

1 SENATE BILL 574

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

4 John M. Sapien

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10 AN ACT

11 RELATING TO PUBLIC AUDITS; PROVIDING A TIERED SYSTEM OF  
12 FINANCIAL REPORTING FOR CERTAIN POLITICAL SUBDIVISIONS AND  
13 OTHER PUBLIC ENTITIES; ALLOWING A THREE-YEAR RETROACTIVE  
14 APPLICATION OF THE TIERED SYSTEM.

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

17 Section 1. Section 12-6-2 NMSA 1978 (being Laws 1969,  
18 Chapter 68, Section 2, as amended) is amended to read:

19 "12-6-2. [~~DEFINITION~~] DEFINITIONS.--As used in the Audit  
20 Act:

21 A. "agency" means:

22 [~~A.~~] (1) any department, institution, board,  
23 bureau, court, commission, district or committee of the  
24 government of the state, including district courts, magistrate  
25 or metropolitan courts, district attorneys and charitable

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1 institutions for which appropriations are made by the  
2 legislature;

3 [B-] (2) any political subdivision of the  
4 state, created under either general or special act, that  
5 receives or expends public money from whatever source derived,  
6 including counties, county institutions, boards, bureaus or  
7 commissions; municipalities; drainage, conservancy, irrigation  
8 or other special districts; and school districts;

9 [E-] (3) any entity or instrumentality of the  
10 state specifically provided for by law, including the New  
11 Mexico finance authority, the New Mexico mortgage finance  
12 authority and the New Mexico lottery authority; and

13 [D-] (4) every office or officer of any entity  
14 listed in [~~Subsections A through C~~] Paragraphs (1) through (3)  
15 of this [~~section~~] subsection; and

16 B. "local public body" means a mutual domestic  
17 water consumers association, a land grant, an incorporated  
18 municipality or a special district."

19 Section 2. Section 12-6-3 NMSA 1978 (being Laws 1969,  
20 Chapter 68, Section 3, as amended) is amended to read:

21 "12-6-3. ANNUAL AND SPECIAL AUDITS--FINANCIAL  
22 EXAMINATIONS.--

23 A. Except as otherwise provided in Subsection B of  
24 this section, the financial affairs of every agency shall be  
25 thoroughly examined and audited each year by the state auditor,

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1 personnel of the state auditor's office designated by the state  
2 auditor or independent auditors approved by the state auditor.  
3 The comprehensive annual financial report for the state shall  
4 be thoroughly examined and audited each year by the state  
5 auditor, personnel of the state auditor's office designated by  
6 the state auditor or independent auditors approved by the state  
7 auditor. The audits shall be conducted in accordance with  
8 generally accepted auditing standards and rules issued by the  
9 state auditor.

10 B. The examination of the financial affairs of a  
11 local public body shall be determined according to its annual  
12 revenue each year. All examinations and compliance with  
13 agreed-upon procedures shall be conducted in accordance with  
14 generally accepted accounting standards and rules issued by the  
15 state auditor. If a local public body has an annual revenue,  
16 calculated on a cash basis of accounting, exclusive of capital  
17 outlay funds, federal or private grants or capital outlay funds  
18 disbursed directly by an administrating agency, of:

19 (1) less than fifty thousand dollars  
20 (\$50,000), it shall comply only with the applicable provisions  
21 of Section 6-6-3 NMSA 1978;

22 (2) less than fifty thousand dollars (\$50,000)  
23 and directly expends at least fifty percent of, or the  
24 remainder of, a single capital outlay award, it shall submit to  
25 the state auditor a financial report consistent with agreed-

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1 upon procedures for financial reporting that are:

2 (a) focused solely on the capital outlay  
3 funds directly expended;

4 (b) economically feasible for the  
5 affected local public body; and

6 (c) determined by the state auditor  
7 after consultation with the affected local public body;

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

14 (a) narrowly tailored to the affected  
15 local public body;

16 (b) economically feasible for the  
17 affected local public body; and

18 (c) determined by the state auditor  
19 after consultation with the affected local public body;

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

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1 procedures for financial reporting that are:

2 (a) narrowly tailored to the affected  
3 local public body;

4 (b) economically feasible for the  
5 affected local public body; and

6 (c) determined by the state auditor  
7 after consultation with the affected local public body;

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

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

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

18 (6) five hundred thousand dollars (\$500,000)  
19 or more, it shall be thoroughly examined and audited as  
20 required by Subsection A of this section.

21 ~~[B.]~~ C. In addition to the annual audit, the state  
22 auditor may cause the financial affairs and transactions of an  
23 agency to be audited in whole or in part.

24 ~~[C.]~~ D. Annual financial and compliance audits of  
25 agencies under the oversight of the financial control division

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

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

24 Section 3. TEMPORARY PROVISION--LIMITED WAIVER.--  
25 Compliance of a local public body not in compliance with the  
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1     Audit Act between January 1, 2006 and June 30, 2009 is waived  
2     for those years if the local public body complies with the  
3     applicable provisions of that act in effect on or after July 1,  
4     2009, unless the local public body is required to receive a  
5     full financial and compliance audit pursuant to the provisions  
6     of that act in effect on or after July 1, 2009.

7             Section 4.   EFFECTIVE DATE.--The effective date of the  
8     provisions of this act is July 1, 2009.

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