

LFC Requester:

J. Leger

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: 2.20.25

Check all that apply:

Bill Number: SM 8Original Correction Amendment Substitute Sponsor: Pete CamposShort Title: INTERIM ADMIN. RULESOVERSIGHT COMMITTEE

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 Memorial 8 (SM8) supports implementation of the Office of the State Auditor's (OSA's) recommendations from two recent reports. SM8 asks the OSA to convene a work group, including representatives from the Legislative Finance Committee (LFC), the Department of Finance and Administration (DFA), the Office of the State Treasurer and other members of the Executive Branch to draft legislation. SM8 supports a comprehensive study to improve financial oversight of state agencies, address the root causes of state agency deficiency requests and make recommendations focused on increased transparency in budget hearings, the implementation of stronger compliance and enforcement mechanisms and inclusion of a more centralized department of finance and administration oversight function.

FISCAL IMPLICATIONS

SM8 does not carry an appropriation.

The OSA is considering a separate appropriation bill that will provide \$250 thousand to help OSA convene the workgroup and consolidate recommendations through a contractor. Additionally, funds will help in drafting recommendations to a report and help present recommendation for legislation.

SIGNIFICANT ISSUES

In August of 2024 the OSA released a report (see: https://www.osa.nm.gov/wp-content/uploads/2024/08/2025-01-Transparency-Report_-State-Agency-Deficiency-Appropriation-Requests_Final.pdf) looking at state agency deficiency requests at the requests of Senate Finance Committee (SFC). After collaborating with LFC on scoping and working with DFA to secure requests, among other findings, OSA found:

- state agency deficiency requests have increased by about \$137.5 million from 2014-2024;
- justifications for deficiency requests were not always available; and
- when justifications were available from DFA, justifications were partially attributed to over-expenditure of funds, improper adherence to budget authority, and prior year unpaid expenditures, among other reasons.

To resolve these issues the OSA recommended:

- **increased transparency** via making the forms and information from DFA state agency deficiency request process publicly available;
- **increased oversight** by having OSA provide instructions to state agency auditors about giving state law compliance findings for overspending when appropriate;

- **separating deficiency appropriations** from supplemental funding processes in the development of the General Appropriation Act to allow for additional scrutiny in the process and to better identify those entities that need deficiency requests;
- **halting deficiency appropriations** to deter overspending and requiring state agencies to address their problems on their own; and
- **reviewing and updating budgetary controls** and penalties in statute.

In October of 2024, LFC asks OSA to expand on its last recommendation – reviewing the budgetary control statutes. In response OSA performs an in-depth evaluation of our state statutes and budgetary controls in neighbor states, making recommendations for policy considerations. In January 2025, OSA publishes its results in the forms of a budgetary controls report (see: https://www.osa.nm.gov/wp-content/uploads/2025/01/2025_03_GAO-Transparency-Report-Budgetary-Controls_Final_1_15_2025.pdf) and the basis for this memorial.

Among the budgetary controls OSA recommended addressing are the following:

- **overdraw penalties** need to be strengthened and clarified;
- **expand use of allotments** by using more frequent periodic funding mechanisms to break up appropriations into smaller disbursements;
- **increasing DFA Control** over state agency spending authority by mandating budget adjustments when revenues are not going to materialize;
- **increasing budget support documentation** during budget development, maintenance and adjustment to ensure state agency spending authority is data driven and not based on stale or non-existent data; and
- **increasing DFA budget monitoring** by empowering the agency with more budget oversight resources to actively review agency budget adherence on a routine basis.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

SM8 and the study it envisions to inform a budgetary and public finances omnibus legislation would, at minimum, involve the following key stakeholders:

- the Department of Finance and Administration (DFA);
- the Legislative Finance Committee (LFC);
- the Office of the State Auditor (OSA);
- the State Treasurer’s Office; and
- staff from the Governor’s Office.

OSA as an entity usually cannot direct what the state’s financial operations should be as doing so could be construed as a form of management participation, violating the independence standards the OSA must follow as an auditor of the state’s financial operations. In laymen’s terms, if the OSA creates the financial system for the state, it can’t be an independent auditor of the system because it can be argued it is auditing itself. As such, it can only provide recommendations to other stakeholders to build consensus for any changes to the budgetary controls state law framework.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS