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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/13

SPONSOR Trujillo LAST UPDATED \_\_\_\_\_ HB 305

SHORT TITLE Capital Outlay Project Audits SB \_\_\_\_\_

ANALYST Boerner

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	\$100.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Office of the State Auditor (OSA)

### SUMMARY

#### Synopsis of Bill

This bill appropriates \$100 thousand from the general fund to the Office of the State Auditor to perform audits of capital outlay projects.

### FISCAL IMPLICATIONS

The appropriation of \$100 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall revert to the general fund.

### SIGNIFICANT ISSUES

While certified public accountants may be technically capable of performing capital outlay audits, the OSA may not be the appropriate entity to perform what would be considered a performance audit, which is a systematic assessment of the results of state government spending and program activities to include assessing program effectiveness and results; economy and efficiency; and compliance with legal or other requirements.

In 1991, the Legislative Finance Committee (LFC) assumed responsibility of the performance

audit program which had previously been a part of the OSA. The OSA (website) notes that performance audits are typically done by staff employed by the LFC and that the OSA does not normally assist the LFC or otherwise engage in performance auditing.

Rather, the OSA statutory responsibilities are focused on the financial affairs of state agencies and entities. The Office of the State Auditor has two statutory purposes: (1) to ensure that the financial affairs of every agency shall be thoroughly examined and audited each year by the state auditor, personnel of the state auditor's office designated by the state auditor or independent auditors approved by the state auditor and (2) cause the financial affairs and transactions of an agency to be audited in whole or in part. Section 12-6-3, NMSA 1978. These two statutory purposes grant the State Auditor the authority to conduct both financial and special audits.

## **PERFORMANCE IMPLICATIONS**

The bill indicates the appropriation is to be spent on "random audits" which is ambiguous. With a limited budget of \$100 thousand, it would be prudent for the auditing entity to carefully assess capital outlay projects for those that representing high risk or significant capital outlay funds.

Regarding the selection of capital outlay projects to audit, the OSA notes that significant research would be needed in order to assess the potential population to be audited. Specifically, pursuant to the Section 12-6-3(B) NMSA 1978 (the tiered system of financial reporting), "local public bodies" (incorporated municipalities, land grants, mutual domestic water consumer associations and special districts) that have under \$500,000 in revenue during a fiscal year and directly expend at least fifty percent or the remainder of a capital outlay award must conduct an agreed-upon procedures engagement that is focused solely on the capital outlay funds directly expended.

However, for other government agencies that expend capital outlay, those agencies' annual financial audits may only test capital outlay expenditures depending on the significance or materiality threshold of the projects. Therefore, certain capital outlay expenditures may not be included in the sampling methodology of an auditor during the annual financial audit process. This bill would contribute to greater oversight of capital outlay expenditures.

If the OSA were to receive this appropriation, the OSA would narrow the universe of capital outlay expenditures to those that are not covered by the tiered system or by an annual financial audit. From that population, the OSA would use a risk-based approach to select capital outlay projects for testing. At this time, the OSA is unable to assess the total number of capital outlay projects that would constitute the population from which the OSA would select. Doing such an assessment would entail significant research and inquiries to agencies and auditors. Given this unknown, we are also unable to ascertain how many audits could be conducted for \$100,000 and what amount of capital outlay projects would be covered by the appropriation.

## **TECHNICAL ISSUES**

It is more accurate to state that the audits would be conducted from a risk-based approach rather than randomly.

**POSSIBLE QUESTIONS**

Should the OSA take on the additional responsibility of capital outlay project audits given the serious fiscal condition of many state agency and local public bodies that desperately require the fiscal oversight and technical assistance of the OSA?

CEB/bm