

1 HOUSE BILL 30  
2 44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

3 INTRODUCED BY  
4 Luciano "Lucky" Varela

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7  
8 FOR THE LEGISLATIVE FINANCE COMMITTEE

9  
10 AN ACT

11 RELATING TO PUBLIC MONEY; TRANSFERRING FROM THE FINANCIAL  
12 CONTROL DIVISION TO STATE AGENCIES THE RESPONSIBILITY FOR  
13 DETERMINING THE LEGALITY AND AUTHORITY FOR THEIR EXPENDITURES;  
14 ELIMINATING CONTROLS OF THE FINANCIAL CONTROL DIVISION;  
15 PROVIDING FOR AN ANNUAL COMPREHENSIVE AUDIT OF THE STATE  
16 FINANCIAL REPORT; REQUIRING STATE AGENCIES TO COMPILE THEIR  
17 OWN FINANCIAL STATEMENTS; REQUIRING INDEPENDENT AUDITORS FOR  
18 STATE AGENCIES TO CONTRACT WITH THE STATE AUDITOR.

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 Section 1. Section 6-5-2 NMSA 1978 (being Laws 1957,  
22 Chapter 252, Section 2, as amended) is amended to read:

23 "6-5-2. FINANCIAL CONTROL DIVISION--CENTRAL SYSTEM OF  
24 STATE ACCOUNTS--ACCOUNTING SYSTEMS--FORMS.--The financial  
25 control division of the [state] department of finance and

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1 administration shall maintain a central system of state  
2 accounts and shall [~~devise, formulate, approve and control~~]  
3 set standards for the accounting methods and procedures of all  
4 state agencies. The division [~~shall~~] may prescribe  
5 procedures, policies and forms for use by state agencies in  
6 connection with fiscal matters and may require reports from  
7 state agencies as may be necessary to carry out its duties and  
8 functions. Procedures and policies issued by the division are  
9 exempt from the uniform standards of style and format  
10 promulgated by the state commission of public records. "

11 Section 2. Section 6-5-3 NMSA 1978 (being Laws 1957,  
12 Chapter 252, Section 3, as amended) is amended to read:

13 "6-5-3. LEGALITY AND AUTHORITY FOR PROPOSED EXPENDITURES  
14 DETERMINED BY [~~FINANCIAL CONTROL DIVISION~~] STATE AGENCY--  
15 ENCUMBERING FUNDS.--Before any vouchers or purchase orders are  
16 issued or contracts are entered into involving the expenditure  
17 of public funds by [~~any~~] a state agency, and before any  
18 vouchers, purchase orders or contracts are submitted to the  
19 department of finance and administration for processing, the  
20 authority for [~~such~~] the proposed expenditure shall be  
21 determined by the [~~financial control division.~~ After the  
22 authority for such expenditure is determined, the appropriate  
23 fund shall be shown by the division to be encumbered to the  
24 extent of such proposed expenditure] state agency. The  
25 financial control division shall perform, on a statistical or

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1 stratified basis, internal pre-audit and post-audit procedures  
2 to monitor and enforce compliance with the provisions of this  
3 section. "

4 Section 3. Section 6-5-4 NMSA 1978 (being Laws 1957,  
5 Chapter 252, Section 4, as amended) is amended to read:

6 "6-5-4. REPORTS TO LEGISLATURE. --The financial control  
7 division shall [~~report to the legislature at the commencement~~  
8 ~~of each regular session a full and detailed statement of the~~  
9 ~~revenue and expenditures for the preceding two years and a~~  
10 ~~tabular statement showing separately the whole amount of each~~  
11 ~~appropriation of money made by law for the two years~~  
12 ~~preceding, the amount paid under the same and the balance~~  
13 ~~unexpended] compile a comprehensive annual financial report.  
14 To assist in the compilation of the report, each state agency  
15 shall compile, in accordance with generally accepted  
16 accounting principles, its financial statements on a schedule  
17 established by the division. "~~

18 Section 4. Section 6-5-6 NMSA 1978 (being Laws 1957,  
19 Chapter 252, Section 7, as amended) is amended to read:

20 "6-5-6. DETERMINATIONS TO BE MADE PRIOR TO ISSUANCE OF  
21 WARRANTS. --

22 A. No warrant upon the state treasury for the  
23 disbursement of funds shall be issued except upon the  
24 determination [~~of the financial control division]~~ by the state  
25 agency making payment that the amount of the expenditure:

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1                   [A-] (1) does not exceed the appropriation  
2 made to the agency;

3                   [B-] (2) does not exceed the periodic  
4 allotment made to the agency or the unencumbered balance of  
5 funds at its disposal unless the warrant includes federal  
6 funds that will be receipted based upon established warrant-  
7 clearing patterns; and

8                   [C-] (3) is for a purpose included within the  
9 appropriation or otherwise authorized by law.

10                   B. The financial control division shall perform,  
11 on a statistical or stratified basis, internal pre-audit and  
12 post-audit procedures to monitor and enforce compliance with  
13 the provisions of this section. "

14                   Section 5. Section 6-5-7 NMSA 1978 (being Laws 1957,  
15 Chapter 252, Section 8, as amended) is amended to read:

16                   "6-5-7. WARRANT TO SHOW FUND FROM WHICH PAYMENT IS  
17 MADE--SETTLEMENT OF CLAIMS AGAINST STATE--ACCOUNT BETWEEN  
18 STATE AND TREASURY. -- [~~Every warrant issued shall contain~~  
19 ~~therein]~~ The financial control division shall maintain records  
20 that show the particular fund appropriated by law out of which  
21 [~~the same]~~ it is to be paid. The financial control division  
22 shall settle all claims against the state payable by law out  
23 of the treasury and [~~shall~~] keep an account between the state  
24 and the treasurer. "

