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SENATE BILL 269

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

Siah Correa Hemphill

AN ACT

RELATING TO CAPITAL EXPENDITURES; ENACTING THE PUBLIC FINANCE ACCOUNTABILITY ACT; CREATING THE PUBLIC FINANCE ACCOUNTABILITY FUND; ESTABLISHING FUNDING CRITERIA AND GRANT MANAGEMENT AND OVERSIGHT REQUIREMENTS; ENUMERATING DUTIES OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Public Finance Accountability Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Public Finance Accountability Act:

A. "annual audit" means the annual audit or examination of the financial affairs of a grantee required by Section 12-6-3 NMSA 1978;

B. "department" means the department of finance and  
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1 administration;

2 C. "grant" means a non-exchange transaction whereby  
3 a state agency makes all or a part of a capital outlay  
4 appropriation available to a grantee;

5 D. "grant agreement" means a written agreement  
6 pursuant to which a state agency grants all or a part of a  
7 capital outlay appropriation to a grantee;

8 E. "grantee" means an entity to which a state  
9 agency grants or considers granting all or a part of a capital  
10 outlay appropriation; and

11 F. "state agency" means any department,  
12 institution, board, bureau, commission, district or committee  
13 of state government and includes every office or officer of a  
14 department, an institution, a board, a bureau, a commission, a  
15 district or a committee of state government.

16 SECTION 3. [NEW MATERIAL] PUBLIC FINANCE ACCOUNTABILITY  
17 FUND.--The "public finance accountability fund" is created in  
18 the state treasury. The fund consists of appropriations,  
19 gifts, grants and donations. The office of the state auditor  
20 shall administer the fund, and money in the fund is  
21 appropriated to the office of the state auditor to assist  
22 grantees in complying with the Audit Act. Disbursements from  
23 the fund shall be made by warrant of the secretary of finance  
24 and administration pursuant to vouchers signed by the state  
25 auditor or the state auditor's designee.

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1           SECTION 4.   [NEW MATERIAL] FUNDING CRITERIA.--

2           A.   The department shall establish the following  
3 funding criteria for a grantee to be eligible for a grant:

4                   (1)   a grantee's annual audit for the most  
5 recently concluded fiscal year must be a public record pursuant  
6 to Section 12-6-3 NMSA 1978;

7                   (2)   in the case of a grantee whose most recent  
8 annual audit, or special audit released since its most recent  
9 annual audit became a public record, documents material  
10 weaknesses or significant deficiencies that raise concerns  
11 about the grantee's ability to expend grant funds in accordance  
12 with applicable law and account for and safeguard grant funds  
13 and assets acquired with grant funds:

14                           (a)   the grantee shall have remedied the  
15 material weaknesses and significant deficiencies to the  
16 satisfaction of the state agency making the grant;

17                           (b)   the state agency making the grant  
18 shall have determined that it can impose and has the resources  
19 to implement special grant conditions that adequately address  
20 the material weaknesses and deficiencies; or

21                           (c)   the state agency making the grant  
22 shall have determined that another appropriate entity is able  
23 and willing to act as fiscal agent for the grant;

24                   (3)   in the case of a grantee that is not  
25 required to have annual audits conducted pursuant to the Audit

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1 Act:

2 (a) the grantee shall have demonstrated  
3 to the satisfaction of the state agency making the grant that  
4 it has adequate accounting methods and procedures to expend  
5 grant funds in accordance with applicable law and account for  
6 and safeguard grant funds and assets acquired by grant funds;

7 (b) the state agency shall have  
8 determined that it can impose and has the resources to  
9 implement special grant conditions that will adequately address  
10 any relevant deficiencies in the grantee's accounting methods  
11 and procedures; or

12 (c) the state agency shall have  
13 determined that another appropriate entity is able and willing  
14 to act as fiscal agent for the grant; and

15 (4) the grantee shall be in compliance with  
16 any financial reporting requirements, including those  
17 enumerated in the Audit Act, and shall have a budget for the  
18 current fiscal year approved by any applicable governing body  
19 or oversight agency.

20 B. The department shall require the funding  
21 criteria set forth in Subsection A of this section to be met  
22 prior to allowing a state agency to:

23 (1) certify to the state board of finance for  
24 the issuance of severance tax bonds for a project; or

25 (2) make a grant to a grantee.

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1           SECTION 5. [NEW MATERIAL] GRANT MANAGEMENT AND OVERSIGHT  
2 REQUIREMENTS.--The department shall establish grant management  
3 and oversight requirements that, at a minimum, require state  
4 agencies to:

5           A. ensure that sales, leases and licenses of  
6 capital assets acquired with capital outlay appropriations  
7 granted to a grantee are approved in accordance with applicable  
8 law;

9           B. in the event no oversight agency is required to  
10 approve of a sale, lease or license of capital assets acquired  
11 with capital outlay appropriations granted to a grantee,  
12 independently confirm that the disposition of capital assets  
13 complies with applicable law and that the grantee is receiving  
14 adequate consideration in exchange for the capital assets;

15           C. utilize the appropriate capital outlay grant  
16 agreement template developed by the department; and

17           D. conduct field audits of capital outlay projects,  
18 on a statistical or stratified basis, in accordance with  
19 procedures and policies prescribed by the department.

20           SECTION 6. [NEW MATERIAL] DUTIES OF THE DEPARTMENT.--The  
21 department shall:

22           A. prescribe procedures, policies and processing  
23 documents to implement the funding criteria and grant  
24 management requirements set forth in Sections 4 and 5 of the  
25 Public Finance Accountability Act;

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