FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Wirth	**ORIGINAL DATE**	2/25/25
SHORT TITLE	Public Finance Accountability Act	**BILL NUMBER**	Senate Bill 355
		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.

Duplicates House Bill 493

Sources of Information

LFC Files

Agency Analysis Received From
Department of Finance and Administration (DFA)
Office of the State Auditor (OSA)

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

SUMMARY

Synopsis of Senate Bill 355

Senate Bill 355 (SB355) creates the Public Finance Accountability Act, requiring the Department of Finance and Administration (DFA) to establish funding criteria for an entity to be eligible for a capital outlay or other special appropriation based in compliance with the act. The requirements for a grantee, an entity that receives capital outlay or other special appropriations, are:

- 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.
- If a grantee's audit has a material weakness or significant deficiencies, the grantee must prepare an actionable plan to address the audit findings, with a state agency making the grant to provide support to implement the grantee's action plan. If there are repeat audit

findings, the state agency making the grant to a grantee must find a fiscal agent for the grant.
- Should a grantee not be subject to the Audit Act, the grantee must demonstrate adequate accounting methods and procedures to manage and expend grant funds.
- The grantee must be in compliance with any financial reporting requirements, including those in the Audit Act, and shall have an approved budget for the fiscal year by any applicable government body or oversight agency.

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 is to establish grant management and oversight requirements to ensure state agencies are in accordance with any applicable laws for capital outlay or other special appropriations regarding sales, leases, and licenses of capital assets. DFA is to promulgate policies and procedures for the activities outlined in SB35, in addition to oversight responsibilities for monitoring and compliance.

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

FISCAL IMPLICATIONS

DFA estimates SB355 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 SB355. This creates a recurring cost of $2.1 million at the start of FY26, with $2 million to be 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 Office of the State Auditor (OSA) states provisions in SB355 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 agencies and local public bodies at-risk 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 SB355 aims.

However, OSA notes that SB355 decreases the rigor of financial performance already implemented by the executive order. Existing processes require entities seeking grants to remedy any material weakness or significant deficiencies to DFA's satisfaction, but the bill requires the grantee to only create a plan to remedy the findings, putting more responsibility on DFA rather than the agency or local public body receiving the funding, adding that an action plan to address the findings is not a sufficient safeguard to capital outlay assets or work as a significant enough deterrent of poor financial practices. OSA notes concern that current financial government procedures only exist via the 2013 executive order would be lifted should a future executive order repeal the one from 2013, which could result in untimely audits and limited safeguards for the expenditures of capital outlay appropriations.

DFA adds that since SB355 does not provide accounting methods or principles, state agencies may struggle to evaluate whether a non-audited entity's accounting methods and procedures comply with the bill's provisions. DFA and OSA note concern over how entities required to have an annual audit could meet the bill's requirements by completing only one of the two most recent fiscal year audits and still have the most recently concluded fiscal year audit be publicly released. OSA states "if the most recent fiscal year audit is of record, then it is most likely that the audit from two fiscal years prior is available, too, as the financial information has to roll over year-to-year to complete audits." DFA says state agencies will be unable to "assess repeated material weakness or significant deficiencies and/or the effect of any actionable plan to address issues identified in audits" given SB355 only requiring one annual audit for the past two fiscal years.

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

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." SB355 adds more administrative load to DFA for oversight criteria.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill duplicates House Bill 493.

ALTERNATIVES

OSA encourages the bill to reflect language in Executive Order 2013-006. OSA makes the following recommendations:

> Removing the language on in Section 3 Subsection A Subsubsection 2 (page 3 lines 4 – 19) and replacing it with language from the Executive Order 2013-006 that reads as

follows:

> (2) in the case of a grantee whose most recent annual audit, or special audit released since its most recent annual audit became a public record, documents material weaknesses or significant deficiencies that raise concerns about the grantee's ability to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired with grant funds:
>
> > (a) the grantee shall have remedied the material weaknesses and significant deficiencies to the satisfaction of the state agency making the grant;
> >
> > (b) the state agency making the grant shall have determined that it can impose and has the resources to implement special grant conditions that adequately address the material weaknesses and deficiencies; or
> >
> > (c) the state agency making the grant shall have determined that another appropriate entity is able and willing to act as fiscal agent for the grant;

This amendment would help ensure that [the state is] not lowering the standard by which audited municipalities or other governments are accessing capital outlay funds.

EH/rl/hj