

AN ACT

RELATING TO PUBLIC MONEY; PRESCRIBING POWERS AND DUTIES OF THE FINANCIAL CONTROL DIVISION; REQUIRING STATE AGENCIES TO DETERMINE AUTHORITY FOR EXPENDITURES; PROVIDING FOR STRATIFIED OR STATISTICAL PRE- AND POST-AUDITS; REQUIRING QUARTERLY REPORTS FROM LOCAL PUBLIC BODIES, SCHOOL DISTRICTS AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION; EXPANDING THE CONDITIONS UNDER WHICH PRIOR YEAR ENCUMBRANCES CAN BE PAID OUT OF CURRENT YEAR BUDGETS; PROVIDING FOR AUDITS OF ORGANIZATIONS THAT RECEIVE MONEY FROM INSTRUMENTALITIES OF THE STATE; PROVIDING FOR ANNUAL CONTRACT FINANCIAL AND COMPLIANCE AUDITS; PROVIDING FOR A PROCUREMENT CARD PILOT PROJECT; PRESCRIBING PENALTIES.

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

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

"6-5-1. DEFINITIONS. --As used in Chapter 6, Article 5 NMSA 1978:

A. "division" means the financial control division of the department of finance and administration;

B. "central accounting system" means the accounting system used by the division to process and record payments, deposits and other financial transactions for state agencies and departments;

C. "electronic" means electric, digital, magnetic, optical, electronic or similar media;

D. "local public body" means every political subdivision of the state that expends public money from whatever source derived, including counties, county institutions, boards, bureaus or commissions; incorporated cities, towns or villages; drainage, conservancy, irrigation or other districts; charitable institutions for which appropriations are made by the legislature; and every office or officer of any of them;

E. "model accounting practices" means the accounting methods and procedures used by the state;

F. "processing document" means a form, including supporting documents, submitted by a state agency to the division that will be used by the division to record a financial transaction or make payment;

G. "state agency" means any department, institution, board, bureau, commission, district or committee of the government of the state and means every office or officer of any of them; and

H. "statewide accounting system network" means the central accounting system, the central payroll system, the central treasury system and all other financial accounting systems operated by state agencies and departments operating as one system through manual or automated

interfaces.”

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

"6-5-2. FINANCIAL CONTROL DIVISION--CENTRAL SYSTEM OF STATE ACCOUNTS--ACCOUNTING SYSTEMS--PROCESSING DOCUMENTS--MODEL ACCOUNTING PRACTICES--INTERNAL ACCOUNTING CONTROLS.--

A. The division shall maintain a central system of state accounts and shall, in consultation with the state auditor, devise, formulate, approve, control and set standards for the accounting methods and procedures of all state agencies. The division shall prescribe procedures, policies and processing documents for use by state agencies in connection with fiscal matters and may require reports from state agencies as may be necessary to carry out its duties and functions. Procedures and policies issued by the division are exempt from the uniform standards of style and format promulgated by the state commission of public records.

B. After consultation with the state auditor, the division shall issue a manual of model accounting practices. State agencies shall comply with the model accounting practices established by the division, and each cabinet secretary or state agency head shall ensure that the model accounting practices are followed in his state agency.

C. State agencies shall implement internal accounting controls designed to prevent accounting errors and

violations of state and federal law and rules related to financial matters. In addition, state agencies shall implement controls to prevent the submission of processing documents to the division that contain errors or that are for a purpose not authorized by law. "

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

"6-5-3. LEGALITY AND AUTHORITY FOR PROPOSED EXPENDITURES DETERMINED BY DIVISION AND STATE AGENCY-- ENCUMBERING FUNDS. --Before any vouchers or purchase orders are issued or contracts are entered into involving the expenditure of public funds by a state agency, the authority for the proposed expenditure shall be determined by the division and the state agency. After the authority for the expenditure is determined, the appropriate fund shall be shown by the division to be encumbered to the extent of the proposed expenditure. The division may request, and the state agency shall provide, such documentation and other information the division deems necessary to justify the state agency's determination of authority. The division may disapprove the proposed expenditure if it determines that the justification is inadequate or is not substantiated by law. The division may perform, on a statistical or stratified basis, internal pre- and post-audit procedures to monitor and enforce compliance with the provisions of this section. "

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

"6-5-4. ANNUAL FINANCIAL REPORT. --The division shall compile a comprehensive annual financial report. To assist in the compilation of the report, each state agency shall compile, in accordance with generally accepted accounting principles, its financial statements on a schedule established by the division."

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

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

A. No warrant upon the state treasury for the disbursement of funds shall be issued except upon the determination of the division and the state agency making payment that the amount of the expenditure:

(1) does not exceed the appropriation made to the state agency; and

(2) does not exceed the periodic allotment made to the state agency or the unencumbered balance of funds at its disposal unless the warrant includes federal funds that will be receipted based upon established warrant-clearing patterns.

B. The division may implement and perform internal pre-audit and post-audit procedures to monitor and

enforce compliance with the provisions of this section. The pre-audit and post-audit procedures may be applied on a stratified or statistical basis. The division shall notify the state auditor of any exceptions found as a result of pre-audit or post-audit procedures.

C. A state agency shall determine that an expenditure is for a public benefit and purpose consistent with the related appropriation and is necessary to carry out the statutory mission of the state agency prior to committing the state to the transaction. "

Section 6. Section 6-5-8 NMSA 1978 (being Laws 1963, Chapter 47, Section 1, as amended) is amended to read:

"6-5-8. VOUCHERS. -- Every claim for payment of public money shall be made upon a public voucher. All public vouchers shall be in the form and contain the information required by the division. All purchase vouchers for goods and services, other than personal, shall be accompanied by supporting invoices and documentation required by the division. Vouchers for the reimbursement of public officers and employees shall have receipts attached for all money claimed, except that travel advance or reimbursement vouchers for claims of mileage and per diem at standard rates need not be accompanied by receipts and documentation. All vouchers shall be certified as true and correct by the officer or employee designated to approve payments of claims against

state agencies and local public bodies, including public schools. The division may require that payroll, travel advance, reimbursement, refund or other vouchers be sworn to by the certifying officer or payee. Certification may be in writing or accomplished electronically. "

Section 7. Section 6-5-10 NMSA 1978 (being Laws 1994, Chapter 11, Section 1) is amended to read:

"6-5-10. STATE AGENCY REVERSIONS--DIRECTOR POWERS-- COMPLIANCE WITH FEDERAL RULES AND REGULATIONS. --

A. All unreserved undesignated fund balances in reverting funds and accounts as reflected in the central financial reporting and accounting system as of June 30 shall revert by September 30 to the general fund. The division may adjust the reversion within ten days of release of the audit report for that fiscal year.

B. The director of the division may modify a reversion required pursuant to Subsection A of this section if the reversion would violate federal law or rules pertaining to supplanting of state funds with federal funds or other applicable federal provisions. "

Section 8. A new section of Chapter 6, Article 5 NMSA 1978 is enacted to read:

"DIVISION--ADDITIONAL DUTIES.--The division shall:

A. after consulting with the state auditor, coordinate all procedures for financial administration and

financial control and integrate them into an adequate and unified system, including the devising, prescribing and installing of processing documents, records and procedures for state agencies;

B. collect and maintain the necessary information to produce ledgers, journals, registers and other supporting records and analyses;

C. maintain information that adequately supports all entries in the state general ledger;

D. verify and control agency compliance with allotments;

E. conduct all central accounting and fiscal reporting for the state as a whole and produce interim statewide financial reports and the state's comprehensive annual financial statements;

F. after consulting with the state auditor, prescribe, develop, operate and maintain a uniform statewide accounting system network;

G. after consulting with the state auditor, prescribe and approve the installation of any changes in the state accounting system network as necessary to secure and maintain internal control and facilitate the recording of accounting data in order to prepare reliable and meaningful statements and reports;

H. after consulting with the state auditor,

prescribe the uniform classification of accounts to be used by state agencies;

