

HOUSE BILL 271

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

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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

.227432.4AIC February 8, 2024 (10:38am)

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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 administration;

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

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

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

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

**SECTION 3. [NEW MATERIAL] PUBLIC FINANCE ACCOUNTABILITY FUND.--**The "public finance accountability fund" is created in the state treasury. The fund consists of appropriations,

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gifts, grants and donations. The office of the state auditor shall administer the fund, and money in the fund is appropriated to the office of the state auditor to assist grantees in complying with the Audit Act. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the state auditor or the state auditor's designee.

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

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

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

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

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

(b) the state agency making the grant shall have determined that it can impose and has the resources

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to implement special grant conditions that adequately address the material weaknesses and deficiencies; or

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

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

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

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

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

(4) the grantee shall be in compliance with any financial reporting requirements, including those enumerated in the Audit Act, and shall have a budget for the current fiscal year approved by any applicable governing body

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or oversight agency.

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

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

(2) make a grant to a grantee.

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

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

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

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

D. conduct field audits of capital outlay projects, on a statistical or stratified basis, in accordance with

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procedures and policies prescribed by the department.

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

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

B. prescribe one or more capital outlay grant agreement templates for use by state agencies;

C. develop criteria for granting requests for deviations from its grant agreement templates and grant management and oversight requirements; and

D. monitor and enforce state agencies' compliance with the funding criteria and grant management and oversight requirements required by Sections 4 and 5 of the Public Finance Accountability Act.

H AFC → ~~SECTION 7. APPROPRIATION.--One million dollars (\$1,000,000) is appropriated from the general fund to the public finance accountability fund for expenditure in fiscal year 2025 to support financial reporting for grantees pursuant to the Public Finance Accountability Act that are not in compliance with the Audit Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2025 shall revert to the general fund.~~ ← H AFC

SECTION H AFC → 8. ← H AFC H AFC → 7. ← H AFC EFFECTIVE DATE.--The

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effective date of the provisions of this act is July 1, 2024.

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