25                   Section 6. Section 6-5-8 NMSA 1978 (being Laws 1963,

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1 Chapter 47, Section 1, as amended) is amended to read:

2 "6-5-8. VOUCHERS. -- Every claim for payment of public  
3 money shall be made upon a public voucher. All public  
4 vouchers shall be in the form and contain the information  
5 required by the secretary of finance and administration. All  
6 purchase vouchers for goods and services, other than personal,  
7 shall be accompanied by supporting [ ~~invoices.~~ ~~Vouchers for~~  
8 ~~the reimbursement of public officers and employees must have~~  
9 ~~receipts attached for all money claimed, except that travel~~  
10 ~~advance or reimbursement vouchers for claims of mileage and~~  
11 ~~per diem at standard rates need not be accompanied by~~  
12 ~~receipts~~] documentation as required by the financial control  
13 division. All vouchers [ ~~must~~ ] shall be certified as true and  
14 correct by the officer or employee designated to approve  
15 payments of claims against state agencies and local public  
16 bodies, including public schools. The secretary of finance  
17 and administration may require that payroll, travel advance,  
18 reimbursement, refund or other vouchers be sworn to by the  
19 certifying officer or payee. Certification may be in writing  
20 or done electronically. "

21 Section 7. Section 6-10-2 NMSA 1978 (being Laws 1923,  
22 Chapter 76, Section 1) is amended to read:

23 "6-10-2. PUBLIC MONEY--CASH BOOKS--DAILY BALANCE--PUBLIC  
24 RECORD. --It [ ~~shall be~~ ] is the duty of every public official or  
25 agency of this state who receives or disburses public [ ~~monies~~

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1 ~~to keep in his office]~~ money to maintain a cash [~~book wherein~~  
2 ~~shall be]~~ record in which is entered daily, in detail, all  
3 items of receipts and disbursements of public [~~monies]~~ money  
4 and which shall be balanced daily so as to show the balance of  
5 public [~~monies]~~ money on hand at the close of each day's  
6 business. [~~and such]~~ The cash [~~book shall be]~~ record is a  
7 public record and [~~shall be]~~ is open to public inspection."

8 Section 8. Section 6-10-4 NMSA 1978 (being Laws 1963,  
9 Chapter 35, Section 1, as amended) is amended to read:

10 "6-10-4. PAYMENT OF OBLIGATIONS OF PRIOR YEARS FROM  
11 CURRENT GENERAL FUND. -- [~~General fund]~~ Appropriations made for  
12 a specific fiscal year may not be used for paying obligations  
13 of any prior fiscal year except upon approval of the  
14 department of finance and administration. As a condition to  
15 [~~such]~~ the approval, the department [~~of finance and~~  
16 ~~administration]~~ shall certify that there existed in the  
17 affected agency's budget at the end of the fiscal year  
18 sufficient funds, including uncollected earned revenue, to pay  
19 the obligation had the bill been presented prior to the end of  
20 that fiscal year. The department of finance and  
21 administration shall make quarterly reports to the legislative  
22 finance committee concerning all such authorizations of  
23 payment. "

24 Section 9. Section 6-10-46 NMSA 1978 (being Laws 1923,  
25 Chapter 76, Section 24, as amended) is amended to read:

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1 "6-10-46. DISBURSEMENT OF STATE FUNDS--VOUCHERS AND  
2 WARRANTS.--All payments and disbursements of public funds of  
3 the state [~~of New Mexico~~] shall be made upon warrants drawn by  
4 the secretary of finance and administration upon the treasury  
5 of the state [~~of New Mexico~~] based upon itemized vouchers [ ~~as~~  
6 ~~provided by law~~] in a form approved by the secretary of  
7 finance and administration. "

8 Section 10. Section 8-6-7 NMSA 1978 (being Laws 1987,  
9 Chapter 183, Section 1, as amended) is amended to read:

10 "8-6-7. WRONGFUL DRAWING OR PAYMENT OF WARRANT BY  
11 SECRETARY OR TREASURER--PENALTY.--

12 A. If the secretary of finance and administration  
13 draws any warrant on the state treasurer when he knows or,  
14 with the use of available accounting information, should  
15 reasonably know there is an insufficient unexpended and  
16 unencumbered balance available for the purpose for which the  
17 warrant is drawn, he shall be in violation of this section  
18 unless the warrant includes federal funds that will be  
19 receipted based on established warrant clearing patterns.

20 B. If the state treasurer pays any warrant when he  
21 knows or, with the use of available accounting information,  
22 should reasonably know there are insufficient funds available  
23 in the treasury for the purpose to pay the warrant, he shall  
24 be in violation of this section unless the warrant includes  
25 federal funds that will be receipted based upon established

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1 warrant-clearing patterns.

2 C. A violation of this section [~~shall be~~] is  
3 punishable by a fine of not more than one thousand dollars  
4 (\$1,000) or by imprisonment for not more than one year or by  
5 both such fine and imprisonment in the discretion of the  
6 judge. "

7 Section 11. Section 12-6-3 NMSA 1978 (being Laws 1969,  
8 Chapter 68, Section 3) is amended to read:

9 "12-6-3. ANNUAL AND SPECIAL AUDITS. --

10 A. The financial affairs of every agency and a  
11 comprehensive annual financial report of the state shall be  
12 thoroughly examined and audited each year by the state  
13 auditor, personnel of his office designated by him or by  
14 independent auditors [~~approved by him~~] with whom he has  
15 contracted. The audits shall be conducted in accordance with  
16 generally accepted auditing standards.

17 B. In addition to the annual audit, the state  
18 auditor may cause the financial affairs and transactions of an  
19 agency to be audited in whole or in part. "