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SENATE BILL 363

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

R. L. Stockard

AN ACT

RELATING TO GOVERNMENTAL EXPENDITURES; CREATING THE
LEGISLATIVE GENERAL ACCOUNTING COMMITTEE; PROVIDING FOR A
LEGISLATIVE AUDITOR; PROVIDING POWERS AND DUTIES; MAKING AN
APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Legislative General Accounting Act".

Section 2. DEFINITIONS.--As used in the Legislative
General Accounting Act:

A. "agency" means any department, institution,
instrumentality, board, bureau, court, commission, district or
committee of the government of the state, including district
courts, magistrate courts, district attorneys, charitable
institutions and other private nonprofit organizations or

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1 associations that directly or indirectly receive
2 appropriations made by the legislature or that directly or
3 indirectly receive other public funds; every political
4 subdivision of the state, created under either general or
5 special act, that receives or expends public money from
6 whatever source derived, including counties, county
7 institutions, boards, bureaus or commissions; municipalities;
8 drainage, conservancy, irrigation or other special districts;
9 school districts; and every office, officer or contractor or
10 association of any of the above;

11 B. "committee" means the general accounting
12 committee; and

13 C. "special audits" mean the audits and studies of
14 agencies and state-funded programs that the committee directs
15 the legislative auditor to undertake and includes:

16 (1) financial-compliance special audits,
17 being a review of an agency's financial affairs and
18 transactions to determine whether the agency has expended
19 money in conformance with the legislature's purpose in
20 appropriating the funds to the agency and in compliance with
21 applicable laws and rules;

22 (2) economy and efficiency special audits,
23 being a review of an agency's programs, activities and
24 functions to determine whether the agency is managing and
25 using its resources economically and efficiently;

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1 (3) effectiveness special audits, being a
2 review of an agency's programs, activities and functions to
3 determine whether the desired results or benefits established
4 by the legislature are being achieved and whether alternatives
5 exist that may yield desired results at a lower cost; and

6 (4) performance special audits, being economy
7 and efficiency special audits or effectiveness special audits.

8 Section 3. COMMITTEE-- CREATION-- COMPOSITION-- VACANCIES--
9 SUBCOMMITTEES-- SALARIES. --

10 A. The "general accounting committee" is created
11 as a continuing joint committee of the legislature. The
12 committee shall consist of eight members and shall be
13 comprised of the senate majority leader and one other member
14 of the senate appointed by him, the senate minority leader and
15 one other member of the senate appointed by him, the majority
16 leader of the house of representatives and one other member of
17 the house appointed by him and the minority leader of the
18 house of representatives and one other member of the house
19 appointed by him. The senate majority leader, the senate
20 minority leader, the house majority leader and the house
21 minority leader may appoint other members of their respective
22 bodies to serve on the committee in their stead. Members of
23 the committee shall serve two-year terms. In odd-numbered
24 years the senate majority leader shall serve as chairman of
25 the committee and the house majority leader shall serve as

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1 vice chairman; in even-numbered years the house majority
2 leader shall serve as chairman of the committee and the senate
3 majority leader shall serve as vice chairman. All actions of
4 the committee shall require the affirmative vote of a majority
5 of the full committee membership.

6 B. The term of any member shall terminate when the
7 member ceases to be a member of the legislature. Vacancies on
8 the committee shall be filled for the unexpired term in the
9 same manner as the original appointments.

10 C. The chairman, with the consent of a majority of
11 the committee, may appoint subcommittees consisting of three
12 or more members, with representation from each party.
13 Subcommittees shall perform duties and exercise powers
14 specified by the committee.

15 D. The members of the committee shall receive per
16 diem and mileage as provided for members of other joint
17 legislative interim committees.

18 Section 4. COMMITTEE PURPOSE-- DUTIES AND
19 RESPONSIBILITIES-- POWERS. --

20 A. The purpose of the committee is to provide the
21 legislature and the public with independent special audits and
22 reports on the manner in which agencies discharge their
23 financial, management and program responsibilities. The
24 objective of the special audits is to furnish information and
25 recommendations on the following areas:

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1 (1) ways agencies can improve their service
2 to the citizens of New Mexico;

3 (2) whether agencies are complying with laws
4 and rules, including appropriations;

5 (3) the economy, efficiency and effectiveness
6 of agency operations; and

7 (4) whether agencies are effectively
8 accomplishing legislatively mandated duties.

