

| | | | | |
|-----|-----|-----|-----|-----|
| N/A | N/A | N/A | N/A | N/A |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|-------------------|---------------------------|---------------|
| Total | N/A | N/A | N/A | N/A | N/A | N/A |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

HB271 is related to capital expenditures which enacts the Public Finance Accountability Act, creates the Public Finance Accountability Fund, establishes funding criteria and grant management and oversight requirements, enumerates duties of the Department of Finance and Administration (DFA), and makes an appropriation.

Section 1 and Section 2 create the short title and definitions for the act.

Section 2 creates the Public Finance Accountability Fund in the state treasury. The fund will consist of appropriations, gifts, grants and donations with the Office of the State Auditor administering the fund to assist grantees in complying with the Audit Act. Disbursements from the fund shall be made by warrant of the Secretary of Finance and Administration pursuant to vouchers signed by the State Auditor or the state auditor's designee.

Section 4A outlines criteria to be established by the Department of Finance and Administration (DFA) for a grantee to be eligible for a grant. These criteria include a requirement that the most recent concluded fiscal year of a grantee must be public record pursuant to Section 12-6-3 NMSA 1978, that documented material weaknesses or significant deficiencies that raise concerns about the grantee's ability to expend grant funds in the most recent annual audit require a grantee be remedied to the satisfaction of the state agency making the grant, and if not, the ability for the state agency to determine that it can impose and has the resources to implement special

conditions that adequately address the material weaknesses and deficiencies, or that 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. Section 4A also provides criteria for eligibility of a grantee that is not required to have annual audits conducted pursuant to the Audit Act. These include adequate accounting methods and procedures to expend grant funds in accordance with applicable law, and if not, the same conditions as noted in the previous paragraph.

Section 4B requires the Department of Finance and Administration (DFA) to require the funding criteria in Subsection A to be met prior to allowing a state agency to (1) certify to the state board of finance for issuance of severance tax bonds for a project or (2) make a grant to a grantee.

Section 5 establishes minimum grant management and oversight requirements that a state agency must follow. These include ensuring sales, leases and licenses of capital assets acquired with capital outlay appropriations granted to a grantee are approved in accordance with applicable law, in the event no oversight agency is required to approve sale, lease or license of capital assets acquired, independently confirm that the disposition of capital assets complies with applicable law and that the grantee is receiving adequate consideration in exchange for the capital assets, utilize the appropriate capital outlay grant agreement template developed by the Department of Finance and Administration (DFA), and conduct field audits of capital outlay projects in accordance with procedures and policies prescribed by the department.

Section 6 establishes the duties of the Department of Finance and Administration (DFA), including prescribing policies and procedures to implement the funding criteria and grant management requirements, prescribing one or more capital outlay grant agreement templates for use, developing criteria for deviations from its grant agreement template, and monitoring and enforcement of state agencies' compliance with the HB271.

Section 7 provides an appropriation of one million dollars (\$1,000,000) from the General Fund to the Public Finance Accountability Fund for expenditure in FY25 to support financial reporting for grantees pursuant to the Public Finance Accountability Act that are not in compliance with the Audit Act. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the General Fund.

Section 8 creates the effective date of HB271 on July 1, 2024.

The New Mexico Higher Education Department's (NMHED) analysis of this bill focuses on the higher education implications of the proposed legislation. Additional insight may be obtained from other agencies' analyses.

FISCAL IMPLICATIONS

Section 7 of HB271 provides an appropriation of one million dollars (\$1,000,000) from the General Fund to the Public Finance Accountability Fund for expenditure in FY25 to support financial reporting for grantees pursuant to the Public Finance Accountability Act that are not in compliance with the Audit Act. Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the General Fund. Section 3 creates the Public Finance Accountability

Fund and authorized the Office of the State Auditor as administrator of the fund to assist grantees in complying with the Audit Act.

The New Mexico Higher Education Department (NMHED) does not have information on the cost or type of assistance needed to support grantees in complying with the Audit Act. We do however review annual audits of Higher Education Institutions (HEI's). In our review we can note that institutions who are not in compliance with the Audit Act have experienced turnover in key fiscal positions. This has caused delay in reconciliation and financial statement preparation, resulting in late audit submissions. No information is included in the legislation requiring the Office of the State Auditor to develop eligibility criteria, application process, and award process and timelines for grantees to request funding.

Section 5 establishes minimum grant management and oversight requirements for state agencies. These additional requirements, specifically Section 5D requiring field audits of capital outlay projects, requires additional staff members to implement. These staff members would need experience in auditing capital outlay projects as well as knowledge and experience in Generally Accepted Government Auditing Standards (GAGAS). The New Mexico Higher Education Department (NMHED) estimates a need to increase operating costs for two additional personnel by one hundred and seventy-five thousand dollars (\$175,000) to implement these requirements. This cost estimate is based on the addition of two positions, each at a pay band 75 with an annual salary of \$77,667 per year. The difference of nineteen thousand six hundred and sixty-six dollars (\$19,666) would support travel and associated expenses related to the audits.

