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AN ACT

RELATING TO PUBLIC AUDITS; AMENDING SECTIONS OF THE AUDIT ACT TO INCLUDE CHARTER SCHOOLS IN THE DEFINITION OF "AGENCY", TO ALLOW A GOVERNMENT COMPONENT UNIT TO BE AUDITED SEPARATELY FROM ITS PRIMARY GOVERNMENT ENTITY AND TO REQUIRE THAT THE COMPONENT UNIT'S AUDIT BE INCLUDED IN THE PRIMARY GOVERNMENT ENTITY'S AUDIT.

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

SECTION 1. Section 12-6-2 NMSA 1978 (being Laws 1969, Chapter 68, Section 2, as amended) is amended to read:

"12-6-2. DEFINITIONS.--As used in the Audit Act:

A. "agency" means:

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

(2) any 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; and school districts

1 and charter schools;

2 (3) any entity or instrumentality of the
3 state specifically provided for by law, including the
4 New Mexico finance authority, the New Mexico mortgage finance
5 authority and the New Mexico lottery authority; and

6 (4) every office or officer of any entity
7 listed in Paragraphs (1) through (3) of this subsection; and

8 B. "local public body" means a mutual domestic
9 water consumers association, a land grant, an incorporated
10 municipality or a special district."

11 SECTION 2. Section 12-6-3 NMSA 1978 (being Laws 1969,
12 Chapter 68, Section 3, as amended) is amended to read:

13 "12-6-3. ANNUAL AND SPECIAL AUDITS--FINANCIAL
14 EXAMINATIONS.--

15 A. Except as otherwise provided in Subsection B of
16 this section, the financial affairs of every agency shall be
17 thoroughly examined and audited each year by the state
18 auditor, personnel of the state auditor's office designated
19 by the state auditor or independent auditors approved by the
20 state auditor. The comprehensive annual financial report for
21 the state shall be thoroughly examined and audited each year
22 by the state auditor, personnel of the state auditor's office
23 designated by the state auditor or independent auditors
24 approved by the state auditor. The audits shall be conducted
25 in accordance with generally accepted auditing standards and

1 rules issued by the state auditor.

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

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

19 (2) at least ten thousand dollars (\$10,000)
20 but less than fifty thousand dollars (\$50,000), it shall
21 comply only with the applicable provisions of Section 6-6-3
22 NMSA 1978;

23 (3) less than fifty thousand dollars
24 (\$50,000) and directly expends at least fifty percent of, or
25 the remainder of, a single capital outlay award, it shall

1 submit to the state auditor a financial report consistent
2 with agreed-upon procedures for financial reporting that are:

3 (a) focused solely on the capital
4 outlay funds directly expended;

5 (b) economically feasible for the
6 affected local public body; and

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

9 (4) at least fifty thousand dollars
10 (\$50,000) but not more than two hundred fifty thousand
11 dollars (\$250,000), it shall submit to the state auditor, at
12 a minimum, a financial report that includes a schedule of
13 cash basis comparison and that is consistent with agreed-upon
14 procedures for financial reporting that are:

15 (a) narrowly tailored to the affected
16 local public body;

17 (b) economically feasible for the
18 affected local public body; and

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

21 (5) at least fifty thousand dollars
22 (\$50,000) but not more than two hundred fifty thousand
23 dollars (\$250,000) and expends any capital outlay funds, it
24 shall submit to the state auditor, at a minimum, a financial
25 report that includes a schedule of cash basis comparison and

1 a test sample of expended capital outlay funds and that is
2 consistent with agreed-upon procedures for financial
3 reporting that are:

4 (a) narrowly tailored to the affected
5 local public body;

6 (b) economically feasible for the
7 affected local public body; and

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

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

16 (a) economically feasible for the
17 affected local public body; and

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

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

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

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

13 E. In order to comply with United States
14 department of housing and urban development requirements, the
15 financial affairs of a public housing authority that is
16 determined to be a component unit in accordance with
17 generally accepted accounting principles, other than a
18 housing department of a local government or a regional
19 housing authority, at the public housing authority's
20 discretion, may be audited separately from the audit of its
21 local primary government entity. If a separate audit is
22 made, the public housing authority audit shall be included in
23 the local primary government entity audit and need not be
24 conducted by the same auditor who audits the financial
25 affairs of the local primary government entity.

1 F. The financial affairs of a political
2 subdivision of the state that is determined to be a component
3 unit of a primary government entity in accordance with
4 generally accepted accounting principles, at the component
5 unit's discretion, may be audited separately from the audit
6 of the component unit's primary government entity. If the
7 component unit chooses to have a separate audit conducted,
8 the component unit audit shall be included in the primary
9 government entity's audit but need not be conducted by the
10 same auditor that audits the financial affairs of the primary
11 government entity. The auditor for the primary government
12 entity shall accept the audit performed by the auditor
13 selected by the component unit.

14 G. The state auditor shall notify the legislative
15 finance committee and the public education department if:

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

20 (2) the state auditor has investigated the
21 matter and attempted to negotiate with the school district,
22 charter school or regional education cooperative but the
23 school district, charter school or regional education
24 cooperative has not made satisfactory progress toward
25 compliance with the Audit Act.

1 H. The state auditor shall notify the legislative
2 finance committee and the secretary of finance and
3 administration if:

4 (1) a state agency, state institution,
5 municipality or county has failed to submit a required audit
6 report within ninety days of the due date specified by the
7 state auditor; and

8 (2) the state auditor has investigated the
9 matter and attempted to negotiate with the state agency,
10 state institution, municipality or county but the state
11 agency, state institution, municipality or county has not
12 made satisfactory progress toward compliance with the Audit
13 Act."

14 SECTION 3. APPLICABILITY.--The provisions of this act
15 apply to the financial affairs of an agency in fiscal year
16 2016 and all subsequent fiscal years. _____