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FISCAL IMPACT REPORT

SPONSOR Lujan, B. DATE TYPED 2/09/05 HB 499

SHORT TITLE Create Capital Outlay Division SB _____

ANALYST Kehoe

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
NFI				N/A	See Narrative

(Parenthesis () Indicate Expenditure Decreases)

Relates or conflicts with Senate Bill 9 and Senate Bill 365.
Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance & Administration (DFA)
New Mexico Commission on Higher Education (CHE)
Corrections Department (CD)
New Mexico Environment Department (NMED)
General Services Department (GSD)
New Mexico Public Education Department (PED)
Aging & Long Term Services Department (ALTSD)

SUMMARY

Synopsis of Bill

House Bill 499 creates the Capital Outlay Division within the Department of Finance & Administration and specifies the powers and duties of the division.

Significant Issues

House Bill 499 creates the Capital Outlay Division within the Department of Finance & Administration and amends provisions of current law to allow the Budget Division of DFA to approve

“operational” budget adjustments for state agencies, while allowing the proposed Capital Outlay Division of DFA to approve “capital outlay” budget adjustments. The bill further removes the General Services Department from jointly developing and administering the four-year program of major state capital improvement projects and transfers the responsibility to the proposed division. It appears statutory provisions providing for GSD’s review of capital project needs, submission of capital project requests, and administration of capital projects on behalf of agencies under GSD jurisdiction would remain the same. The duties of the proposed Capital Outlay Division specified within the bill are:

- to prepare, amend, and maintain a four-year program of major state capital improvement projects to be undertaken by the state with state aid or under state regulation;
- to maintain a central database on capital outlay projects that includes fiscal information on and progress state of the projects;
- to identify fund balances that should be reverted and notify the secretary;
- to work with other state agencies to coordinate capital projects to achieve better accountability and reporting;
- to provide technical assistance to the governor and the legislature as they develop joint priorities to be funded through the capital outlay process;
- to work with state agencies and local and tribal governments in developing capital outlay funding priorities for local and tribal governments; and
- to approve budget adjustment requests related to capital projects

PERFORMANCE IMPLICATIONS

The 2004 Legislature appropriated, and the governor approved, \$700.0 thousand for improving administration of the capital outlay program. A Capital Projects Unit (CPU), consisting of a director and six FTE, was established by DFA commencing in May 2004. The director’s first mission was to produce a reconciled Capital Outlay Monitoring Report with reliable figures reflecting appropriations, expenditures, encumbrances and balances by year.

Following a Legislative Finance Committee audit, CPU determined and agreed active projects appropriated from 1992 forward should be carefully scrutinized and reconciled. Following a number of technical difficulties and delays, CPU has reviewed 9,600 projects funded between 1983 and 2004 and reconciled 4,103 “active” projects appropriated from STB and GOB capacity between 1992 and 2004. Projects authorized from the general fund and other funds (state road fund, irrigation water construction fund, Miners’ Trust Fund, etc.) are under review, but unexpended balances have not been reconciled at this time.

DFA selected CPU as a key agency for producing quarterly reports pursuant to 2004 amendments to the Accountability in Government Act. The first report was prepared in December 2004. In future reports, CPU needs to indicate by project reversion dates, encumbrances and actual uncommitted balances to provide the legislature a better indication of the progress toward completion of projects.

FISCAL IMPLICATIONS

House Bill 7, General Appropriations Act, contains an appropriation totaling \$636.6 thousand including seven full-time equivalent positions to support the powers and duties specified within

House Bill 499.

ADMINISTRATIVE IMPLICATIONS

To some extent, the proposed duties of the Capital Outlay Review Committee duplicate the activities and duties of the Local Government Division of the Department of Finance & Administration, Property Control Division of the General Services Department, the New Mexico Finance Authority, the Commission on Higher Education, the Aging & Long-Term Care Department, and other governmental entities with a planning process for prioritizing capital projects.

Current statute requires GSD and DFA to jointly administer the four-year plan which requires state agencies and institutions to submit by July 1st each year their projected capital program for the next four years and by mid-September the specifics of requests for the upcoming legislative session. The review and recommendation process each autumn includes DFA/GSD hearings with agencies and results in the development of the Executive's capital budget. It is unclear whether this process would continue and if GSD's expertise in property management and loss control will continue to be utilized during the hearings.

The State Board of Finance (BOF) maintains a report by agency reflecting sold, expended and balances for each project authorized for funding from general obligation and severance tax bonds. A separate report provides the amount, in aggregate, of unexpended bond proceeds for each series of bonds. A direct correlation between DFA's and BOF's reports is impractical due to a number of factors. Bond sales are issued in multiple series and may contain partial amounts sold in separate issues. The DFA monitoring system relies on agency reported data that is not audited. Also, bond expenditures are made on a reimbursement basis of actual expenditures, but expenditures reported in the monitoring system may include payments from other funds that have not been submitted for reimbursement.

The Local Government Division (LGD) currently serves as a clearinghouse for all state and federal grant or loan programs for local community infrastructure development. LGD administers a Local Infrastructure Capital Improvements Plan (ICIP) to assist local governments in submitting data to support their requests for appropriations. The plan is not statutorily created and requires "volunteer" participation by municipalities, counties, and special districts (Native Americans, water associations, fire districts and soil and water districts). Only a small percent of all planned priorities listed on the ICIP are funded by direct legislative appropriations.

The governor has also created the Governor's Infrastructure Finance Team (GIFT), a sub-group of the Governor's Finance Council to work with captains from various agencies charged with analyzing and prioritizing water; health; economic development and process overview; transportation; energy; higher education; public education and telecommunication infrastructure projects.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 9 creates the Capital Projects Act for the purpose of creating a council of experts to evaluate and prioritize proposed statewide and local capital outlay projects and to monitor and oversee projects authorized by the Legislature to ensure appropriations are expended in the most cost-effective manner.

Senate Bill 365 creates a Capital Projects Review Act; creates a permanent joint interim Legislative Capital Projects Review Committee; provides duties of the committee; authorizes the Legislative Council Service to provide the necessary staff support; provides standards and guidelines for capital project funding; and appropriates \$300 thousand from the general fund to the Legislative Council Service for the purpose of reimbursing expenses incurred by the committee.

OTHER SUBSTANTIVE ISSUES

Based on a study by the National Association of State Budget Officers, *Capital Budgeting in the States*, good practices for quality capital budgeting require:

- Defining capital expenditures
- Defining maintenance expenditures and identifying funding for maintenance
- Developing a system to prioritize projects and identify criteria used for selection
- Identifying operating costs of each project over a multi-year period
- Effective communication between the legislature and the executive during the capital budget process
- Strengthened review of long-range capital plans
- Integrated planning with debt affordability
- Review of cost-benefit comparisons for private sector participation in capital projects
- Review of long-term leases
- Defining of outcomes for capital investments
- Validating cost estimating methods
- Establishing a tracking system to keep projects on schedule and within budget
- Maintaining an updated inventory system of capital assets
- Maintaining a centralized oversight for capital projects

LMK/sb