The New Mexico Higher Education Department's (NMHED) analysis of this bill focuses on the higher education implications of the proposed legislation. Additional insight may be obtained from other agencies' analyses.

SIGNIFICANT ISSUES

Much of the requirements outlined in HB271 have been implemented by the Department of Finance and Administration (DFA). Executive Order (EO) 2013-006 establishes uniform funding criteria and grant management and oversight requirements for grants of state capital outlay appropriations by state agencies to other entities. The EO also outlines DFA's responsibilities which mirror Section 6 of HB271. In order to comply with the EO, DFA established FIN 9.2 Grants Management - Funding Criteria and Oversight Requirements which establishes uniform funding criteria for grantees to receive State capital outlay appropriations and grant management and oversight requirements.

The New Mexico Higher Education Department (NMHED) has adopted processes in order to review and document grantee compliance in accordance with FIN 9.2 Grants Management - Funding Criteria and Oversight Requirements. This includes review of annual audits, preparation of grant agreements using the DFA template, and review of disposition of capital assets by Higher Education Institutions (HEI's). The additional requirements, specifically Section 5D requiring field audits of capital outlay projects, requires additional staff members to implement. These staff members would need experience in auditing capital outlay projects as well as knowledge and experience in Generally Accepted Government Auditing Standards (GAGAS).

The NMHED estimates a need to increase operating costs for two additional personnel by one hundred and seventy-five thousand dollars (\$175,000) to implement these requirements. This cost estimate is based on the addition of two positions, each at a pay band 75 with an annual salary of \$77,667 per year. The difference of nineteen thousand six hundred and sixty-six dollars (\$19,666) would support travel and associated expenses related to the audits. This requirement would not be feasible until additional staff are funded by the legislature and onboarded by the NMHED.

The New Mexico Higher Education Department's (NMHED) analysis of this bill focuses on the higher education implications of the proposed legislation. Additional insight may be obtained from other agencies' analyses.

PERFORMANCE IMPLICATIONS

Section 5 establishes minimum grant management and oversight requirements for state agencies. These additional requirements, specifically Section 5D requiring field audits of capital outlay projects, requires additional staff members to implement. These staff members would need experience in auditing capital outlay projects as well as knowledge and experience in Generally Accepted Government Auditing Standards (GAGAS). The New Mexico Higher Education Department (NMHED) estimates a need to increase operating costs for two additional personnel by one hundred and seventy-five thousand dollars (\$175,000) to implement these requirements. This cost estimate is based on the addition of two positions, each at a pay band 75 with an annual salary of \$77,667 per year. The difference of nineteen thousand six hundred and sixty-six dollars (\$19,666) would support travel and associated expenses related to the audits. This requirement would not be feasible until additional staff are funded by the legislature and onboarded by the NMHED.

The New Mexico Higher Education Department's (NMHED) analysis of this bill focuses on the higher education implications of the proposed legislation. Additional insight may be obtained from other agencies' analyses.

ADMINISTRATIVE IMPLICATIONS

Section 5 establishes minimum grant management and oversight requirements for state agencies. These additional requirements, specifically Section 5D requiring field audits of capital outlay projects, requires additional staff members to implement. These staff members would need experience in auditing capital outlay projects as well as knowledge and experience in Generally Accepted Government Auditing Standards (GAGAS). The New Mexico Higher Education Department (NMHED) estimates a need to increase operating costs for two additional personnel by one hundred and seventy-five thousand dollars (\$175,000) to implement these requirements. This cost estimate is based on the addition of two positions, each at a pay band 75 with an annual salary of \$77,667 per year. The difference of nineteen thousand six hundred and sixty-six dollars (\$19,666) would support travel and associated expenses related to the audits. This requirement would not be feasible until additional staff are funded by the legislature and onboarded by the NMHED.

The New Mexico Higher Education Department's (NMHED) analysis of this bill focuses on the higher education implications of the proposed legislation. Additional insight may be obtained from other agencies' analyses.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The New Mexico Higher Education Department (NMHED) has adopted processes in order to review and document grantee compliance in accordance with FIN 9.2 Grants Management - Funding Criteria and Oversight Requirements. If this bill was not enacted, the NMHED would continue to comply with the Executive Order 2013-006 and the Department of Finance and Administration (DFA) FIN 9.2 Grants Management - Funding Criteria and Oversight Requirements.

AMENDMENTS

N/A