9 B. In order to benefit the legislature and the
10 long-range needs of the entire state, the special audits shall
11 be competent, objective fair and nonpartisan.

12 C. The committee shall determine what special
13 audits are required and shall direct the legislative auditor
14 to undertake them. The committee shall select topics that
15 have potential for constructive impact by considering the
16 significance of and the degree of state control over proposed
17 areas for audit. It shall receive and review staff reports
18 submitted by the legislative auditor. The committee shall act
19 on staff reports and, in its report, recommend such
20 legislative or administrative measures it deems appropriate.
21 The committee shall report to each session of the legislature
22 on its activities and on the implementation of its
23 recommendations.

24 Section 5. LEGISLATIVE AUDITOR-- POSITION ESTABLISHED--
25 APPOINTMENT-- TERM - DUTIES-- QUALIFICATIONS-- REMOVAL. --

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1 A. The position of "legislative auditor" is
2 established. The legislative auditor shall be appointed by
3 the committee. His term of office shall be for six years. He
4 shall serve as executive secretary to the committee and shall
5 receive a salary to be set by the committee. The committee
6 shall not decrease his salary during his term in office. He
7 shall be a certified public accountant, a registered public
8 accountant or a certified internal auditor with demonstrated
9 competence in the fields of governmental accounting,
10 governmental auditing and performance auditing.

11 B. The legislative auditor may be removed from
12 office before the completion of his term by a two-thirds' vote
13 of the elected members of both houses of the legislature.

14 Section 6. STAFF.--The legislative auditor shall employ
15 such technical and clerical assistance as may be necessary to
16 carry out the provisions of the Legislative General Accounting
17 Act. Employees of the committee shall be employed without
18 regard to party affiliation and solely on the ground of
19 fitness to perform the duties of the position for which they
20 are hired.

21 Section 7. SPECIAL AUDITS--AUTHORIZATION BY COMMITTEE--
22 AUDITING STANDARDS--COORDINATING SPECIAL AUDITS WITH STATE
23 AUDITOR. --

24 A. All special audits conducted by the legislative
25 auditor, his staff or contract auditors contracted by the

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1 legislative auditor shall require prior authorization by the
2 committee.

3 B. Special audits shall be conducted in accordance
4 with generally accepted auditing standards promulgated by the
5 American institute of certified public accountants or in
6 accordance with standards for audit of governmental
7 organizations, programs, activities and functions, published
8 by the general accounting office of the United States and as
9 revised from time to time.

10 C. The legislative auditor shall plan and
11 coordinate financial-compliance special audits with the state
12 auditor to prevent unnecessary duplication of audit efforts.
13 The state auditor shall furnish the legislative auditor with
14 one copy of each agency's annual audit report.

15 Section 8. REQUESTS FOR SPECIAL AUDITS BY GOVERNOR OR
16 LEGISLATORS. -- The committee may direct a special audit of an
17 agency when so requested in writing by the governor or any
18 member or committee of the legislature. A written request
19 shall specify the justification for and objectives of the
20 audit. In directing the legislative auditor to conduct a
21 requested special audit, the committee may modify the
22 objectives of the audit to be performed.

23 Section 9. PRELIMINARY AND FINAL STAFF REPORTS OF
24 AUDITS-- AGENCY RESPONSES-- COMMITTEE REPORTS-- AGENCY REPORTS. --

25 A. The legislative auditor shall prepare a

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1 complete written staff report upon the completion of each
2 special audit. Each staff report shall describe the scope,
3 purpose and methodology of the special audit. It shall
4 clearly cite any findings of noncompliance with state law or
5 good management or accounting practices; uneconomical or
6 inefficient operations; and ineffective programs, activities
7 and functions and contain recommendations for appropriate
8 remedial legislative or administrative measures. The report
9 shall also cite findings of positive conditions or practices
10 and contain the written response of the audited agency if one
11 is submitted.

12 B. The legislative auditor shall distribute copies
13 of a preliminary draft of the staff report to the audited
14 agency. Within twenty days after receipt of the report, the
15 audited agency may submit a written response to the
16 legislative auditor. If the legislative auditor is satisfied
17 from data or documents at hand or by additional research that
18 there are errors in the preliminary draft, he shall correct
19 those errors.

20 C. The legislative auditor shall prepare a final
21 staff report after allowing the audited agency opportunity to
22 review and respond to the preliminary draft of the report.
23 Copies of the final staff report shall be provided to the
24 committee and to the audited agency.

