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HOUSE BILL 524

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Jimmie C. Hall

AN ACT

RELATING TO THE OFFICE OF THE STATE AUDITOR; AMENDING A SECTION OF THE AUDIT ACT TO PROVIDE FOR TRIENNIAL AUDITS OF STATE EXPENDITURES FOR HEALTH CARE COVERAGE AND HEALTH CARE SERVICES AND FOR EDUCATION.

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

SECTION 1. Section 12-6-3 NMSA 1978 (being Laws 1969, Chapter 68, Section 3, as amended) is amended to read:

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

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

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

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

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

24 (2) at least ten thousand dollars (\$10,000)
25 but less than fifty thousand dollars (\$50,000), it shall comply

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1 only with the applicable provisions of Section 6-6-3 NMSA 1978;

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

7 (a) focused solely on the capital outlay
8 funds directly expended;

9 (b) economically feasible for the
10 affected local public body; and

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

13 (4) at least fifty thousand dollars (\$50,000)
14 but not more than two hundred fifty thousand dollars
15 (\$250,000), it shall submit to the state auditor, at a minimum,
16 a financial report that includes a schedule of cash basis
17 comparison and that is consistent with agreed-upon procedures
18 for financial reporting that are:

19 (a) narrowly tailored to the affected
20 local public body;

21 (b) economically feasible for the
22 affected local public body; and

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

25 (5) at least fifty thousand dollars (\$50,000)

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1 but not more than two hundred fifty thousand dollars (\$250,000)
2 and expends any capital outlay funds, it shall submit to the
3 state auditor, at a minimum, a financial report that includes a
4 schedule of cash basis comparison and a test sample of expended
5 capital outlay funds and that is consistent with agreed-upon
6 procedures for financial reporting that are:

7 (a) narrowly tailored to the affected
8 local public body;

9 (b) economically feasible for the
10 affected local public body; and

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

13 (6) at least two hundred fifty thousand
14 dollars (\$250,000) but not more than five hundred thousand
15 dollars (\$500,000), it shall submit to the state auditor, at a
16 minimum, a compilation of financial statements and a financial
17 report consistent with agreed-upon procedures for financial
18 reporting that are:

19 (a) economically feasible for the
20 affected local public body; and

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

23 (7) five hundred thousand dollars (\$500,000)
24 or more, it shall be thoroughly examined and audited as
25 required by Subsection A of this section.

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

4 D. Annual financial and compliance audits of
5 agencies under the oversight of the financial control division
6 of the department of finance and administration shall be
7 completed and submitted by an agency and independent auditor to
8 the state auditor no later than sixty days after the state
9 auditor receives notification from the financial control
10 division to the effect that an agency's books and records are
11 ready and available for audit. The local government division
12 of the department of finance and administration shall inform
13 the state auditor of the compliance or failure to comply by a
14 local public body with the provisions of Section 6-6-3 NMSA
15 1978.

16 E. In order to comply with United States department
17 of housing and urban development requirements, the financial
18 affairs of a public housing authority that is determined to be
19 a component unit in accordance with generally accepted
20 accounting principles, other than a housing department of a
21 local government or a regional housing authority, at the public
22 housing authority's discretion, may be audited separately from
23 the audit of its local primary government entity. If a
24 separate audit is made, the public housing authority audit
25 shall be included in the local primary government entity audit

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1 and need not be conducted by the same auditor who audits the
2 financial affairs of the local primary government entity.

3 F. The state auditor shall notify the legislative
4 finance committee and the public education department if:

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

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

15 G. The state auditor shall notify the legislative
16 finance committee and the secretary of finance and
17 administration if:

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

22 (2) the state auditor has investigated the
23 matter and attempted to negotiate with the state agency, state
24 institution, municipality or county but the state agency, state
25 institution, municipality or county has not made satisfactory

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1 progress toward compliance with the Audit Act.

2 H. In addition to the audits required pursuant to
3 Subsections A through G of this section, by December 31, 2016,
4 and every three years thereafter, the state auditor shall audit
5 the state's expenditures for health care coverage, health care
6 services and education.

7 I. An agency or local public body that enters into
8 a contract for health care coverage, health care services or
9 education shall include in that contract:

10 (1) a provision granting audit rights in favor
11 of the agency or local public body, which shall cover all
12 subcontracts, expenses and income of the contracting party;

13 (2) a provision granting the state auditor the
14 right to inspect all materials disclosed pursuant to these
15 audit rights; and

16 (3) a provision that allows the agency or
17 local public body to terminate the contract immediately without
18 further liability in the event of a breach of the audit rights
19 provision or the discovery of any irregularity in the results
20 of the audit.

21 J. The state auditor shall have the right to
22 require each agency or local public body to exercise its audit
23 rights pursuant to this section and to deliver to the state
24 auditor all materials and work papers related to the resulting
25 audit.

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K. As used in this section:

(1) "education" means an activity for which state funds are expended pursuant to Article 12, Section 11 of the constitution of New Mexico or Chapter 21, 22 or 32A NMSA 1978;

(2) "health care coverage" means a system of payment for health care services, including self-insurance to cover health care service expenses, health insurance or third-party indemnification for health care service;

(3) "health care service" means a service provided by a person licensed or otherwise authorized by law to provide health care services in New Mexico or outside of New Mexico; and

(4) "work papers" means the record of audit procedures performed, relevant audit evidence obtained and conclusions the auditor reached."