14 ~~(b) economically feasible for the~~
15 ~~affected local public body; and~~

16 ~~(c) determined by the state auditor~~
17 ~~after consultation with the affected local public body;~~

18 ~~(5) at least fifty thousand dollars (\$50,000)~~
19 ~~but not more than two hundred fifty thousand dollars (\$250,000)~~
20 ~~and expends any capital outlay funds, it shall submit to the~~
21 ~~state auditor, at a minimum, a financial report that includes a~~
22 ~~schedule of cash basis comparison and a test sample of expended~~
23 ~~capital outlay funds and that is consistent with agreed-upon~~
24 ~~procedures for financial reporting that are:~~

25 ~~(a) narrowly tailored to the affected~~

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1 ~~local public body;~~

2 ~~(b) economically feasible for the~~
3 ~~affected local public body; and~~

4 ~~(c) determined by the state auditor~~
5 ~~after consultation with the affected local public body;~~

6 ~~(6) at least two hundred fifty thousand~~
7 ~~dollars (\$250,000) but not more than five hundred thousand~~
8 ~~dollars (\$500,000), it shall submit to the state auditor, at a~~
9 ~~minimum, a compilation of financial statements and a financial~~
10 ~~report consistent with agreed-upon procedures for financial~~
11 ~~reporting that are:~~

12 ~~(a) economically feasible for the~~
13 ~~affected local public body; and~~

14 ~~(b) determined by the state auditor~~
15 ~~after consultation with the affected local public body; or~~

16 ~~(7) five hundred thousand dollars (\$500,000)~~
17 ~~or more, it shall be thoroughly examined and audited as~~
18 ~~required by Subsection A of this section]; provided that for~~
19 ~~fiscal year 2026 and each fiscal year thereafter:~~

20 (1) if a local public body expends federal
21 funds more than the current federal expenditure threshold
22 requiring an audit pursuant to Title 2, Part 200 of the Code of
23 Federal Regulations, the local public body shall be examined
24 and audited pursuant to Subsection A of this section, and if a
25 local public body expends federal funds less than the current

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1 federal expenditure threshold requiring an audit pursuant to
2 Title 2, Part 200 of the Code of Federal Regulations, the local
3 public body shall make these records available for review and
4 audit;

5 (2) if a local public body has cash or
6 investments that are more than two hundred fifty thousand
7 dollars (\$250,000), the local public body shall be examined and
8 audited pursuant to Subsection A of this section; and

9 (3) if a local public body has revenue,
10 calculated on the cash basis of accounting, of:

11 (a) less than one hundred thousand
12 dollars (\$100,000) and does not directly expend at least fifty
13 percent of, or the remainder of, a single capital outlay award,
14 the local public body is exempt from submitting and filing
15 quarterly reports and final budgets to the local government
16 division of the department of finance and administration and
17 from any financial reporting to the state auditor;

18 (b) less than one hundred thousand
19 dollars (100,000) and directly expends at least fifty percent
20 of, or the remainder of, a single capital outlay award, the
21 local public body shall submit to the state auditor a financial
22 report consistent with agreed-upon procedures for financial
23 reporting that are: 1) focused solely on the capital outlay
24 funds directly expended; 2) economically feasible for the
25 affected local public body; and 3) determined by the state

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1 auditor after consultation with the affected local public body;

2 (c) more than or equal to one hundred
3 thousand dollars (\$100,000) but less than one million dollars
4 (\$1,000,000), the local public body shall submit to the state
5 auditor, at a minimum, a financial report that includes a
6 schedule of cash basis comparisons and a test sample of any
7 expended capital outlay funds and that is consistent with
8 agreed-upon procedures for financial reporting that are: 1)
9 narrowly tailored to the affected local public body; 2)
10 economically feasible for the affected local public body; and
11 3) determined by the state auditor after consultation with the
12 affected local public body; or

13 (d) one million dollars (\$1,000,000) or
14 more, the local public body shall be examined and audited as
15 required by Subsection A of this section.

16 C. In addition to the annual audit, the state
17 auditor may cause the financial affairs and transactions of an
18 agency to be audited in whole or in part.

19 D. If a local public body is required to be
20 examined and audited as required pursuant to Subsection A of
21 this section, the local public body shall not be eligible for
22 the reporting requirements provided pursuant to Paragraphs (1)
23 through (3) of Subsection B of this section and shall be
24 required to be examined and audited each year.

25 [~~D.~~] E. Annual financial and compliance audits of

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1 agencies under the oversight of the financial control division
2 of the department of finance and administration shall be
3 completed and submitted by an agency and independent auditor to
4 the state auditor no later than sixty days after the state
5 auditor receives notification from the financial control
6 division to the effect that an agency's books and records are
7 ready and available for audit. The local government division
8 of the department of finance and administration shall inform
9 the state auditor of the compliance or failure to comply by a
10 local public body with the provisions of Section 6-6-3 NMSA
11 1978.

12 [E.] F. In order to comply with United States
13 department of housing and urban development requirements, the
14 financial affairs of a public housing authority that is
15 determined to be a component unit in accordance with generally
16 accepted accounting principles, other than a housing department
17 of a local government or a regional housing authority, at the
18 public housing authority's discretion, may be audited
19 separately from the audit of its local primary government
20 entity. If a separate audit is made, the public housing
21 authority audit shall be included in the local primary
22 government entity audit and need not be conducted by the same
23 auditor who audits the financial affairs of the local primary
24 government entity.

