

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/15/25

Check all that apply:

Bill Number: SB361

Original Correction

Amendment Substitute

Sponsor: M. Padilla

Short Title: CYFD INDEPENDENT PROGRAM

Agency Name

and Code

OSA - 308

Number:

Person Writing

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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

Synopsis:

Senate Bill 361 (SB361) requires the Children, Youth and Families Department (CYFD) to issue requests for proposals (RFP's) for an independent, multi-year performance audit of CYFD programs to determine the department's capacity and ability to function effectively, efficiently, economically, ethically and equitably. SB361 specifies the contents of the RFP, and requires cooperation with the Office of the State Auditor (OSA) if the need for a special financial audit is indicated at any point during the study.

FISCAL IMPLICATIONS

SB 361 does not carry an appropriation. Presumably, CYFD will be required to pay for the program performance audit from its current contractual services appropriation, reducing the amounts available for other contracts.

Provisions of SB361 indicate if the performance audit at any stage indicates the need for a special financial audit, the auditor must notify the Secretary, who shall cooperate with OSA in its conduct.

CYFD shall transmit the annual performance audit and interim review to the Governor, the Legislative Finance Committee (LFC) and the Legislative Health and Human Services Committee within 15 days of its submission to the department. Reports shall not contain any confidential information or data identifying individual clients or families.

SIGNIFICANT ISSUES

Performance audits must be conducted in accordance with GAGAS (Yellowbook) standards and, therefore, fall under the purview of the Office of the State Auditor. This includes the requirement for the IPA to be approved and listed on the OSA approved firm list. In addition, the CYFD would be required to contract with the selected IPA through OSA utilizing and conforming to the the Audit Rule section pertaining to audit contracts.

SB361 requires CYFD to issue an RFP for competitive sealed proposals to audit the department's programs and program performance by requiring the performance to include the following in the scope of work:

- CYFD's capacity and ability to function effectively, efficiently, economically, ethically and equitably;
- the performance audit's objectives;
- an evaluation of the efficacy of CYFD's mission and the established goals and objectives to carry out that mission;
- how well CYFD's policies and practices relate to department mission goals and objectives
- a review of the applicability and sufficiency of the CYFD's policies and practices as they relate to the department's mission

- an evaluation of the commitment CYFD and staff to follow policies and procedures
- and evaluation of the strengths and weaknesses of department processes, procedures and policies
- an evaluation of CYFD's management of human resources, including a review of the accuracy of job descriptions and the qualifications of job holders to perform the described jobs;
- an evaluation of CYFD's collection and analysis of data and the use of data to inform the development of policies and practices;
- three annual performance audits with three annual six-month reviews of earlier identified problem areas;
- a review of the department's implementation of recommendations made by the performance auditor and other requirements specified by the CYFD; and
- annual and semiannual reports to CYFD.

SB361 also establishes that the criteria by which the RFP's will be scored be included in the RFP.

SB361 requires CYFD transmit the annual performance audit and interim review to the Governor, the Legislative Finance Committee (LFC) and the Legislative Health and Human Services Committee within 15 days of its submission to the department. Reports shall not contain any confidential information or data identifying individual clients or families.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

Provisions of SB 361 appear to be redundant with the Audit Rule and the Standards. Performance audits are already under the purview of the OSA. Any contracted performance audit function would be required to comply with GAGAS and be conducted under the auspices of the OSA.

ALTERNATIVES

OSA believes the ideal situation for the state would be to build up its ability to conduct performance audits as a core government function, and that this should be housed within OSA. There was previously a section of the OSA that performed performance audits according to the requirements of the GAGAS. However, that function was moved out of OSA and into the LFC and over time GAGAS stopped performing performance audits to GAGAS standards, instead adopting program evaluation standards that do not require peer review. When this occurred, the state lost its state level performance audit functions.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THESE BILL

AMENDMENTS

OSA recommends being in the list of entities receiving copies of the annual performance audit reports and interim reviews in Section 1 Subsection D (page 3 lines 21-25 of .230074.2GLG). The final determination of any designation for a special audit lays with the State Auditor as outlined in 12-6-3 C NMSA 1978 and the State Auditor may deem the contents of the annual performance audits and interim reviews warrant a special (financial) audit independent of any recommendation of a CYFD contracted performance auditor based upon the contents of the performance audit.

Similarly, OSA recommends the language in the immediately previous Subsections C (page 3 lines 16-20) be amended to read :[i]f the performance audit at any stage indicates the need for a special financial audit, the performance auditor shall notify the secretary of children, youth and families, and the secretary shall cooperate with the state auditor in the conduct of any designated special financial audit.

Because there are many levels of rigor for program evaluation, performance evaluations, performance audits and program audits, the OSA recommends that the requirements for the RFP be amended to require CYFD to specify the standards under which the performance audit will be conducted or require respondents to identify the standards that will be used. If the sponsors are amenable and standards are to be specified in the provisions of SB361, OSA recommends requiring the performance audit adhere to GAGAS – which is the rigor used by OSA in conducting its financial audits and gives OSA parity in standards for any recommendations coming from the performance auditor for a special financial audit.