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FISCAL IMPACT REPORT

ORIGINAL DATE 1/24/17

SPONSOR Ely LAST UPDATED _____ HB 140

SHORT TITLE Capital Outlay Project Audits SB _____

ANALYST Kehoe

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate, but possibly significant	Indeterminate, but possibly significant		Recurring	General fund (See Fiscal Summary)

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
Office of State Auditor (OSA)
Higher Education Department (HED)

SUMMARY

Synopsis of Original Bill

House Bill 140 would require that a special audit be performed upon completion of all capital outlay projects funded with state monies with a value of \$1 million or greater. The purpose of the audit is to ensure funds were expended in accordance with state law or local ordinances. The proposed audit would be performed separate from the fiscal agent’s annual audit, the state auditor, or any other special audit.

FISCAL IMPLICATIONS

House Bill 140 does not contain an appropriation, but proposes that the entity serving as fiscal agent for the capital outlay project shall pay for the cost of the special audit to be conducted by an independent auditor approved by the state auditor. If the fiscal agent is a state agency overseeing an appropriation for a state-owned facility or the fiscal agent is an eligible political subdivision of the state (city, county, school, water association, or other eligible entity), the cost of contracting an independent auditor could have a substantial impact on the entity’s operating budget.

Similar legislation proposed in past years requiring an audit of capital outlay projects suggested using a percentage of the appropriated amount to be allowed for use by the fiscal agent to

conduct an audit upon completion of a project. Currently, the State of New Mexico is required to comply with Internal Revenue Service regulations pertaining to the issuance and use of tax-exempt severance tax bonds. While the state does not currently require special audits of capital outlay projects, the State Board of Finance does closely scrutinize the use of bonds for capital projects.

Relative to costs, the Office of State Auditor offers the following: “the OSA anticipates that close-out audits of capital projects would ultimately yield net savings. The requirement of a closeout audit can help set the tone of the project by establishing oversight and often results in increased savings through cost avoidance and recovery of overspent or misspent funds.

The estimated cost of a capital project audit would be \$10,000 or less, depending on the sophistication of the project and the quality of the documentation. The required procedures would be much less cumbersome than an annual audit. A capital project audit involves a more routine set of procedures that look at documentation and other audit support for money spent and work completed, and evaluate basic compliance issues like Procurement Code compliance. In addition, if combined with annual audit work, agencies may be able to achieve cost and time savings. The OSA does not have access to a list of capital projects meeting the dollar threshold that are completed each year in order to extrapolate the ultimate long-term fiscal impact. However, the OSA notes that the fiscal implications of this bill would be delayed, because only projects commencing in FY18 or later would be subject to the bill, and those projects would not be complete until FY19 or later. In addition, audit costs would be spread out among the agencies that complete capital projects”.

SIGNIFICANT ISSUES

According to the Legislative Finance Committee Quarterly Report updated as of January 2016, \$1.3 billion for 259 projects has been appropriated for capital projects between 2012 and 2016 with a value of \$1 million or greater.

ADMINISTRATIVE IMPLICATIONS

The Higher Education Department analysis indicates the bill could potentially cause additional responsibilities for the department that could likely increase its administrative costs, but would require further review to determine the full financial impact of this bill. HED currently administers 19 capital projects with a value of \$1 million or greater. However, the higher education institutions are the fiscal agents and would have the responsibility to pay for the costs associated with the proposed audit.

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