

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Ingle ORIGINAL DATE 2/8/18  
 LAST UPDATED 2/14/18 HB \_\_\_\_\_

SHORT TITLE Singular State Audit Process SB 316/aSPAC/aSFI#1

ANALYST Romero/Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	See Fiscal Implications	\$2,500.0 - \$5,000.0	\$2,500.0 - \$5,000.0	\$5,000.0 - \$10,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**RELATES TO**  
HB 278

**SOURCES OF INFORMATION**  
LFC & DFA Files

Responses Received From  
 Office of the State Auditor (OSA)  
 Public Employees Retirement Association (PERA)  
 Educational Retirement Board (ERB)  
 Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of SFI#1 Amendment

Senate Floor #1 amendment adds new distinguishing language as follows:  
 “Performance audits described in Subsection E of this section do not include program evaluations or fiscal reviews conducted by the legislative finance committee pursuant to Section 2-5-3 NMSA 1978.” The amendment also reletters the succeeding subsections as necessary.

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee (SPAC) amendment to Senate Bill 316 clarifies each agency “that is included in the state’s financial statements” will be part of a single, combined audit examined by the State Auditor and subject to a performance audit each year. The SPAC amendment also clarifies that financial statements of legally separate entities “and agencies not included in the state’s financial statements” will be audited annually in accordance with generally accepted governmental auditing standards and made available for public release.

Separately, the SPAC amendment requires the cost of a single, combined audit of agencies that are included in the state’s financial statement to be borne by DFA. Additionally, the amendment strikes language requiring inventories of museum collections and library collections to include inventories “maintained by state agencies and local public bodies.”

Synopsis of Original Bill

Senate Bill 316 changes several sections of the Audit Act and modifies the current annual financial audit process. Additionally, the bill removes the New Mexico Finance Authority, New Mexico Mortgage Finance Authority, and New Mexico Lottery Authority from the definition of “agency” and adds them under a new definition of “legally separate entity.” The bill provides that a single combined audit of each state agency will be compiled every year as part of the Comprehensive Annual Financial Audit (CAFR). The bill removes conformity with generally accepted auditing standards and replaces it with generally accepted governmental auditing standards (GAGAS).

Only “legally separate entities” will be audited annually. The bill also authorizes the State Auditor to identify and conduct financial statement audits on select state agencies each year as will be provided by rules pursuant to this bill.

The examination of financial affairs of a local public body will now be conducted in accordance with the American institute of certified public accountants’ professional standards, replacing the current conformity to generally accepted auditing standards.

The bill requires the State Auditor to conduct “performance audits” of each agency and legally separate entity each year while removing the requirement that each state agency under oversight of the Financial Control Division of the Department of Finance and Administration (DFA) must conduct an annual financial audit each year. Each performance audit shall be complete by the end of each fiscal year and will examine each agency use of resources in order to evaluate whether those resources are being used effectively and efficiently to:

1. Ensure adherence to federal and state laws, rules, regulations, policies and procedures;
2. Assess accounting and reporting processes of financial transactions, including commitments, authorizations and receipt and disbursement of funds;
3. Verify adherence to generally accepted accounting principles as applied by the state and agency-level financial reporting controls; and
4. Prevent and detect fraud and abuse of state resources and an agency’s or legally separate entity’s internal accounting controls designed to prevent accounting errors and violations of state and federal law and rules related to financial matters.

The bill removes the requirement that the State Auditor inform the Legislative Finance Committee (LFC) if an agency, municipality, county, school district, charter school, or regional education cooperative failed to submit a required audit report within 90 days of the due date. It also strikes language requiring the State Auditor to investigate the matter and attempt to negotiate with the school district, charter school, or regional education cooperative.

The bill removes requirements that agency audit examinations include a list of individual deposit accounts and investment accounts held by each agency.

The bill also no longer requires a copy of the CAFR to be submitted to DFA or LFC and is instead made public on the State Auditor’s website.

### **FISCAL IMPLICATIONS**

Overall, SB 316 appears to increase audit costs statewide by up to \$5 million annually.