25 D. The committee shall review the final staff

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1 report and may confer with representatives of the audited
2 agency. The committee shall then adopt a committee report
3 that includes the written responses of the audited agency, if
4 any. The committee report shall become a public record ten
5 days after adoption, at which time copies shall be provided
6 to:

- 7 (1) the head of the audited agency;
- 8 (2) the secretary of finance and
9 administration;
- 10 (3) the director of the legislative finance
11 committee;
- 12 (4) the director of the legislative council
13 service; and
- 14 (5) the state auditor.

15 E. If the committee report makes findings and
16 recommendations, within one hundred eighty days of the receipt
17 of it, the head of the audited agency shall submit a written
18 agency report to the chairman of the committee and the
19 legislative auditor. The agency report shall describe the
20 remedial action taken in response to the findings and
21 recommendations of the committee report.

22 Section 10. AGENCY ASSISTANCE TO THE COMMITTEE AND THE
23 LEGISLATIVE AUDITOR. --All officers and employees of audited
24 agencies shall provide such assistance, data, information and
25 records as may be requested by the committee or the

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1 legislative auditor to enable them to conduct and consummate
2 any special audit.

3 Section 11. CRIMINAL VIOLATIONS. --Immediately upon
4 discovery of any apparent violation of a criminal statute in
5 connection with the financial affairs or operations of an
6 agency, the legislative auditor shall report the violation to
7 the attorney general and furnish him with all data and
8 information in his possession relative to the violation,
9 unless this is a duplication of a report made by the state
10 auditor.

11 Section 12. OATHS--SUBPOENAS. --

12 A. Oaths may be administered by the legislative
13 auditor when necessary for a special audit.

14 B. When necessary for a special audit, the
15 committee may apply to the district court of Santa Fe county
16 for issuance of a subpoena to compel the attendance of
17 witnesses and the production of books and records. Process
18 under this section shall be served by any sheriff or deputy or
19 by any member of the New Mexico state police without cost.
20 Witnesses not then employed by an agency who are subpoenaed to
21 appear shall receive the same compensation, to be paid by the
22 committee, as that provided for witnesses subpoenaed before
23 the district court.

24 C. Any person subpoenaed under this section who
25 fails to appear, refuses to testify or fails to produce the

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1 required books or records is guilty of a misdemeanor and shall
2 be punished by a fine of not less than five hundred dollars
3 (\$500) nor more than one thousand dollars (\$1,000).

4 Section 13. PUBLIC DEPOSITORIES. -- The legislative
5 auditor may:

6 A. require depositories of public money to furnish
7 reconciliation sheets for the purpose of checking the deposits
8 of public funds;

9 B. inspect the books and records of any depository
10 concerning public funds; and

11 C. examine employees of a depository under oath
12 concerning the correctness of the reconciliation or any entry
13 upon the books or records of the depository relating to public
14 funds.

15 Section 14. RULES. -- The committee shall promulgate
16 reasonable rules necessary to carry out the provisions of the
17 Legislative General Accounting Act, including rules required
18 for conducting special audits in accordance with generally
19 accepted auditing standards and in accordance with the
20 standards for audit of governmental organizations, programs,
21 activities and functions. The rules shall become effective
22 upon filing in accordance with the State Rules Act.

23 Section 15. AUDITING COSTS. -- The cost of all special
24 audits shall be borne by the committee, unless the agency
25 agrees to assume the cost.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5 February 10, 1999

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8 Mr. President:

9
10 Your PUBLIC AFFAIRS COMMITTEE, to whom has been
11 referred

12
13 SENATE BILL 363

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 FINANCE COMMITTEE.

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19 Respectfully submitted,

Shannon Robinson, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 4 For 2 Against

Yes: 4

No: Garcia, Robinson

Excused: Feldman, Ingle, Smith

Absent: None

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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5
6 February 17, 1999

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8 Mr. President:

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10 Your FINANCE COMMITTEE, to whom has been referred

11
12 SENATE BILL 363

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14 has had it under consideration and reports same with
15 recommendation that it DO PASS.

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18 Respectfully submitted,

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24 Ben D. Altamirano, Chairman

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Adopted _____ Not

1 Adopted _____

2 (Chief Clerk)

(Chief Clerk)

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6 Date _____

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9 The roll call vote was 4 For 3 Against

10 Yes: 4

11 No: Lyons, Wilson, Altamirano

12 Excused: Carraro, Eisenstadt, Ingle, McKibben, Rodriguez, Tsosie

13 Absent: None

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