I. operate a central payroll system;

J. perform monthly reconciliations with the balances and accounts kept by the state treasurer and adopt and promulgate rules regarding reconciliation for state agencies;

K. prescribe and revise procedures, techniques and formats for electronic data transmission to improve the flow of data between state agencies;

L. monitor reversion of unexpended general fund balances by September 30 of each year;

M. promulgate rules relating to the acceptance of credit, charge and debit cards for the payment of fees, taxes and other charges assessed by state agencies;

N. store and maintain records electronically;

O. establish, with the attorney general's approval, a procedure for electronic signatures;

P. maintain accounts and information as necessary to show the sources of state revenues and the purposes for which expenditures are made and provide proper accounting controls to protect state finances;

Q. make improvements in the state's model accounting practices, systems and procedures;

R. assist state agencies in resolving financial

questions or problems;

S. have access to and authority to examine books, accounts, reports, vouchers, correspondence files and other records, bank accounts, money and other property of a state agency; and

T. consult with the state auditor to promote better financial statement reporting. "

Section 9. A new section of Chapter 6, Article 5 NMSA 1978 is enacted to read:

"PROCUREMENT CARD PILOT PROJECT. --The division shall design and implement a procurement card pilot project that allows state agencies to pay for purchases by using procurement cards. To implement the pilot project, the division may enter into an agreement with a procurement card issuer. The division shall determine the limits of the pilot project, including the number of state agencies that participate and limitations on types of goods and services that may be eligible for purchase through procurement cards. The pilot project shall operate in fiscal years 2001 and 2002. The division shall report its findings and recommendations to the legislative finance committee, the state purchasing agent and the governor on the efficacy of the project. "

Section 10. Section 6-6-2 NMSA 1978 (being Laws 1957, Chapter 250, Section 2, as amended) is amended to read:

"6-6-2. LOCAL GOVERNMENT DIVISION-- POWERS AND DUTIES. -

-The local government division of the department of finance and administration has the power and duty in relation to local public bodies to:

A. require each local public body to furnish and file with the division, on or before June 1 of each year, a proposed budget for the next fiscal year;

B. examine each proposed budget and, on or before July 1 of each year, approve and certify to each local public body an operating budget for use pending approval of a final budget;

C. hold public hearings on proposed budgets;

D. make corrections, revisions and amendments to the proposed budgets as may be necessary to meet the requirements of law;

E. certify a final budget for each local public body to the appropriate governing body prior to the first Monday in September of each year. The budgets, when approved, are binding upon all tax officials of the state;

F. require periodic, at least quarterly, financial reports of local public bodies. The financial reports shall contain the pertinent details regarding applications for federal money or federal grants-in-aid or regarding federal money or federal grants-in-aid received, including details of programs, matching funds, personnel

requirements, salary provisions and program numbers, as indicated in the catalog of federal domestic assistance, of the federal funds applied for and of those received;

G. upon the approval of the secretary of finance and administration, authorize the transfer of funds from one budget item to another when the transfer is requested and a need exists meriting the transfer and the transfer is not prohibited by law. In case of a need necessitating the expenditure for an item not provided for in the budget, upon approval of the secretary of finance and administration, the budget may be revised to authorize the expenditures;

H. with written approval of the secretary of finance and administration, increase the total budget of any local public body in the event the local public body undertakes an activity, service, project or construction program that was not contemplated at the time the final budget was adopted and approved and which activity, service, project or construction program will produce sufficient revenue to cover the increase in the budget or the local public body has surplus funds on hand not necessary to meet the expenditures provided for in the budget with which to cover the increase in the budget; provided, however, that the attorney general shall review legal questions identified by the secretary arising in connection with such budget increase requests;

I. supervise the disbursement of funds to the end that expenditures shall not be made in excess of budgeted items or for items not budgeted and there will not be illegal expenditures;

J. prescribe the form for all budgets, books, records and accounts for local public bodies; and

K. with the approval of the secretary of finance and administration, make rules relating to budgets, records, reports, handling and disbursement of public funds or in any manner relating to the financial affairs of the local public bodies. "

