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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/03/13  
 SPONSOR Cisneros LAST UPDATED 03/04/13 HB \_\_\_\_\_  
 SHORT TITLE State Auditor Minimum Funding Level, CA SJR 9  
 ANALYST Boerner

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	\$11,300.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

Department of Finance and Administration (DFA)

#### No Response From

Office of the State Auditor (OSA)

### SUMMARY

#### Synopsis of Bill

Senate Joint Resolution 9 (SJR 9) proposes to amend the state's constitution by requiring an amount equal to at least two tenths of one percent of the annual appropriations in the general appropriation act be appropriated each fiscal year to the State Auditor to allow adequate funding necessary for the State Auditor to independently perform the duties of office without undue influence.

The appropriation is to be spent on the operation of the office, including the conduct of financial audits, special audits and investigations of the financial affairs and transactions of government agencies that receive or expend public money and such other duties as provided by law.

### FISCAL IMPLICATIONS

The New Mexico General Appropriation Act as enacted for fiscal year 2013 totaled \$5.65 billion from the general fund; two tenths of one percent of this amount is approximately \$11.3 million

dollars. The FY13 operating budget of the OSA is \$2.5 million in general fund revenue, or less than one-quarter of the bill's proposed funding level for the office. The OSA currently has 33 authorized FTE.

As discussed in more detail below, more than quadrupling the OSA's current general fund revenue would be sufficient to dramatically expand, and possibly reorganize, New Mexico's various audit functions. The New Mexico legislature may wish to support such an undertaking; however, appropriating a dramatic increase in funding without a comprehensive review of the state's current audit functions, deficiencies, and the legislature's desired outcomes might be unwise. If it is the legislature's wish to expand New Mexico's audit functions, it is highly recommended that the state first complete a study, perhaps evaluating other states' approaches, and develop a state-wide plan for audit functions before committing the resources as called for in this bill.

## **SIGNIFICANT ISSUES**

It is not clear how the bill's proposed funding level was established or whether there is any evidentiary support for basing the funding of a state's audit functions on a formula tied to the state's total general fund expenditures. Rather, the DFA notes that pledging a set percentage to a state agency restricts the ability of the executive and the legislature to formulate and appropriate funding levels for the operations of state government. The agency will also be adversely impacted should revenues decrease and funding is reduced as the percentage of the general fund appropriations decreases. An example of a state that has dedicated funding sources within its constitution is California. During the recession, the earmarks in the constitution resulted in significant constraints on policymakers from reduced budgets as general fund revenues declined. Constitutional earmarks did not have provisions allowing for decreases in authorized amounts with economic downturns, which resulted in significant problems for the legislature and executive in balancing the state's budget.

Nevertheless, as an example of funding at the level prescribed in this bill, Arizona's FY13 general fund operating budget is \$8.57 billion and the FY13 general fund appropriation to the Arizona Office of the Auditor General (AOAG) was \$17.2 million, or very close to two tenths of one percent of Arizona's total general fund budget (the formula would appropriate about \$17.1 million).

The AOAG is comprised of nearly 200 employees organized into four operating divisions: Financial Audit, Performance Audit, Accounting Services, and School Audits. These divisions are supported by a general counsel and administrative, information technology services, and quality control groups. The AOAG has audit responsibility for state agencies, counties, universities, community college districts, and school districts. The AOAG also completes highly specific research and investigative projects in response to legislative requests.

The AOAG participates in the external peer review program of the National State Auditors Association (an independent audit of the AOAG that reviews performance, financial and other audit procedures), which it has successfully undergone every 3 years since 1981. The peer reviews measure compliance with following professional auditing standards in work and reports; peer review results have given the office the highest marks a state audit organization can receive in such a review over the past three decades.

The office is also regularly recognized by the National Legislative Program Evaluation Society (NLPES) with its Recognition of Impact Awards for performance audits, such as for the office’s report on the Department of Veteran’s Services—Veteran’s Donations and Military Family Relief Funds. The AOAG staff also participate in professional organizations and gave over 30 presentations to professional organizations or government officials during FY12.

The table below summarizes reports prepared by the AOAG in FY12:

**AOAG Reports by Report Type and Government for FY12**

	State agencies	Universities	School districts	Counties	Community colleges	Total reports
<b>Performance and Special Audits</b>						
Performance audit	7		11	1		19
Sunset audit	4					4
Audit follow-up letter	9		31			40
Special legislative study	1		1			2
Questions and answers	1					1
<b>Finance and federal compliance audits</b>						
Financial statement	4	3		11	8	26
Internal control	4	3		11	8	26
Federal compliance	1			9	6	16
<b>Procedural and compliance reviews and investigations</b>						
Special investigation	1		1			2
Procedural review	2					2
Compliance review			9	3		12
Agreed-upon procedures				4	5	9
Expenditure limitation				6	8	14
<b>Total reports</b>	<b>34</b>	<b>6</b>	<b>53</b>	<b>45</b>	<b>35</b>	<b>173</b>

Source: Arizona Office of the Auditor General Web Site

Currently, in New Mexico performance audits are primarily performed by the Legislative Finance Committee (LFC) with a staff of about 12 FTE, including two executive positions. The unit completed about 12 performance evaluations in FY12.

The number of financial and other audits performed by the OSA was not readily available at the time of this analysis (although it is reportedly much fewer than the AOAG). The OSA does undergo peer review by the National State Auditor’s Association and was found in its 2011 peer review to have an adequate system of quality control. The Office consists of 33 FTE divided between three divisions: the Financial Audit Division, the Special Investigation Division and the Administrative Division:

- The Financial Audit Division is responsible for ensuring that over 600 governmental entities receive an annual audit. Because the OSA has limited resources, a majority of the financial audits are conducted by independent public auditors (IPA’s) whom partner with the OSA.
- The Special Investigation Division is responsible for conducting audits of any government agency the OSA chooses to examine. The division has the ability to conduct or direct a variety of audits including agreed upon procedures, performance audits, or any other special

audits the OSA deems necessary.

- The Administrative Division is responsible for managing the day to day operations of the OSA. The division oversees Legal, Human Resources, Training and Recruitment, Information Technology, Procurement, Financial and Budget, and Legislative and Public Affairs. In addition, the division spends a significant amount of time managing the contracts entered into between government agencies and the IPA's.

In sum, more than quadrupling the OSA's current general fund revenue would appear to be sufficient to dramatically expand, and possibly reorganize, New Mexico's various audit functions. If it is the legislature's wish to expand New Mexico's audit functions, it is highly recommended that the state first complete a study and develop a state-wide plan before appropriating the expanded funding.

#### **OTHER SIGNIFICANT ISSUES**

The AGO notes that in order to achieve SJR 9's objective of providing adequate funding to ensure independent performance of official duties without undue influence throughout the executive department, as opposed to solely within the OSA, the legislature may choose to propose a constitutional amendment providing a similar funding mechanism for all officers within the executive department. Such officers include: governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney general and commissioner of public lands.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The OSA and the LFC will continue to perform audit functions independently and with existing resources.

CEB/svb