

LFC Requester: _____

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION
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(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: 2/28/2025 *Check all that apply:*
Bill Number: S511-341 Original Correction
 Amendment Substitute

Sponsor: Sen. Campos **Agency Name and Code** DFA-341
Short Title: AUDIT ACT CHANGES **Number:** _____
Person Writing Mark Melhoff
Phone: _____ **Email** Marks.melhoff@dfa.n

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			\$2,700	\$2,700	NR/R	GF

(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 511 (SB511) aims to enhance the transparency, accountability, and efficiency of the auditing process for state agencies and local public bodies in New Mexico. SB511 proposes several amendments to the Audit Act. The key changes and provisions in the bill are as follows:

- **Definitions and Scope:**
 - SB511 expands the definition of "agency" to include various state departments, political subdivisions, and entities receiving public money.
 - SB511 updates the definition of "local public body" to include mutual domestic water consumer associations, land grants, incorporated municipalities, and special districts.
- **Audit Requirements:**
 - SB511 mandates annual audits for all agencies by the state auditor or approved independent auditors.
 - SB511 introduces a requirement for an annual statewide federal single audit starting in fiscal year 2028 to comply with federal laws and regulations.
- **Local Public Body Audit Thresholds:**
 - SB511 adjusts the revenue threshold for local public bodies from \$50,000 to \$100,000 to exempt them from specific reporting requirements.
 - SB511 specifies different audit and reporting requirements based on local public bodies' revenue and federal fund expenditures.
- **Audit Fund:**
 - SB511 establishes the "audit fund" as a non-reverting fund in the state treasury, consisting of various revenue sources, to cover the costs of audits.
 - SB511 allows the state auditor to determine fees and costs to recover expenses for performing audits.
- **Contract Audits:**
 - SB511 requires agencies and local public bodies to contract with independent auditors, with approval from the state auditor.

- SB511 allows the state auditor to select an auditor if an agency or local public body fails to do so within 60 days of notification.
- SB511 ensures that payments to independent auditors are made only after the state auditor approves the contract and verifies the audit's competence.
- **Reporting and Compliance:**
 - SB511 mandates detailed reporting of audit findings, including any violations of law or good accounting practices.
 - SB511 requires the state auditor to notify relevant legislative and executive bodies if an agency or local public body fails to submit required audit reports within specified timeframes.
- **Special Provisions:**
 - SB511 allows public housing authorities to be audited separately from their local primary government entity if they choose to do so.
 - SB511 provides for the state auditor to conduct additional audits as necessary.

FISCAL IMPLICATIONS

SB511 does not explicitly detail the potential fiscal impacts. However, based on the amendments and provisions outlined, the Department of Finance and Administration (DFA) believes this responsibility for a single federal audit will fall on DFA's Financial Control Division's ACFR unit. DFA anticipates the following fiscal impacts of SB511:

- **Local Public Bodies:** SB511 raises the threshold for mandatory audits and financial reporting for local public bodies. This will likely lead to decreased costs for smaller local public bodies with revenue below \$100,000 per fiscal year.
- **Statewide Single Audits:** Starting in fiscal year 2028, the requirement for an annual statewide federal single audit may incur additional costs for the state to ensure compliance with federal laws and regulations.
 - In order to facilitate the preparation of a single federal audit, DFA would need the following resources to create a Federal Compliance and Reporting Bureau:
 - SHARE Development and Integrations - \$1,000,000 (Centralized system of compilation and reporting)
 - Professional Services - \$500,000 (Development and implementation of a statewide plan to consolidate records of federal financial assistance into a single system and provide technical assistance).
- **Audit Fund:** The creation of a non-reverting audit fund and the stipulation that fees and

costs be determined to recover all expenses of the state auditor may lead to increased fees for agencies being audited.

- **Administrative Costs:** DFA anticipates additional staffing and administrative costs to implement and oversee the new audit requirements and thresholds.
 - Bureau Chief (Pay Band 90) \$200,000 (Salary and Benefits) – This position would lead the Federal Reporting and Compliance Bureau, oversee day-to-day oversight and compliance of federal funding, and lead the statewide federal single audit consolidation and preparation.
 - Senior Accountants Qty. 2 (Pay Band 85) \$175,000 x 2 = \$350,000 (Salary and Benefits)—These positions would be responsible for daily reconciliation and review of statewide federal funding transactions, grant compliance review, and assisting with federal reporting. They would also take a lead role in the development of the federal, statewide single audit under the direction of the bureau chief.
 - Staff Accountants Qty. 2 (Pay Band 75) \$125,000 x2 = \$250,000 (Salary and Benefits) - These positions would provide lower-level accounting support to all state agencies to ensure proper daily recording of transactions. These positions would also provide technical support to the senior accountants during the development of the statewide federal single audit.
 - Statewide Accounting Trainers Qty 2. (Pay Band 85) \$175,000 x 2 = \$350,000 (Salary and Benefits)—These positions would serve as mobile trainers dispatched to state agencies that need assistance and training with oversight of federal grants. They could also serve as temporary federal grants staff for short-staffed agencies.
 - Office Support Expenses—\$50,000 (Miscellaneous office supplies, staff support, employee training, equipment, etc.).

SIGNIFICANT ISSUES

- **Local Public Body's Inclusion:** Section 3 - 12-6-3 (B) (1) requires a local public body to be audited for federal funds in accordance with Subsection A. DFA interprets this provision to mean local public bodies must be included in the statewide single audit required by Subsection A.
 - Currently, there are more than six hundred (600) entities that would meet the definition of a local public body under SB511. These entities operate independently of OSA and DFA.
 - Without the authority to compel local public bodies to comply with SB511, it will be nearly impossible to compile and prepare a single federal, statewide audit that includes financial records from local public bodies.
- **Responsible Entity:** § 6-5-4.1, NMSA 1978 requires DFA to prepare an annual

comprehensive financial report for the state. This is not interpreted to include a federal single audit.

- SB511 does not identify which state entity will be responsible for compiling and preparing a statewide federal single audit.
- As written, SB511 will require the preparation of a statewide federal single audit without the designation of a responsible party to prepare a consolidated statewide report.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

Overall, SB511 will likely increase the administrative workload for the state auditor's office and the Department of Finance and Administration, requiring more resources and potentially more staff to handle the expanded scope of audits and financial examinations. The administrative implications of SB511 include:

- **Expanded Definition of "Agency":** The bill expands the definition of "agency" to include more entities, which will require the state auditor to oversee a more significant number of audits.
- **Increased Audit Oversight:** The state auditor will need to manage and oversee the increased number of audits and financial examinations.
- **New Reporting Requirements:** Local public bodies with varying levels of revenue and federal expenditures will have different reporting and audit requirements, necessitating more detailed tracking and management by the state auditor's office.
- **Audit Fund Management:** The creation of a non-reverting audit fund will require the state auditor to administer and manage it, including collecting fees and costs from audited agencies.
- **Federal Single Audit:** DFA will likely be required to compile, prepare, and submit a new requirement for an annual statewide federal single audit.
- **Specialized Expertise:** DFA and the state auditor will need to engage contractors with specialized expertise to develop and implement a statewide plan to consolidate records of federal financial assistance and prepare a single audit.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A.

TECHNICAL ISSUES

- **Current Authority:** Under § 12-6-3 (A), NMSA 1978, the financial affairs of every state

agency shall be thoroughly examined and audited each year by either the State Auditor, personnel of the State Auditor, or independent auditors approved by the State Auditor. Additionally, comprehensive annual financial reports for the state shall be thoroughly examined and audited each year by the State Auditor, personnel of the State Auditor, and/or independent auditors approved by the State Auditor.

- The state only requires audits to be conducted in accordance with generally accepted auditing standards and rules issued by the State Auditor. *See* § 12-6-3 (A), NMSA 1978.
 - “Agency” is defined as any department, institution, board, bureau, court, commission, district, or committee of the government of the state; any political subdivision of the state created under either general or special act that receives or expends public money; any entity or instrumentality of the state expressly provided for by law; and ever office or officer of any entity otherwise listed under the definition. *See* § 12-6-2 (A), NMSA 1978.
 - The Audit Act is silent on whether agency audits may be performed as a single audit or a series of audits covering individual departments, institutions, boards, etc.
 - As such, the only statutory requirement for the financial and comprehensive annual financial report audits is a thorough examination in accordance with generally accepted audit principles and the State audit rules performed by the State Auditor, his staff, or a third party approved by the State Auditor.
- Under NMAC § 2.2.2.10 (a), the State Auditor has issued a rule that requires financial and compliance audits for agencies to cover the entire financial reporting entity, including component entities.
 - NMAC § 2.2.2.10 (a) requires financial or compliance audits performed to cover the entire financial reporting entity (i.e., for the State, all of the entities listed in § 12-6-2 (a), [any department, institution, board, bureau, court, commission, district, or committee of the government of the state; any political subdivision of the state, created under either general or special act that receives or expends public money; any entity or instrumentality of the state expressly provided for by law; and ever office or officer of any entity otherwise listed under the definition]).
- Under 2 C.F.R. Part 200, any Non-Federal Entity that expends more than \$1 million or more during a fiscal year in federal awards must have a single or program-specific audit. *See* 2 C.F.R. § 200.501.
 - Single audits must be performed in accordance with 2 C.F.R. § 200.514, which, in relevant part, states that audits must cover the entire operations of the auditee or, at the option of the auditee, include a series of audits that cover departments, agencies, and other organizational units that expended or otherwise administered federal awards during the audit period.

- Although not included in the Audit Act or Audit Rule, the State has chosen to conduct a series of audits covering each organizational unit that expends federal awards rather than a single audit covering the state's entire operations.
- However, when the Audit Act, Audit Rules, and Federal Audit requirements are read together, the State Auditor has the power to require a single audit of federal financial assistance for entities covered under § 12-6-2 (A), NMSA 1978.
 - 2 C.F.R. Part 200 leaves it up to the Non-Federal Entity as to whether one audit covers the entire operation of the auditee or a series of audits cover individual departments, agencies, and other organizational units of the auditee.
 - As the State is the single applicant for federal financial assistance, the state, not individual agencies or departments, is the Non-Federal Entity expending more than \$1 million in federal awards, triggering the audit requirement under 2 C.F.R. Part 200.
 - Therefore, it is the State's option to conduct either a single compliance audit or a series of individual complaint audits. The Audit Act gives the State Auditor, through rule, the power to make this election.
- As such, to the extent the State Auditor determines a federal single audit is in the best interest of the state, the State Auditor can require a federal single audit by creating a rule in accordance with § 6-5-4.1, NMSA 1978, directing the Financial Controls Division of DFA to perform such audit.
 - Therefore, the State Controller's Office believes the changes and additions to Section 3 (1) of SB511 are unnecessary and will make it more difficult to administer a statewide federal single audit.

OTHER SUBSTANTIVE ISSUES

N/A.

ALTERNATIVES

- The State Auditor may, by rule, direct the Financial Controls Division of DFA to prepare a federal single audit for the State.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A.

AMENDMENTS

- Page 12, Line 11, after "audited or examined," add "and the department of finance and administration."

- By requiring auditors to submit audit reports to both the agency and DFA at the same time, the annual audit would be completed and become public much sooner. This would lead to increased confidence in the ACFR report and have a positive impact on bond ratings and the state's overall standing.