LFC Requester:	E. Hilla

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to **billanalysis@dfa.nm.gov**
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: *2.21.25*
Bill Number: *HB493*

Check all that apply:
Original *x*_ Correction __
Amendment __ Substitute __

Sponsor: C. Borrego
Short **PUBLIC FINANCE ACCOUNTABILITY ACT**

Agency Name and Code Number: OSA 308
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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	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
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

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

<u>SECTION III: NARRATIVE</u>

BILL SUMMARY

<u>Synopsis:</u>

House Bill 493 (HB493) creates the Public Finance Accountability Act (the Act) and establishes definitions. HB493 sets criteria by which the Department of Finance and Administration (DFA) may make capital outlay grants of award to public entities. HB493 also creates the Public Finance Accountability Fund administered by the Office of the State Auditor (OSA) to assist grantees in complying with the Audit Act. For entities required to have an annual audit, the most recently concluded fiscal year audit must be a public record. HB493 requires that for audits that reveal material weaknesses or significant deficiencies the entity must have remedied the material weaknesses and significant deficiencies to the satisfaction of the state agency making the grant (DFA).

For public entities required to reach financial certification under the Audit Act at a threshold less than an annual financial audit, HB493 requires: grantees demonstrate adequate accounting methods and procedures to account for, expend grant funds in accordance with applicable law, and the awarding agency to impose via grant conditions any corrective actions necessary to remedy deficiencies identified or determine another entity to act as a fiscal agent for the grant. HB493 requires grantees to follow financial reporting requirements, including those in the Audit Act, and shall have a budget for the current fiscal year approved by any applicable governing body or oversight agency. HB493 requires DFA to certify that these conditions have been met before the Board of Finance (BOF) issues Severance Tax Bonds (STB's) to an entity for a project or before it makes grants of award.

HB493 also requires DFA implement grant management and oversight requirements for grantees that ensure: sales, leases and licenses of capital assets acquired are approved in accordance with applicable law (or, if no oversight entity is required to approve a sale, lease or license of capital asset - independently confirm that the disposition of capital assets complies with applicable law and that the grantee is receiving adequate consideration), use of the appropriate capital outlay grant agreement template DFA uses, and field audits are completed of capital outlay projects.

HB493 empowers DFA to promulgate policies and procedures for these activities, develop its grant agreement templates, allow for criteria when deviating from these templates or other monitoring and oversight responsibilities and tasks DFA with monitoring and compliance enforcements for grants under the Act.

FISCAL IMPLICATIONS

HB493 does not carry an appropriation and DFA would need to implement provisions without additional funding.

SIGNIFICANT ISSUES

Elements of HB493 have been in implementation for over a decade as Executive Order 2013-006. The Executive Order was implemented to better safeguard the state's direct, legislative capital outlay appropriations and ensure timely state agency financial reporting in any given year. OSA works, in consultation every year, with DFA and other executive agencies to use the OSA's Audit At-Risk List in holding agencies and local public bodies accountable for late audits and audits that result in modified, adverse, or disclaimed opinions. So far, most of the current process that HB493 formalizes has worked well in acting as a deterrent in public entities submitting late audit reports. It has also ensured capital outlay dollars are spent prudently and in accordance with state law.

OSA believes having this financial government procedure only exists in Executive Order instead of state law presents significant limitations. For example, should a future Executive repeal the Executive Order because of political pressures from non-compliant public entities the state would revert to increased untimely audits and limited safeguards for the expenditure of direct legislative capital outlay appropriations.

PERFORMANCE IMPLICATIONS

The Office of the State Auditor supports this bill. Executive Order 2013-006 is one of two policy levers the state has to require timely compliance with financial audits and the Audit Act (the other being NMSA 1978 §12-6-3 F). This other lever has never been operationalized and asks OSA to report to PED, LFC and DFA untimely audits and other sections of statute require DFA or PED to withhold operating funds from the non-compliant entity). Without this policy in place, OSA would be significantly limited in its ability to enforce timely completion of audits and would need to lean more heavily on the Executive to withhold Operating funds to reach compliance – an action that no Executive administration has taken to date.

ADMINISTRATIVE IMPLICATIONS

Most of HB493, including the process by which public entities access direct legislative capital outlay appropriations, the policies and procedures for oversight and monitoring at DFA and requiring restrictions to be placed on entities are already in place. HB493 merely takes the existing process entities and formalizes it into state law.

New provisions for the Public Finance Accountability Fund would be administered in a comparable manner to the non-recurring supplemental funding the OSA currently receives for small local public bodies to reach compliance with the Audit Act. That program looks at ability to pay and need and is primarily for those entities that do not require a full financial audit. If the OSA were to expand to include audited entities under the provisions of HB493, it would include metrics around the ability to pay and would need to reach a determination if the OSA would subsidize fiscal agents or not.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS