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FISCAL IMPACT REPORT

ORIGINAL DATE 02/16/11

SPONSOR Brown LAST UPDATED _____ HB 428

SHORT TITLE Raise Organization Income Subject to Audit SB _____

ANALYST Archuleta

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	*See Fiscal Impact	*See Fiscal Impact	*See Fiscal Impact			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Auditor's Office (SAO)

Higher Education Department (HED)

Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 428 proposes to amend Section 6-5A-1 NMSA 1978 to increase the threshold for requiring audits of nonprofits that make donations to the state from \$100 thousand per year to \$250 thousand per year. The amendment applies to nonprofit entities that donate or make gifts to the state agencies, institutions of higher education, public post-secondary educational institution and any county, municipality or public school district.

FISCAL IMPLICATIONS

The fiscal impact associated with HB 428 would be minimal to slightly positive, as relaxing the threshold for audit requirements for nonprofits gifting items to public entities; might encourage additional donations.

SIGNIFICANT ISSUES

HED indicates that nonprofit entities can contribute great value and wealth to public institutions of higher education and other state agencies and entities through transfers of gifts. Nonprofits are sometimes formed for family trusts and estates specifically for the purpose of making gifts, including gifts to government institutions such as colleges and universities

Furthermore, current requirements that a nonprofit making a donation to the state open its books to the public may be a barrier to making a gift. A nonprofit that only has \$100 thousand in income during any one year is not likely to pay much in the way of salaries or rent and maybe be reluctant to use that income to pay for an audit in order to make a gift to a state entity. In addition, it may not wish to expose its revenue and expenses to the public just because it is making a donation.

The State Auditor's Office suggests this may create less transparency with certain nonprofits with gross income less than \$250,000 that transact business with the state.

ADMINISTRATIVE IMPLICATIONS

If the threshold is raised, the SAO will not be receiving audit reports for review and processing that it may have received in the past. For example, certain museums and foundations that transact with the Department of Cultural Affairs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates House Bill 118 – Threshold for Audits of Nonprofits

ALTERNATIVES

That SAO suggests adding language that requires nonprofits that make donations to the state to be in compliance with the Audit Act, Sections 12-6-1 through 12-6-14 NMSA and the Audit Rule, 2.2.2 NMAC.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Nonprofits currently with gross annual income exceeding \$100,000 will be required to have an annual audit.

DA/bym:mew