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AN ACT  
RELATING TO TAX-EXEMPT ORGANIZATIONS; REVISING REQUIREMENTS  
FOR AUDITS.

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

SECTION 1. Section 6-5A-1 NMSA 1978 (being Laws 1992,  
Chapter 27, Section 1, as amended) is amended to read:

"6-5A-1. DEFINITIONS--REQUIREMENTS FOR GOVERNMENTAL  
ENTITIES THAT RECEIVE FUNDS OR PROPERTY FROM CERTAIN  
ORGANIZATIONS.--

A. As used in this section:

(1) "agency" means any state agency,  
department or board, any public institution of higher  
education or public post-secondary educational institution  
and any county, municipality or public school district;

(2) "organization" means an organization  
that has been granted exemption from the federal income tax  
by the United States commissioner of internal revenue as an  
organization described in Section 501(c) of the Internal  
Revenue Code of 1986, as amended or renumbered, and whose  
principal and authorized purpose is to complement, contribute  
to and support or aid the function of or forward the purposes  
of a single agency through financial support or contribution  
of services, goods, data or information that help or aid the  
agency in carrying out its statutory purpose and goals,

1 including, but not limited to, the provision of scholarships  
2 to students of educational institutions and the provision of  
3 grants to supplement ongoing research or to provide funds for  
4 research and programs being carried out by an agency;

5 (3) "post-secondary educational institution"  
6 means an educational institution designated in Article 12,  
7 Section 11 of the constitution of New Mexico and includes an  
8 academic, vocational, technical, business, professional or  
9 other school, college or university or other organization or  
10 person offering or purporting to offer courses, instruction,  
11 training or education through correspondence or in person to  
12 any individual within this state over the compulsory school  
13 attendance age, if that post-secondary educational  
14 institution is directly supported in whole or in part by  
15 state or local taxation; and

16 (4) "transferred" means given or otherwise  
17 transferred, with or without consideration.

18 B. Prior to an agency accepting property or funds  
19 that have been transferred to an agency by an organization,  
20 the agency and the organization shall enter into a written  
21 agreement that includes at least the following:

22 (1) a concise statement of the  
23 organization's purpose and of how that purpose is supportive  
24 of the agency's statutory responsibilities and authority;

25 (2) provisions explicitly describing the

1 relationship of the agency to the organization in connection  
2 with such issues as authority, autonomy and information  
3 sharing and reporting;

4 (3) provisions defining the extent to which  
5 the organization may complement and support functions that  
6 are the statutory responsibility of the agency;

7 (4) requirements that the organization:

8 (a) if its total annual expenses exceed  
9 seven hundred fifty thousand dollars (\$750,000), have a  
10 financial accounting system considered adequate under  
11 customarily and currently accepted accounting standards and  
12 that the financial affairs of the organization be audited  
13 annually in accordance with generally accepted governmental  
14 auditing standards by an independent professional auditor who  
15 would be required to furnish to the agency copies of the  
16 annual audit, which, exclusive of any lists of donors or  
17 donations, shall be a public record, and to make the  
18 associated working papers available to the agency for review  
19 upon its written request for a period of three years after  
20 the audit report date; or

21 (b) if its total annual expenses are  
22 seven hundred fifty thousand dollars (\$750,000) or less, file  
23 a statement with the agency in the form of a balance sheet  
24 showing the assets of the organization, its liabilities, its  
25 income, classified by general source, and its expenditures,

1 classified by object;

2 (5) a provision requiring that any funds or  
3 property transferred to the agency by the organization be  
4 considered subject to all state laws and regulations  
5 governing the disbursement and administration of public funds  
6 and public property, except to the extent of any specific  
7 conditions of the transfer that are acceptable to the agency  
8 and do not require actions that are punishable as crimes  
9 under state law;

10 (6) a provision stating that the agency has  
11 reviewed the bylaws of the organization and found them  
12 acceptable and a provision requiring that the organization  
13 furnish copies of the bylaws to the agency;

14 (7) a provision requiring specification of  
15 the consideration that the agency received from the  
16 organization for any agency services provided in support of  
17 the organization; and

18 (8) a provision requiring the application by  
19 the organization of the standard described in Section 6-8-10  
20 NMSA 1978 as the standard for evaluating investments of the  
21 organization.

