

LFC Requester:

A. Ortega

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: 2.24.25

Check all that apply:

Bill Number: SB511Original Correction Amendment Substitute Sponsor: CamposShort Title: AUDIT ACT CHANGES

Title: _____

Agency Name

and Code

OSA 308

Number: _____

Person Writing

David CraigPhone: 5056999911Email David.Craig@osa.nm.**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 511 (SB511) amends the Audit Act to include higher education foundations in the definition of “agency”, clarifies the current language for special audits to reflect current practice for special audits and investigations, transitions the state to a statewide single audit of federal funds beginning in fiscal year 2027-28 (FY28), repeals and replaces the current tiered system of agreed-upon-procedures (AUP’s) for entities that have a less rigorous review than a full financial audit (like small local public bodies), makes changes to the Audit Fund and ensures that our small local public bodies are included in the Office of the State Auditor (OSA) contracting process for independent public accountants (IPA’s).

FISCAL IMPLICATIONS

SB511 does not carry an appropriation.

SIGNIFICANT ISSUES

SB511 is supported by the OSA and provides important updates to the Audit Act.

Definition of Agency

SB511 clarifies that post-secondary foundations and similar organizations are subject to the Audit Act and cites the enabling statutes that govern their financial reporting system requirements. The OSA has experienced issues with access to, and reporting on, institutes of higher education’s (IHE’s) foundation finances and the monies that flow in and out of them into IHE’s are considerable. This amendment to the Audit Act removes any ambiguity that these entities are subject to OSA oversight.

Special Audit Changes

SB511 makes necessary changes to the provisions regarding special audits to match statute to practice. Currently, OSA may contract qualified staff off of the OSA’s approved IPA list to conduct special audits or investigations and the language of SB511 amends the statutory process to ensure that the process is defined in statute (and not merely in rule). SB511 also clarifies that all special audits must adhere to generally accepted government auditing standards (GAGAS).

Statewide Federal Single Audit

The OSA has transitioning the state to a statewide singular audit (where the state as a whole is audited instead of each individual agency) as a stated strategic goal. OSA believes doing so would help with the timeliness of the Annual Comprehensive Financial Report (ACFR) which routinely misses its statutory deadline for completion. New Mexico is one of three states that still engage in individual audits of individual state agencies. As a beginning step in SB511 OSA

is proposing that, for FY28 and beyond, that the required financial audit of federal funds (often termed the single audit) be consolidated and audited at the statewide level. According to a recent Bureau of Business Economic Research study commissioned by OSA, New Mexico is the only state that does not consolidate its agency's use federal funds into a statewide federal single audit and still has the state agency use of federal funds audited at the agency level. SB511 allows the state agency procuring the statewide federal single (likely the Department of Finance and Administration) or DFA) to collect the funds necessary to pay for the audit on a methodology of its choosing – as long as that methodology is in accordance with federal compliance requirements.

Tiered System of Reporting Changes

SB511 clarifies that reviews of local public bodies include its cash, investment assets and federal expenditures as well as its revenues. SB511 requires, beginning in FY26 that if a local public body expends less than the current federal threshold triggering an audit requirement, the body must retain records of the expenditures available and make them available for review.

A summary of the tier changes is available in the tables below.

Current Tiered System of Reporting	
Tier I	A local public body's annual revenue is less \$10,000 and did not directly expend at least fifty percent of a single capital outlay award.
Tier II	A local public body's annual revenue is \$10,000 or more but less than \$50,000.
Tier III	A local public body's annual revenue is less than \$50,000, and the local public body expended at least 50% of a capital outlay award then an IPA shall perform a tier three agreed-upon-procedures (AUP).
Tier IV	A local public body's annual revenue is greater than 50,000 but less than \$250,000, then an IPA shall perform a tier four AUP.
Tier V	A local public body's annual revenue is greater than 50,000 but less than \$250,000, and the local public body expended any capital outlay award then an IPA shall perform a tier five AUP.
Tier VI	A local public body's annual revenue of \$250,000 or greater, but less than \$500,000, the local public body shall procure services of an IPA shall perform a tier six AUP.
Full Financial Audit	Annual revenue of \$500,000 or greater.

SB511 Proposed Tiered System of Reporting	
Tier I	A local public body's annual revenue is less than \$100,000 and did not directly expend at least fifty percent of a single capital outlay award.
Tier II	A local public body's annual revenue is less than \$100,000, and the local public body expended at least 50% of a capital outlay award.

Tier III	A local public body’s annual revenue is greater than \$100,000 but less than \$1 million must have an AUP that includes a schedule of cash basis comparisons, a test sample of any expended capital outlay funds and other financial reporting requirements for an AUP that are narrowly tailored, economically feasible, and developed in consultation with the local public body.
Full Financial Audit	Annual revenue of \$ 1 million or greater.

The original tiered system of reporting were proposed by an OSA workgroup a decade and a half prior. Little explanation for the tier bands is included in any information OSA retains. It appears to OSA that these may have been created without an understanding of the scope of entities covered. After fifteen years of practices, OSA sees little difference between entities in the first three tiers. These smaller entities look and are similar in function and organization. The level of materiality to the state is extremely small when compared to the burden placed on the entity to hire an IPA to perform an AUP. Similarly, there is little difference between entities in the fourth and fifth tier. These are larger organizations that are more familiar with different revenue streams. It appears that the top end of the tiered system was linked to the threshold for a federal single audit at the time. Beginning October 1, 2025 this threshold is \$1 million.

Less tiers would help streamline compliance with the Audit Act. If the threshold was raised for entities to \$100,000 for an AUP, OSA believes that entities would be better able to access withheld capital outlay without significant increase in risks to the state. Thirty-two entities that were considered a Tier 4 or Tier 5 in the FY23 would have been moved down into Tier 1 or 2 if the provisions of SB511 were to have been in place allowing them quicker access to capital outlay funds. These entities would be considered under Tier 1 or Tier 2 if they have capital outlay awarded with the Audit Act modifications. Additionally, OSA is linking the top-end tier cutoff before transitioning to a full financial audit to the \$1 million cutoff for a federal single audit active October 1, 2025.

Audit Fund

SB511 clarifies that the Audit Fund is non-reverting, updates the proposed sources and uses for the fund to reflect those of any non-reverting fund and allows the Auditor to use the fund to support the agency. Currently, OSA is limited in its use of the fund to amounts appropriated in a category transfer yearly – limiting its ability to scale up or down to meet audit needs. SB511 also clarifies that the Auditor sets the rates for its audits to compete in the market.

Contracting

SB511 clarifies that local public bodies may be designated for audit or agreed-upon procedures by an independent auditor the same as any other government entity. Empowers the State Auditor to select an auditor for a local public body if that body has not submitted a recommendation within sixty days of notification by the state auditor as it does for other audited agencies.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS