

LFC Requester:

Emily Hilla

### AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

#### SECTION I: GENERAL INFORMATION

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: 02/22/2025

Check all that apply:

Bill Number: HB 493

Original  Correction   
Amendment  Substitute

Sponsor: Rep. Cynthia Borrego

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: PUBLIC FINANCE ACCOUNTABILITY ACT

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#### SECTION II: FISCAL IMPACT

##### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

##### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

##### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis:

House Bill 493 proposes to enact the “Public Finance Accountability Act” to regulate state agencies’ grants of capital-outlay funding to other entities (termed “grantees”) to undertake capital-outlay projects.

**Section 1.** This section would give the six-section act its title.

**Section 2.** This section would provide definitions for words and terms used in the act, including “annual audit”; “department”—defined as the Department of Finance and Administration (DFA); “grant”; “grant agreement”; “grantee”; and “state agency.”

**Section 3.** This section would create a fund to enable the Office of the State Auditor to assist grantees in complying with the Audit Act.

**Section 4.** This section would require the DFA to establish specific criteria (enumerated in the section) for an entity to receive capital outlay funding. One all-encompassing requirement appears to be that the grantee is current on its annual audits. Another is that the grantee is compliant with “any” financial-reporting requirements and has its current fiscal year budget approved by “any applicable” governing body or oversight agency. Otherwise, the criteria would vary depending on whether the grantee is required by the Audit Act to undergo annual audits.

**Section 5.** This section would mandate that the DFA require that state agencies adhere to certain requirements in relation to grants and grantees, both the requirements enumerated in the section and others the DFA might prescribe. The requirements include capital-asset acquisition approvals, the use of grant-agreement templates, and field audits of capital-outlay projects.

**Section 6.** This section would mandate that the DFA take certain administrative actions (enumerated in the section) to implement the act.

**Section 7.** This section would provide that the act becomes effective on July 1, 2025.

**FISCAL IMPLICATIONS**

N/A

## **SIGNIFICANT ISSUES**

- Paragraphs (1) and (3) of Section 4(A) might be inconsistent with each other. Paragraph (1) appears to contemplate that all grantees are subject to the Audit Act, while Paragraph (3) specifically contemplates a grantee that is not.
- Sections 5 and 6 might likewise be inconsistent with each other. Section 6(C) contemplates that a grantee could deviate from the DFA's "grant agreement templates and grant management and oversight requirements," but Section 5, which mandates the establishment of a template and requirements, does not contemplate such deviations.

## **PERFORMANCE IMPLICATIONS**

None.

## **ADMINISTRATIVE IMPLICATIONS**

None.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Conflict with SB 355, which also proposes to enact the "Public Finance Accountability Act," but with somewhat different terms.

## **TECHNICAL ISSUES**

- Section 4(A)(2)(b): The word "significant" before "deficiencies" appears to have been inadvertently omitted; Section 4(A)(2) refers to "significant deficiencies."
- Section 4(A)(3)(b): The word "implement" might be substituted with "enforce" to better express the provision's intent.
- Section 5(B): the words "in exchange" after "consideration" create a redundancy.
- Section 6(A): The words "and oversight" after "management" appear to have been inadvertently omitted.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**

The revisions proposed under "Significant Issues" and "Technical Issues" above could be made, as appropriate, to improve consistency, eliminate redundancy, and better express the measure's intent.