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FISCAL IMPACT REPORT

SPONSOR	House Appropriations and Finance Committee	**LAST UPDATED**	3/21/25
		ORIGINAL DATE	3/16/25
SHORT TITLE	Public Finance Accountability Act	**BILL NUMBER**	CS/House Bill 493/ HAFCS/aSTBTC
		ANALYST	Hilla

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DFA	No fiscal impact	$2,120.4	$2,104.0	$4,224.4	Recurring	General Fund
DFA	No fiscal impact	$500.0	No fiscal impact	$500.0	Nonrecurring	General Fund
Total	No fiscal impact	$2,620.4	$2,104.0	$4,724.4		General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Conflicts with Senate Bill 355

Sources of Information

LFC Files

Agency Analysis Received From
Department of Finance and Administration (DFA)
Office of the State Auditor (OSA)
New Mexico Attorney General (NMAG)
Economic Development Department (EDD)

Agency Analysis was Solicited but Not Received From
New Mexico Counties
New Mexico Municipal League (NMML)

SUMMARY

Synopsis of STBTC Amendments to HAFC Substitute for House Bill 493

The Senate Tax, Business and Transportation Committee (STBTC) amendments to the House Appropriations and Finance Committee substitute of House Bill 493 (HB493) requires that a grantee must have completed a financial audit for one of the two past fiscal years, with the most recent audit available a public record as outlined in the Audit Act. Under the amendment, a state agency shall determine it will act as a fiscal agent should a grantee not meet the audit requirements. The amendment clarifies Section 3, paragraph (3), that the state agency making the grant shall determine a fiscal agent if a grantee's audit is not from the most recent two fiscal years.

Synopsis of HAFC Substitute of House Bill 493

The House Appropriations and Finance Committee (HAFC) substitute of House Bill 493 (HB493) creates the Public Finance Accountability Act. The act authorizes the Department of Finance and Administration (DFA) to create funding criteria for grantees to be eligible for a grant.

- The grantee shall:
    - Have their most recent annual audit be a public record;
    - Document material weakness or significant deficiencies that raise concerns about the grantee's ability to expend grant funds;
    - Have remedied the material weakness and significant deficiencies to the satisfaction of the state agency making the grant;
    - Have determined that another appropriate entity is able and willing to act as a fiscal agent for the grant, should the grantee's prior year audit findings have repeating material weaknesses and deficiencies for more than two consecutive fiscal years from the fiscal year the grant is being considered, the grantee's most recent audit is not from the two immediate past fiscal years, or if the opinion of the most recently completed annual audit is qualified, modified, or adverse.
- A state agency making the grant shall have determined that it can impose and has the resources to adequately address material weakness and significant deficiencies.
- Should a grantee not be subject to the Audit Act, demonstrate adequate accounting methods and procedures to manage and spend grant funds.

These criteria must be followed before a state agency can certify with the Board of Finance within DFA for the issuance of severance tax or general obligation bonds for a project or make a grant to a grantee.

DFA must establish grant management and oversight requirements to ensure state agencies follow any applicable laws for capital outlay or other special appropriations regarding sales, leases, and licenses of capital assets. DFA will promulgate policies and procedures for the activities outlined in HB493, including capital outlay grant agreement templates for use by state agencies, in addition to oversight responsibilities for monitoring and compliance.

DFA may grant a force majeure waiver, in consultation with the Office of the State Auditor (OSA), in the event parties are unable to fulfill their obligations under the bill's provisions when an extraordinary event beyond their control, such as a declared natural disaster, prevents compliance.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

DFA estimates HB493 would create a recurring fiscal impact of over $2 million. The department estimates it would need an additional 13 FTE for its Local Government Division (LGD) at a cost of $141.3 thousand per FTE. The Financial Control Division (FCD) at DFA anticipates an additional 2 FTE at the same rate of $141.3 thousand per FTE, for a total of $282.7 thousand in new recurring general fund revenue for the division, in addition to a $500 thousand one-time cost for a database creation to implement HB493. This creates a recurring cost of $2.1 million at the start of FY26, with $2 million as the year-over-year cost after adjusting for nonrecurring costs when first onboarding the 15 FTE ($34.6 thousand in nonrecurring costs are needed in FY26), and assuming system maintenance of no more than $20 thousand starting in FY27.

These costs have not been built into DFA's FY26 operating budget.

SIGNIFICANT ISSUES

The OSA states provisions in HB493 have been in implementation for over a decade following an executive order from 2013. The executive order was intended to safeguard capital outlay appropriations by ensuring grantees demonstrated adequate financial management and accounting capabilities before funds were released. OSA states it works in consultation with DFA every year to hold at-risk agencies and local public bodies accountable for late audits or audits that have resulted in modified, adverse or disclaimed opinions. OSA states that existing processes have worked to ensure capital outlay funding is being spent prudently and in accordance with state law, as HB493 aims.

OSA expresses concern that current financial government procedures are only codified in the 2013 executive order. These could be removed by a future executive order repealing the provisions of the original, which could result in untimely audits and limited safeguards for the expenditures of capital outlay appropriations, which would create

OSA states:

> 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) that has never been operationalized where OSA reports to the Public Education Department, 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 has taken to date.

DFA recommends that the bill explicitly identify an accounting standard or principles similar to the state's Model of Accounting Practices enforced by FCD.

The Economic Development Department states that the bill anticipates increasing demonstrative responsibilities for state agencies that administer awards and grants, which could delay the approval and disbursement of funds.

ADMINISTRATIVE IMPLICATIONS

OSA states the bill adds restrictions on entities that are already in place and takes the existing process and "weakens some sections for audited entities and formalizes it into state law." HB493 adds more administrative load to DFA for oversight criteria.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with Senate Bill 355, which seeks to amend the same act, with STBTC's amendments duplicating the requirements of entities having to have completed a financial audit for one of the two past fiscal years, with the most recent audit available a public record as outlined in the Audit Act.

EH/hj/SR/SL2/sgs