FISCAL IMPACT REPORT

		LAST UPDATED	2/22/23
SPONSOR	Gonzales	**ORIGINAL DATE**	2/15/23
SHORT TITLE	Study Replacing State Audit Process	**BILL NUMBER**	Senate Bill 362
		ANALYST	Anderson

APPROPRIATION*
(dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
	$100.0	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent version of this legislation.

Relates to House Bill 319, Senate Bill 323, and Senate Bill 376, Senate Bill 316 (2018 Session) General Appropriations Act

Sources of Information

LFC Files

Responses Received From
Office of the State Auditor (OSA)
Department of Finance and Administration (DFA)

No Response Received
Office of the State Treasurer

SUMMARY

Synopsis of Senate Bill 362

Senate Bill 362 appropriates $100 thousand from the general fund to the Office of the State Auditor for the purpose of an independent study on the feasibility and cost of replacing the state's current agency-by-agency annual financial audit process with a singular state audit of all state agencies for completion of the annual comprehensive financial report. Any unexpended or unencumbered balance remaining at the end of FY24 shall revert to the general fund.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed.

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 FY24 shall revert to the general fund.

The Office of the State Auditor (OSA) requested a general fund increase of $311 thousand for FY24, or 8.4 percent above the agency's FY23 operating budget. The general fund request included an increase of $291 thousand, or 7.5 percent, to reduce the vacancy rate. The agency's total FY24 budget request was $5.1 million, a $611 thousand or 13.6 percent increase from the previous year.

The LFC recommendation supported a general fund increase of $193 thousand, or 5.2 percent, and an overall budget increase of 4.3 percent. The FY24 executive budget recommendation was of $5.6 million, $168 thousand above the LFC recommendation.

SIGNIFICANT ISSUES

Per the Office of the State Auditor

> New Mexico is one of only a few states that continues to agency-by-agency audits of state agencies. The study will allow the Office of the State Auditor to have data collected that will advise the office, and the legislature, as to the advantages, disadvantages, implications, and cost of a singular audit of state agencies. The research should include inquiries of other states and the Federal government agencies that fund the State. The study is planned to be conducted by an independent research firm that is independent of the current process; that is, the firm selected should have no interest in the results and should not currently conduct agency audits. This will preserve both independence and should preclude biased results.

The 2018 Fiscal Impact Report for SB316, Singular State Audit Process, included the following feedback from the OSA:

> The State Auditor's Office estimates that the cost of performing a single, combined annual audit and examination of all state agencies conducted in accordance with generally accepted government auditing standards would be in the range of $2.5 million to $5 million dollars per year. As such an effort has never before been undertaken in New Mexico, this is a rough estimate based on anecdotal information from public accounting firm personnel about fees paid by other states with budgets of similar size. This would be in addition to the funding for the annual performance audits, so additional general fund appropriations to either DFA or the Office of the State Auditor in the range of $2.5 million to $5 million dollars per year would likely be required.

At that time, it was speculated the additional cost of up to $5 million was likely due to the need of independent public accountants (IPA) to compile financial statements from each state agency to congregate into the single audit Comprehensive Annual Financial Audit (CAFR). At that time, OSA's estimated cost of the CAFR was only $463.3 thousand.

As of January 2022, the OSA IPA fund cash balance was $1.4 million compared to $760.4 thousand in January of 2021.

PERFORMANCE IMPLICATIONS

OSA said the study, as planned, should indicate the performance implications of moving to a singular audit of state agencies and away from the agency-by-agency methodology currently employed.

FY24 performance metrics do not currently contain information relating to the proposed program.

ADMINISTRATIVE IMPLICATIONS

OSA had 12 vacancies as of October 2023, a funded vacancy rate of approximately 28 percent. The requested increase primarily consisted of funding for staff recruitment and retention. In FY22, OSA generated $279 thousand in audit fee revenue and projects $300 thousand in audit revenue for FY24. The January 2023 report from the State Personnel Office indicates OSA has 29 budgeted, filled positions. The agency has 41 total FTE and the average cost per FTE is $103.6.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 323 makes a $210 thousand appropriation from the general fund to the Office of the State Auditor to replace the state auditor's fraud complaint case management system. The appropriation is to be spent in FY24 and any unexpended balance at the end of FY24 will revert to the general fund. SB 323 funds the replacement of the state auditor's fraud complaint case management system that provides intake, assignment, disposition and overall case management of fraud complaints received by the State Auditor.

Senate Bill 376 appropriates $1 million from general fund to OSA for use in FY24 to help small local public bodies get on track with their financial reporting duties.

House Bill 319 appropriates $1 million to OSA to contract with independent professional accountants to conduct agreed-upon procedures for associations and entities that are delinquent in reporting pursuant to the Audit Act. According OSA:

> The appropriation can be used only for agreed upon procedures which means OSA can contract only for entities that qualify under Tiers 3 through 6 of NMAC 2.2.2.16(B) 3-6. Essentially, this excludes entities exempt from engaging an Independent Professional Accountant to perform agreed-upon procedures under NMAC 2.2.2.16(B) 1-2 and entities that receive over $500K in total revenue from all sources. Consideration should be given to amending the bill to include entities exempt under NMAC 2.2.2.16(B) 1-2 to ensure that these entities that are presumably exempt from agreed-upon procedures under this portion of the regulation receive assistance in ensuring that their determination of exemption is accurate because while these entities are exempt from agreed-upon procedures engagements, they are required to certify revenues and expenditures and may

need assistance to comply with the certification requirement.

Senate Bill 316 (2018 Session) proposed changes to several sections of the Audit Act and modified the annual financial audit process. The bill removed the New Mexico Finance Authority, New Mexico Mortgage Finance Authority, and New Mexico Lottery Authority from the definition of "agency" and added them under a new definition of "legally separate entity." The bill provided that a single combined audit of each state agency will be compiled every year as part of the Comprehensive Annual Financial Audit (CAFR). The bill removes conformity with generally accepted auditing standards and replaces it with generally accepted governmental auditing standards (GAGAS).

OTHER SUBSTANTIVE ISSUES

The Department of Finance authority responded it should be included in the bill as a partner to the study:

> Given the Financial Control Division of DFA is ultimately responsible for performing the current statewide audit and reviewing individual agency audits, it would be advisable to include DFA in the bill as being a partner to the study.

Per OSA accurate, credible information as to the advantages, disadvantages, and cost implications of a singular audit for agencies will not be otherwise known without implementation of the study.

ALTERNATIVES

The Office of the State Auditor might consider piloting a version of the proposed program in FY24 in advance of receiving the $100 thousand appropriation. This would allow time for analysis on program performance and outcomes.

GA/al/ne