

HOUSE BILL 93

Introduced by Gilbert

1/06	Introduced
1/07	Referred to State Administration
1/09	Fiscal Note Requested
1/16	Fiscal Note Received
1/18	Fiscal Note Printed
1/30	Revised Fiscal Note Requested
2/03	Revised Fiscal Note Received
	Died in Committee

1 HOUSE BILL NO. 93
2 INTRODUCED BY Gilbert
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE STATE
5 AUDITOR TO PERFORM INTERNAL AUDITS OF ACCOUNTS AND RECORDS
6 OF EACH EXECUTIVE BRANCH AGENCY IN STATE GOVERNMENT;
7 AMENDING SECTIONS 5-13-304, 17-1-121, 17-1-122, 17-8-202,
8 AND 17-8-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
9 DATE."
10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Purpose. The purpose of [this
13 act] is to authorize the state auditor to establish and
14 administer a system of internal auditing for each agency of
15 the executive branch of state government. It is the intent
16 of [this act] that each agency of the executive branch be
17 subject to an internal audit by the state auditor to ensure
18 fiscal accountability, program integrity, and efficiency.

19 NEW SECTION. Section 2. Applicability of internal
20 audit system. The obligations imposed by [this act] apply to
21 all offices, positions, departments, boards, commissions,
22 institutions, divisions, bureaus, sections, or any other
23 entity or instrumentality of the executive branch of state
24 government that spends or encumbers public money by an
25 appropriation from the legislature, that handles money on

1 behalf of the state, or that holds any trust or agency money
2 from any source.

3 NEW SECTION. Section 3. Audits of accounts and
4 records. (1) The state auditor shall perform limited-scope
5 audit procedures on the books, accounts, and operations of
6 each entity listed in [section 2].

7 (2) Each department head shall use an internal
8 auditor, appointed by and subject to the direction of the
9 state auditor. The internal auditor of each department
10 shall:

11 (a) receive and investigate any allegations that false
12 or misleading information was used by the department as part
13 of the evaluation of its uniform accounting, reporting, and
14 expenditure control system or in connection with the
15 department's preparation of reports on the system otherwise
16 required by law;

17 (b) conduct and supervise audits relating to financial
18 activities of the department's operations;

19 (c) review existing activities and recommend policies
20 designed to promote efficiency in the administration of each
21 department's programs and operations;

22 (d) recommend policies to protect the state's assets
23 under the control of each department and to detect and
24 prevent fraud and abuse in each department's programs and
25 operations;

(e) review and recommend activities designed to ensure that each department's uniform accounting, reporting, and expenditure control system is in conformance with the state auditor's directives issued pursuant to 17-1-102(2);

(f) provide a means to keep the state auditor and the department head fully and currently informed about problems and deficiencies relating to the administration of that department's programs and operations and the necessity for and progress of corrective action; and

(g) conduct other audit and investigative activities as assigned by the state auditor.

(3) Each internal auditor shall adhere to appropriate professional and auditing standards in carrying out any financial or program audits or investigations. The internal auditor shall be of recognized skill and integrity and be familiar with the state system of accounting and finance and with the laws relating to state government affairs.

NEW SECTION. Section 4. Distribution of audit reports. The state auditor shall provide copies of reports of internal audits to the agency audited, the legislative auditor, and the governor.

Section 5. Section 5-13-304, MCA, is amended to read:

"5-13-304. Powers and duties. The legislative auditor shall:

(1) conduct a financial and compliance audit of every

state agency every 2 years covering the 2-year period since the last audit, unless otherwise required by state law;

(2) conduct a special audit whenever he determines it necessary and shall so advise the members of the legislative audit committee;

(3) make a complete written report of each audit. A copy of each report shall be furnished to the department-of administration state auditor, the state agency which was audited, each member of the committee, and the legislative council.

(4) report immediately in writing to the attorney general and the governor any apparent violation of penal statutes disclosed by the audit of a state agency and furnish the attorney general with all information in his possession relative to the violation;

(5) report immediately in writing to the governor any instances of misfeasance, malfeasance, or nonfeasance by a state officer or employee disclosed by the audit of a state agency;

(6) report immediately to the surety upon the bond of an official or employee when an audit discloses a shortage in the accounts of the official or employee. Failure to notify the surety does not release the surety from any obligation under the bond.

(7) report to the legislature during the first week of

each regular session. The report shall contain, among other things, copies of or summaries of audit reports on state agencies and any recommendations relating to such reports.

(8) have the authority to audit records of organizations and individuals receiving grants from or on behalf of the state to determine that the grants are administered in accordance with the grant terms and conditions. Whenever a state agency enters into an agreement to grant resources under its control to others, the agency must obtain the written consent of the grantee to the audit provided for in this subsection."