22 C. The written agreement required by Subsection B  
23 of this section is not required for each transfer but is a  
24 precondition of an agency's acceptance of any transfers. The  
25 agreement may be amended by mutual written agreement of the

1 agency and the organization.

2 D. Nothing in this section subjects an  
3 organization to the provisions of the Open Meetings Act or  
4 makes its records, other than the annual audit required under  
5 this section, public records within the purview of Section  
6 14-2-1 NMSA 1978."

7 SECTION 2. Section 57-22-6 NMSA 1978 (being Laws 1983,  
8 Chapter 140, Section 6, as amended) is amended to read:

9 "57-22-6. FILING OF REQUIRED DOCUMENTS.--

10 A. A charitable organization existing, operating  
11 or soliciting in the state, unless exempted by Section  
12 57-22-4 NMSA 1978, shall register with the attorney general  
13 on a form provided by the attorney general; correct any  
14 deficiencies in its registration upon notice of deficiencies  
15 provided by the attorney general; and provide a copy of its  
16 IRS Form 1023 or IRS Form 1024 application for exempt status  
17 with its registration.

18 B. The attorney general shall notify each  
19 charitable organization required to register within ten  
20 business days of receipt of the registration form of any  
21 deficiencies in the registration and may make rules in  
22 accordance with the State Rules Act, as are necessary for the  
23 proper administration of this section, including:

24 (1) requirements for filing additional  
25 information, including disclosure of professional fundraising

1 counsel retained by the charitable organization; and

2 (2) provisions for suspending the filing of  
3 reports or granting an exemption from the registration and  
4 reporting requirements of this section for a charitable  
5 organization subject to audit, registration, charter or other  
6 requirements of a statewide, regional or national association  
7 and if it is determined that such reports or registration is  
8 not necessary for the protection of the public interest.

9 C. In addition to any other reporting requirements  
10 pursuant to the Charitable Solicitations Act, every  
11 charitable organization that has received tax-exempt status  
12 pursuant to Section 501(c)(3) of the federal Internal Revenue  
13 Code of 1986, as amended, and that is required to file a Form  
14 990, 990EZ or 990PF pursuant to the Internal Revenue Code of  
15 1986, as amended, shall file that form and the accompanying  
16 schedule A annually with the office of the attorney general  
17 up to six months following the close of the charitable  
18 organization's fiscal year. Extensions of time for filing  
19 may be allowed at the discretion of the attorney general for  
20 good cause shown. Such forms shall be public records and  
21 available for public inspection. Organizations that do not  
22 file a Form 990, 990EZ or 990PF pursuant to the Internal  
23 Revenue Code of 1986, as amended, shall file an annual  
24 report, under oath, on the form provided by the attorney  
25 general for that purpose. A charitable organization with

1 total expenses in excess of seven hundred fifty thousand  
2 dollars (\$750,000) shall be audited by an independent  
3 certified public accountant. Audits shall be performed in  
4 accordance with generally accepted accounting principles. If  
5 the attorney general has reason to believe it is in the  
6 public interest, the attorney general may, prior to the  
7 institution of a civil proceeding, require a charitable  
8 organization to submit an audit in accordance with generally  
9 accepted accounting principles. A charitable organization  
10 shall correct any deficiencies in an annual report upon  
11 notice of deficiencies provided by the attorney general.

12 D. A charitable organization that fails to  
13 register before a solicitation is made or fails to timely  
14 file its tax filings with the attorney general pursuant to  
15 Subsection C of this section may be assessed a late filing  
16 fee of one hundred dollars (\$100).

17 E. The attorney general may accept information  
18 filed by a charitable organization with another state or the  
19 federal government in lieu of the registration and reporting  
20 requirements of the Charitable Solicitations Act if such  
21 information is determined by the attorney general to be in  
22 substantial compliance with the registration and reporting  
23 requirements of that act."

24 SECTION 3. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is January 1, 2024. \_\_\_\_\_