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HOUSE BILL 321

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

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ESTABLISHING PROGRESSIVE  
SANCTIONS AGAINST SCHOOL DISTRICTS AND CHARTER SCHOOLS FOR NOT  
SUBMITTING TIMELY AUDIT REPORTS TO THE DEPARTMENT; REQUIRING  
THE STATE AUDITOR TO NOTIFY THE PUBLIC EDUCATION DEPARTMENT OF  
FAILURE TO SUBMIT AN AUDIT; PROVIDING PENALTIES.

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.--

A. 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.

The comprehensive annual financial report for the state shall

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

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

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

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

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1 separate audit is made, the public housing authority audit  
2 shall be included in the local primary government entity audit  
3 and need not be conducted by the same auditor who audits the  
4 financial affairs of the local primary government entity.

5 E. The state auditor shall notify the public  
6 education department when a school district, charter school or  
7 regional education cooperative fails to submit a required audit  
8 report within ninety days of the due date specified by the  
9 state auditor."

10 Section 2. A new section of the Public School Finance Act  
11 is enacted to read:

12 "[NEW MATERIAL] SCHOOL DISTRICT AND CHARTER SCHOOL  
13 AUDITS--SANCTIONS FOR NOT SUBMITTING TIMELY AUDIT REPORTS.--

14 A. Each school district and charter school shall  
15 have an annual audit as required by the Audit Act and rules of  
16 the state auditor that shall be completed and submitted to the  
17 state auditor by the date specified in rules of the state  
18 auditor. At the completion of the annual or any special audit,  
19 the school district or charter school shall submit a copy of  
20 the audit report to the department.

21 B. School districts and charter schools shall  
22 comply with due dates for annual audits specified by rule of  
23 the state auditor. Failure to submit a timely audit report  
24 shall subject a school district or charter school to  
25 progressive sanctions. A school district or charter school

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1 that does not submit an annual audit report:

2 (1) within ninety days from the due date,  
3 shall be required to submit monthly financial reports to the  
4 department until the department is satisfied that the school  
5 district or charter school is in compliance with all financial  
6 and audit requirements;

7 (2) after ninety days but within one hundred  
8 eighty days from the due date, may be penalized in an amount up  
9 to five percent of its current-year state equalization  
10 guarantee distribution;

11 (3) after one hundred eighty days but within  
12 two hundred seventy days, may be penalized in an amount up to  
13 seven percent of its current-year state equalization guarantee  
14 distribution and may be required to submit a corrective action  
15 plan to the secretary; and

16 (4) after two hundred seventy days, may be  
17 penalized up to seven percent of its current-year state  
18 equalization guarantee distribution and may be subject to the  
19 secretary's suspension of the local school board or governing  
20 body acting as a board of finance."

21 Section 3. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2010.