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FISCAL IMPACT REPORT

SPONSOR Varela DATE TYPED 1/25/05 HB 49

SHORT TITLE Creating a State Comptroller SB _____

ANALYST Hadwiger

APPROPRIATION (in \$000s)

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$750.0			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB170. Both are submitted on behalf of the LFC.

SOURCES OF INFORMATION

LFC Files

Responses Received From

No responses had been received from the State Auditor, Department of Finance and Administration, State Personnel Office or General Services Department at the time this fiscal impact report was prepared. The FIR will be updated as responses are received.

SUMMARY

Synopsis of Bill

House Bill 49 would create an Office of the State Comptroller as an adjunct agency, administratively attached to the Department of Finance and Administration. The comptroller would be appointed by the Governor with the advice and consent of the Senate. The bill sets out the comptroller's required qualifications—that he or she be a certified public accountant with audit and government experience. The comptroller would serve for a term of six years and be removed only for cause.

House Bill 49 sets forth the following duties for the state comptroller:

1. Oversee the executive branch's implementation of the Accountability in Government Act
2. Oversee statutory oversight duties of specified divisions of the Department of Finance and Administration, as well as the State Personnel Office, Public Education Department, General Services Department, and Commission on Higher Education to assure compliance with statutory duties

3. Conduct periodic reviews and recommend revisions in policies, procedures and resources of the agencies above to assure statutory compliance
4. Work with the State Auditor on annual and special audits
5. As requested by interim legislative committees, gather, analyze and validate state agency information
6. Conduct performance audits pursuant to the Accountability in Government Act
7. Perform duties as assigned by the governor
8. Assist state agencies in resolving audit findings and reviewing performance measures
9. Contract for special audits and investigations
10. Promulgate rules as necessary to carry out these duties.

House Bill 49 requires state agencies to provide complete cooperation to the state comptroller in the conduct of a performance audit and requires employees of state agencies to provide the comptroller access to specified public records and documents as well as to such property of a contractor of the agency. Inspectors general and internal auditors of state agencies would report to the comptroller periodically and as requested. The inspectors general and internal auditors, with the New Mexico state police, would be required to conduct such audits and special investigations as are requested by the state comptroller. The bill provides that final audits and reports of the comptroller would be public documents, but working papers would be confidential.

House Bill 49 also makes it a duty for the Legislative Finance Committee (LFC) to conduct performance audits pursuant to the Accountability in Government Act. It also requires state agencies to provide complete cooperation to the LFC in the conduct of a performance audit and requires employees of state agencies to provide the LFC access to specified public records and documents as well as to such property of a contractor of the agency. The bill provides that final audits and reports of the LFC would be public documents, but working papers would be confidential.

House Bill 49 appropriates \$750 thousand from the general fund to the Office of the State Comptroller in the Department of Finance and Administration to carry out the provisions of the act.

Significant Issues

House Bill 49 proposes creation of an agency within the executive branch (the Office of the State Comptroller) that would provide a single point of oversight, or umbrella oversight, of statutory compliance of other state agencies. Currently, several state agencies are responsible for statutory and regulatory compliance with regard to a limited sector of state government activities. The State Personnel Office (SPO), for example, enforces the Personnel Act, as well as oversees state compliance with federal law and other federal and state regulations. However, aside from the legislature, there is no agency assigned to assure that SPO complies with these statutes and regulations. In this and other instances, agencies are often called upon to oversee themselves, creating a clear conflict of interest.

Other possible central oversight agencies lack both the resources and mandate to provide broad oversight of this nature. The State Auditor generally focuses on assuring accuracy of annual financial reports and lacks sufficient staff and resources to perform extensive special audits of non-financial activities. The Attorney General lacks sufficient resources to enforce against violations of statute except when the violations have significant implications with regard to criminal behavior or general state policies. In the past, the Legislative Finance Committee (LFC) auditors

have performed this function largely; however, an executive branch agency could be more proactive in avoiding statutory and regulatory violations.

The comptroller would also provide performance audits of agencies and oversee other aspects of implementation of the Accountability in Government Act. Encoded in Chapter 5, Laws of 1999, the Accountability in Government Act promoted use of performance budgeting to tie agency appropriations to performance measures and targets. Unfortunately, performance measurement is only as good as the data reported and accuracy of data presented. HB49 would task the comptroller and LFC with conducting performance audits under this act.

PERFORMANCE IMPLICATIONS

Under House Bill 49, the Office of the State Comptroller and LFC would play a critical role in assuring the validity of performance measures submitted under the Accountability in Government Act and in assessing agency performance under the Act.

FISCAL IMPLICATIONS

The appropriation of \$750 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY06 would revert to the general fund.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 49 duplicates Senate Bill 170. Both are sponsored for the LFC.

DH/yr