25 [F.] G. The state auditor shall notify the

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1 legislative finance committee and the public education
2 department if:

3 (1) a school district, charter school or
4 regional education cooperative has failed to submit a required
5 audit report within ninety days of the due date specified by
6 the state auditor; and

7 (2) the state auditor has investigated the
8 matter and attempted to negotiate with the school district,
9 charter school or regional education cooperative but the school
10 district, charter school or regional education cooperative has
11 not made satisfactory progress toward compliance with the Audit
12 Act.

13 ~~[G.]~~ H. The state auditor shall notify the
14 legislative finance committee and the secretary of finance and
15 administration if:

16 (1) a state agency, state institution,
17 municipality or county has failed to submit a required audit
18 report within ninety days of the due date specified by the
19 state auditor; and

20 (2) the state auditor has investigated the
21 matter and attempted to negotiate with the state agency, state
22 institution, municipality or county but the state agency, state
23 institution, municipality or county has not made satisfactory
24 progress toward compliance with the Audit Act."

25 SECTION 4. Section 12-6-5 NMSA 1978 (being Laws 1969,

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1 Chapter 68, Section 5, as amended) is amended to read:

2 "12-6-5. REPORTS OF AUDITS.--

3 A. The state auditor shall cause a complete written
4 report to be made of each annual or special audit and
5 examination made. Each report shall set out in detail, in a
6 separate section, any violation of law or good accounting
7 practices found by the audit or examination. Each report of [~~a~~
8 ~~state~~] an agency shall include a list of individual deposit
9 accounts and investment accounts held by each [~~state~~] agency
10 audited. A copy of the report shall be sent to the agency
11 audited or examined; five days later, or earlier if the agency
12 waives the five-day period, the report shall become a public
13 record, at which time copies shall be sent to:

14 (1) the secretary of finance and
15 administration; and

16 (2) the legislative finance committee.

17 B. The state auditor shall send a copy of reports
18 of state agencies to the department of finance and
19 administration.

20 C. Within thirty days after receipt of the report,
21 the agency audited may notify the state auditor of any errors
22 in the report. If the state auditor is satisfied from data or
23 documents at hand, or by an additional investigation, that the
24 report is erroneous, the state auditor shall correct the report
25 and furnish copies of the corrected report to all parties

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1 receiving the original report."

2 SECTION 5. Section 12-6-13 NMSA 1978 (being Laws 1969,
3 Chapter 68, Section 13) is amended to read:

4 "12-6-13. AUDIT FUND--PAYMENT FOR AUDITS--EXPENSES OF
5 AUDITOR.--

6 A. ~~[There]~~ The "audit fund" is created as a
7 nonreverting fund in the state treasury [the "audit fund" into
8 which the state auditor shall deposit all]. The fund consists
9 of earmarked revenue, appropriations, gifts, grants, donations
10 and fees and costs received from agencies audited by [him] the
11 state auditor. The state auditor shall administer the fund,
12 and money in the fund is appropriated to the state auditor for
13 the purposes of carrying out the Audit Act. Disbursements from
14 the fund shall be made by warrant of the secretary of finance
15 and administration pursuant to vouchers signed by the state
16 auditor or the state auditor's authorized representative.

17 B. Fees and costs pursuant to Subsection A of this
18 section shall be determined by the state auditor to recover all
19 fees and costs of the state auditor for performing an
20 engagement in accordance with professional standards.

21 ~~[B.]~~ C. Payments for salaries and expenses of the
22 state auditor shall be made from the audit fund ~~[and the fund~~
23 ~~shall not revert at the end of any fiscal year]."~~

24 SECTION 6. Section 12-6-14 NMSA 1978 (being Laws 1969,
25 Chapter 68, Section 14, as amended) is amended to read:

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1 "12-6-14. CONTRACT AUDITS.--

2 A. The state auditor shall notify each agency or
3 local public body designated for audit or agreed-upon
4 procedures by an independent auditor, and the agency or local
5 public body shall enter into a contract with an independent
6 auditor of its choice in accordance with procedures prescribed
7 by rules of the state auditor; provided, however, that a state-
8 chartered charter school subject to oversight by the public
9 education department or an agency subject to oversight by the
10 higher education department shall receive approval from its
11 oversight agency prior to submitting a recommendation for an
12 independent auditor of its choice. The state auditor may
13 select the auditor for an agency or a local public body that
14 has not submitted a recommendation within sixty days of
15 notification by the state auditor to contract for the year
16 being audited, and the agency or local public body being
17 audited shall pay the cost of the audit or agreed-upon
18 procedures. Costs of the audit or agreed-upon procedures shall
19 be determined by the contracting parties in accordance with
20 applicable procurement law, policies and regulations to ensure
21 competitiveness and fairness. Each contract for auditing
22 entered into between an agency or a local public body and an
23 independent auditor shall be approved in writing by the state
24 auditor. Payment of public funds may not be made to an
25 independent auditor unless a contract is entered into and

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1 approved as provided in this section.

2 B. The state auditor, [~~or~~] the personnel of the
3 state auditor's office designated by the state auditor or a
4 contractor with specialized expertise shall examine all reports
5 of audits of agencies and local public bodies made pursuant to
6 contract. Based upon demonstration of work in progress, the
7 state auditor may authorize progress payments to the
8 independent auditor by the agency [~~being audited under~~
9 ~~contract~~] or local public body for whom the auditor is
10 providing services. Final payment for services rendered by an
11 independent auditor shall not be made until a determination and
12 written finding that the audit [~~has~~] or agreed-upon procedures
13 have been made in a competent manner in accordance with the
14 provisions of the contract and applicable rules by the state
15 auditor."