Section 6. Section 17-1-121, MCA, is amended to read:

"17-1-121. General fiscal duties of state auditor. It is the duty of the state auditor to:

(1) superintend the fiscal concerns of the state;

(2) give information in writing to either house of the legislature relating to the fiscal affairs of the state or the duties of his office when requested;

(3) suggest plans for the improvement and management of the public revenues;

(4) keep an account of all warrants drawn upon the treasurer and such other account and appropriation records that he determines to be essential for the support of the accounting records maintained in the office of the department of administration;

(5) keep an account between the state and the state treasurer and therein charge the state treasurer with the balance in the treasury when he came into office and with all moneys received by him and credit him with all warrants drawn on and paid by him;

(6) keep a register of warrants, showing the fund upon which they are drawn, the number, in whose favor, and the date issued;

(7) require all persons who have received any moneys belonging to the state and have not accounted therefor to settle their accounts;

(8) draw warrants on the state treasurer for the payment of moneys directed by law to be paid out of the treasury, but no warrant must be drawn unless authorized by law;

(9) authenticate with his official seal all warrants drawn by him and all copies of papers issued from his office;

(10) collect and pay into the state treasury all fees received by him;

(11) provide for an internal auditor for the audit of accounts and records in each agency of the executive branch of state government;

~~†††~~(12) perform such other duties as are prescribed by law."

Section 7. Section 17-1-122, MCA, is amended to read:

"17-1-122. Discretionary duties of state auditor. In his discretion it is the duty of the state auditor to:

(1) inspect the books of any persons charged with the receipt, safekeeping, or disbursement of public moneys;

(2) require all persons who have received moneys or securities or have had the disposition or management of any property of the state of which an account is kept in his office to render statements thereof to him, and all such persons must render statements at such times and in such form as he may require;

(3) promulgate rules regarding the distribution and processing of warrants issued and the administration of internal audits;

(4) establish, under the joint control of the department of administration and the state auditor, a system of filing and storage of the original copy of claims paid by state warrant."

Section 8. Section 17-8-202, MCA, is amended to read:

"17-8-202. Preaudit and transmittal of claims. (1) The ~~department--of--administration~~ state auditor is not required to preaudit a liquidated claim against the state. However, all state agencies shall submit copies of all claims to the ~~department-of-administration-which~~ state auditor who may preaudit those claims ~~it~~ he considers necessary. The agency

shall retain the original of all documents sent to the ~~department~~ state auditor. These documents are subject to postaudit by the legislative auditor.

(2) The department may not make any charge against any appropriation unless the balance of the appropriation is available and adequate. If no appropriation is available for the payment of a claim, the department shall notify the state auditor, who shall audit ~~it~~ those claims he considers necessary and, ~~if it is a valid claim,~~ transmit ~~it~~ the valid claims to the governor for presentation to the legislature."

Section 9. Section 17-8-302, MCA, is amended to read:

"17-8-302. Order in which warrants are drawn. All warrants for claims which have been audited by the ~~department-of-administration~~ state auditor and filed in the auditor's office must be drawn in the order in which they are transmitted ~~to him by the department of administration~~."

NEW SECTION. **Section 10.** Codification instruction.

[Sections 1 through 4] are intended to be codified as an integral part of Title 17, chapter 1, and the provisions of Title 17, chapter 1, apply to [sections 1 through 4].

NEW SECTION. **Section 11.** Effective date. [This act]

is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for HB093, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing the state auditor to perform internal audits of accounts and records of each executive branch agency in state government; amending Sections 5-13-304, 17-1-121, 17-1-122, 17-8-202, and 17-8-302, MCA; and providing an immediate effective date.

ASSUMPTIONS:

1. Not all state departments have internal auditor positions, therefore, department directors will have to designate other positions to meet the requirements of this bill. Additional FTE and operating costs will be required to replace the designated internal auditor positions in order to carry out the duties and responsibilities of the original positions.
2. Departments receiving federal funds will have to obtain authority from federal granting agencies to expense funds to support the internal auditing function. In some cases the expenditure of federal funds would not be allowed and general fund would be needed.
3. In order to provide conformity in the implementation of the bill, the transfer of FTE and funding, if allowable, would take place on July 1, 1989. Existing FY89 department budgets would continue to support the program through fiscal year end.
4. Passage of the SB110, which requests that copies of agency claims not be submitted to the division due to the implementation of on-line entry and edit of the Statewide Budgeting and Accounting System (SBAS).
5. The state auditor's office would require additional clerical support staff to produce the internal audit reports.


RAY SHACKLEFORD, BUDGET DIRECTOR 11/14/89
OFFICE OF BUDGET AND PROGRAM PLANNING DATE


BOB GILBERT, PRIMARY SPONSOR DATE

Fiscal Note for HB093, as introduced

HB 93

FISCAL IMPACT:

Impossible to determine without a survey of all affected agencies to determine the number of existing internal auditors, the number of replacement staff needed and the allowability to expense federal or other restricted funds for purposes outlined in the bill.

The state auditor will need to determine the number of additional clerical support staff necessary for the internal auditors.

It also has to be determined where the internal auditors will be physically located and if sufficient office space is available.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

1. Section 3, 2(e) refers to "state auditor directives issued pursuant to 17-1-102(2)." This section of law mandates the Department of Administration establish the uniform accounting system. The bill does not amend Section 17-1-102 (2), MCA, to change responsibility for the accounting system to the state auditor.
2. Section 8(1) conflicts with proposed legislation, SB110. This section in SB110, requests that copies of claims not be submitted to the department due to implementation of on-line entry and edit of documents into the Statewide Budgeting and Accounting System (SBAS). Passage of this legislation would affect the need of either agency for storage costs to retain the records for 30 months. The Accounting Division is anticipating a cost savings of \$10,000 and an FTE reduction of 0.50 FTE.
3. Section 4 outlines the distribution of the internal audit reports, but does not address the resolution of the issues contained in the audit reports.