Section 11. Section 6-10-1.1. NMSA 1978 (being Laws 1987, Chapter 79, Section 3) is amended to read:

"6-10-1.1. DEFINITIONS. -- As used in Chapter 6, Article 10:

A. "deposit" includes share, share certificate and share draft;

B. "department" means the department of finance and administration;

C. "division" means the financial control division of the department; and

D. "secretary" means the secretary of finance and administration. "

Section 12. Section 6-10-2 NMSA 1978 (being Laws 1923, Chapter 76, Section 1) is amended to read:

"6-10-2. PUBLIC MONEY--CASH RECORD--DAILY BALANCE-- PUBLIC RECORD.--It is the duty of every public official or agency of this state that receives or disburses public money to maintain a cash record in which is entered daily, in detail, all items of receipts and disbursements of public money and that shall be balanced daily so as to show the balance of public money on hand at the close of each day's business. The cash record is a public record and is open to public inspection."

Section 13. Section 6-10-4 NMSA 1978 (being Laws 1963, Chapter 35, Section 1, as amended) is amended to read:

"6-10-4. PAYMENT OF OBLIGATIONS OF PRIOR YEARS FROM CURRENT YEAR APPROPRIATIONS.--Appropriations made for a specific fiscal year may not be used for paying obligations of any prior fiscal year except upon approval of the department. As a condition to the approval, the department shall certify that there existed in the affected state agency's budget at the end of the fiscal year sufficient funds, including uncollected earned revenue, to pay the obligation had the bill been presented prior to the end of that fiscal year. The department shall make quarterly reports to the legislative finance committee concerning all such authorizations of payment."

Section 14. Section 6-10-46 NMSA 1978 (being Laws 1923, Chapter 76, Section 24, as amended) is amended to read: HB 87
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"6-10-46. DISBURSEMENT OF STATE FUNDS--VOUCHERS AND WARRANTS.--All payments and disbursements of public funds of the state shall be made upon warrants drawn by the secretary upon the treasury of the state based upon itemized vouchers in a form approved by the secretary."

Section 15. Section 8-6-7 NMSA 1978 (being Laws 1987, Chapter 183, Section 1, as amended) is amended to read:

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

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

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

C. A violation of this section is punishable by a

fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year or both."

Section 16. Section 12-6-2 NMSA 1978 (being Laws 1969, Chapter 68, Section 2) is amended to read:

"12-6-2. DEFINITION.--As used in the Audit Act, "agency" means:

A. any department, institution, board, bureau, court, commission, district or committee of the government of the state, including district courts, magistrate and metropolitan courts, district attorneys and charitable institutions for which appropriations are made by the legislature;

B. every political subdivision of the state, created under either general or special act, that receives or expends public money from whatever source derived, including counties, county institutions, boards, bureaus or commissions; municipalities; drainage, conservancy, irrigation or other special districts; school districts; and

C. every office or officer of any entity listed in Subsections A and B of this section."

Section 17. Section 12-6-3 NMSA 1978 (being Laws 1969, Chapter 68, Section 3) is amended to read:

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

A. The financial affairs of every agency shall be thoroughly examined and audited each year by the state

auditor, personnel of his office designated by him or by independent auditors approved by him. The comprehensive annual financial report for the state shall be thoroughly examined and audited each year by the state auditor, personnel of his office designated by him or by independent auditors selected by him. The state auditor may use contract auditors to jointly conduct an audit. The audits shall be conducted in accordance with generally accepted auditing standards and rules issued by the state auditor.

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

C. Annual financial and compliance audits of agencies under the control of the financial control division of the department of finance and administration shall be completed and submitted by an agency and independent auditor to the state auditor no later than sixty days after the state auditor receives notification from the financial control division to the effect that an agency's books and records are ready and available for audit."

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

"12-6-6. CRIMINAL VIOLATIONS. -- Immediately upon discovery of any violation of a criminal statute in connection with financial affairs, the state auditor shall

report the violation to the proper prosecuting officer and furnish the officer with all data and information in his possession relative to the violation. An agency or independent auditor shall report a known or suspected loss of public funds or other illegal activity immediately to the state auditor."

Section 19. Section 12-6-14 NMSA 1978 (being Laws 1969, Chapter 68, Section 14) is amended to read:

"12-6-14. CONTRACT AUDITS. --

A. The state auditor shall notify each agency designated for audit by an independent auditor, and the agency shall enter into a contract with an independent auditor of its choice in accordance with procedures prescribed by rules of the state auditor; provided, however, that agencies subject to oversight by the local government division of the department of finance and administration, the state department of public education or the commission on higher education shall receive approval from their oversight agency prior to submitting a recommendation for an independent auditor of its choice. The state auditor may select the auditor for an agency that has not submitted a recommendation within sixty days of notification by the state auditor to contract for the year being audited, and the agency being audited shall pay the cost of the audit. Each contract for auditing entered into between an agency and an

independent auditor shall be approved in writing by the state auditor. No payment of public funds may be made to an independent auditor unless a contract is entered into and approved as provided in this section.

B. The state auditor or personnel of his office designated by him shall examine all reports of audits of agencies made pursuant to contract. Based upon demonstration of work in progress, the state auditor may authorize progress payments to the independent auditor by the agency being audited under contract. Final payment for services rendered by an independent auditor shall not be made until a determination and written finding that the audit has been made in a competent manner in accordance with the provisions of the contract and applicable rules by the state auditor."

Section 20. Section 21-1-33 NMSA 1978 (being Laws 1974, Chapter 30, Section 2) is amended to read:

"21-1-33. SYSTEM OF ACCOUNTING AND REPORTING--MANUAL. -

A. The commission on higher education, in consultation with the state auditor, shall compile a manual prescribing a uniform classification of accounts and a uniform system for budgeting and reporting that includes the reporting of all funds available. The manual shall apply to all institutions enumerated in Article 12, Section 11 of the constitution of New Mexico and all their branches except the

New Mexico school for the visually handicapped and the New Mexico school for the deaf. The manual shall also apply to the New Mexico junior college. The uniform system for budgeting and reporting shall be implemented no later than July 1, 1974. The uniform classification of accounts required by this section shall be implemented no later than July 1, 1975.

B. The uniform system for budgeting and reporting shall require the submission of at least quarterly financial reports compiled in accordance with generally accepted accounting principles.

C. Following approval by the legislative finance committee, the manual shall be reproduced by the commission on higher education and filed as required by the State Rules Act. Upon such filing, the requirements set forth in the manual shall constitute rules of the commission and have the force of law. The commission shall review the manual annually. Sections of the manual may be revised or amended from time to time by the commission, and revisions or amendments shall become effective upon approval by the legislative finance committee, reproduction and filing as provided in this section.

D. All institutions to which this section and Section 21-1-32 NMSA 1978 apply shall comply with all of the requirements in the manual, submit reports to the commission

on higher education as requested and furnish such additional information as the commission deems necessary. "

Section 21. Section 22-8-5 NMSA 1978 (being Laws 1967, Chapter 16, Section 59, as amended) is amended to read:

"22-8-5. RULES--PROCEDURES. --

A. The department, in consultation with the state auditor, shall establish rules and procedures for a uniform system of accounting and budgeting of funds for all public schools and school districts of the state. The rules, including revisions or amendments, shall become effective only upon approval by the state board and filing with the state records center and publication. A copy shall also be filed with the department of finance and administration.

B. All public schools and school districts shall comply with the rules and procedures prescribed and shall, upon request, submit additional reports concerning finances to the department. In addition, upon request, all public schools and school districts shall file reports with the department containing pertinent details regarding applications for federal money or federal grants-in-aid or regarding federal money or federal grants-in-aid received, including details of programs, matching funds, personnel requirements, salary provisions and program numbers, as indicated in the catalog of federal domestic assistance, of the federal funds applied for and of those received.

C. Upon request by the department of finance and administration, the legislative finance committee or the legislative education study committee, the department shall timely furnish information and data obtained from public schools and school districts pursuant to Subsection B of this section.”