According to the Office of the State Auditor (OSA), costs of conducting annual performance audits of each state agency is comparable with current costs of conducting annual financial audits. Additionally, the OSA provided the following regarding the cost of the single annual audit:

“The State Auditor’s Office estimates that the cost of performing a single, combined annual audit and examination of all state agencies conducted in accordance with generally accepted government auditing standards would be in the range of \$2.5 million to \$5 million dollars per year. As such an effort has never before been undertaken in New Mexico, this is a rough estimate based on anecdotal information from public accounting firm personnel about fees paid by other states with budgets of similar size. This would be in addition to the funding for the annual performance audits, so additional general fund appropriations to either DFA or the Office of the State Auditor in the range of \$2.5 million to \$5 million dollars per year would likely be required.”

However, according to the audit cost schedule available on DFA’s website (see attached), as provided by OSA, for estimated costs of FY19 agency audits, the estimated cost of the CAFR is \$463.3 thousand. The additional cost of up to \$5 million is likely due to the need of independent public accountants (IPA) to compile financial statements from each state agency to congregate into the single audit CAFR.

Many of the new compliance requirements of the proposed performance audits are reviewed and noted as part of current financial audits and this new process may be duplicating effort. It is unclear what the scope of work for each agency’s performance audit would be, and so the costs to perform each may vary by agency.

This bill requires OSA to conduct and review performance audits and oversee compiling of the CAFR, which may lead to increased enterprise revenues for the agency and perhaps reduced need for some general fund revenues.

### **SIGNIFICANT ISSUES**

OSA provided the following issue:

“As drafted, the new language which requires annual performance audits of agencies appears to apply to all types of agencies subject to the Audit Act (counties, municipalities, local public bodies, and other political subdivisions of the state, in addition to state agencies). The performance audit requirement appears to be intended to apply to only state agencies, but as the bill is currently drafted the requirement appears to apply to all agencies.”

## CONFLICT

May conflict with HB 278, which allows for agencies to adjust annual reversions within 30 days after release of the annual audit report. The annual audit report reference in HB 278 does not identify performance audits.

## TECHNICAL ISSUES

The bill references “generally accepted governmental auditing standards,” however, correct reference is “generally accepted *government* auditing standards” otherwise known as the “Yellow book.”

The annual CAFR is an in-depth statistical analysis of the pension finances of both the Educational Retirement Board (ERB) and Public Employees Retirement Association (PERA) systems. Findings from this process affects the finances of hundreds of participating cities, counties and schools. The impact of this bill in terms of continued accountability and transparency to members, employers and the tax-paying public is unknown and of concern.

ERB reports the bill may be problematic in that ERB and PERA may not be able to fulfill their fiduciary duties to their members unless they have individual separate audits which instruct them. In addition with the individual audit, the auditors respond to the boards. It is not clear if auditors in a single combined audit would be as responsive to the boards.

IR/al/jle/al/jle

**OFFICE OF THE STATE AUDITOR  
ESTIMATED AUDIT FEES  
FISCAL YEAR ENDED JUNE 30, 2019**

<b>STATE AGENCIES</b>		<b>FY2019 Projected (in thousands)</b>
111	Legislative Council Service	41.0
112	Legislative Finance Committee	7.8
117	Legislative Education Study Committee	7.4
131	Legislature	56.0
210	Judicial Standards Commission	8.0
218	Administrative Office of the Courts, Supreme Court, Supreme Court Bldg. Commission, Law Library, Compliance Commission, & Court of Appelas	103.8
280	Public Defender Department	31.6
305	Office of the Attorney General	36.0
306	State General Fund	45.8
308	Office of the State Auditor	10.4
333	Taxation and Revenue Department	165.7
337	State Investment Council	126.2
340	Administarive Hearing Office	11.2
341	Department of Finance and Administration	83.9
341-A	Comprehensive Annual Financial Report (CAFR) - DFA	463.3
342	NM Public School Insurance Authority	35.9
343	Retiree Health Care Authority	81.5
350	General Services Department	118.8
352	Education Retirement Board	135.5
354	New Mexico Sentencing Commission	16.2
356	Office of the Governor	18.0
360	Office of the Lieutenant Governor	10.8
361	Department of Information Technology	22.2
366	Public Employees' Retirement Association	162.0
366-A	Public Employees' Retirement Association Deferred Compensation Plan	44.8
369	Commission of Public Records - State Records Center and Archives	13.5
370	Office of the Secretary of State	37.1
379	Public Employees Labor Relations Board	5.9
385	New Mexico Finance Authority	132.4
394	Office of the State Treasurer	86.1
404	Board of Examiners for Architects	6.1
417	New Mexico Border Authority	10.4
418	New Mexico Tourism Department	33.8
419	New Mexico Economic Devlopment Department	39.2
420	Regulation and Licensinf Department	43.5
430	Public Regulation Commission	39.8
440	Office of the Superintendent of Insurance	92.7
446	New Mexico Medical Board	14.6
449	Board of Nursing	10.4
460	New Mexico State Fair	29.4
464	Board of Licensure for Professional Engineers and Prefessional Surveyors	7.1
465	Gaming Control Board	20.7
469	State Racing Commission	22.9
479	Board of Vetinary Medicine	7.9
491	Military Base Planning and Support	6.0
495	New Mexico Spaceport Authority	26.3
505	Department of Cultural Affairs	81.8
508	New Mexico Livestock Board	19.1
516	Department of Game and Fish	76.6

521	Energy, Minerals and Natural Resources Department	117.1
521-A	Renewable Energy Transmission Authority	8.2
538	Intertribal Ceremonial Office	4.3
539	Commissioner of Public Lands	27.5
550	Office of the State Engineer-Interstate Stream Commission	46.3
601	Commission on the Status of Women	3.8
603	Office of Frican American Affairs	8.7
604	Commission for the Deaf and Hard of Hearing	10.9
606	Commission for the Blind	36.2
609	Indian Affairs Department	19.3
624	Aging and Long-Term Services	72.8
630	Human Services Department	330.9
631	NM Department of Workforce Solutions	198.2
632	Workers' Compensation Administration	15.8
645	Governors' Commission on Disability	9.0
647	Developmental Disabilities Planning Council	21.8
662	Miners' Colfax Medical Center	49.6
665	Department of Health	184.2
667	Environment Department	108.2
668	Office of Natural Resource Trustee	7.8
670	Department of Veterans' Services	35.5
690	Children, Youth and Families Department	150.5
705	Department of Military Affairs	26.5
760	Adult Parole Board	7.8
770	Corrections Department	98.1
780	Crime Victims' Reparation Commission	15.3
790	Department of Public Safety	80.7
795	Department of Homeland Security and Emergency Management	44.9
805	NM Department of Transportation	283.4
811	New Mexico Lottery Authority	45.8
814	New Mexico Mortgage Finance Authority	216.8
924	Public Education Derpartment	1,181.1
940	NM Publicn School Facilities Authority	17.2
949	Education Trust Board of NM	17.9
950	Higher Education Department	87.2
<b>Total:</b>		<b>6,296.4</b>
<b>DISTRICT COURTS</b>		
231	First Judicial District Court	19.1
232	Second Judicial District Court	22.9
233	Third Judicial District Court	15.3
234	Fourth Judicial District Court	10.7
235	Fifth Judicial District Court	10.9
236	Sixth Judicial District Court	15.3
237	Seventh Judicial District Court	19.9
238	Eighth Judicial District Court	12.2
239	Ninth Judicial District Court	19.1
240	Tenth Judicial District Court	12.3
241	Eleventh Judicial District Court	14.1
242	Twelfth Judicial District Court	13.6
243	Thirteenth Judicial District Court	16.9
244	Bernalillo County Metropolitan Court	28.1
<b>Total:</b>		<b>230.4</b>
<b>DISTRICT ATTORNEYS</b>		
251	First Judicial District Attorney	18.6
252	Second Judicial District Attorney	22.9
253	Third Judicial District Attorney	18.8

254	Fourth	13.0
255	Fifth	17.4
256	Sixth	19.3
257	Seventh	13.5
258	Eighth	15.8
259	Ninth	17.8
260	Tenth	12.5
261	Eleventh	13.7
262	Twelfth	14.1
263	Thirteenth	15.3
264	Administrative Office of the District Attorneys	20.4
265	Eleventh Judicial District Attorney, Division II	14.2
<b>Total:</b>		<b>247.3</b>

**Grand Total: 6,774.1**