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SENATE BILL 207

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

John M. Sapien

AN ACT

RELATING TO STATE GOVERNMENT; ENACTING THE STATE INSPECTORS
GENERAL ACT; REQUIRING CERTAIN DEPARTMENTS TO HAVE OFFICES OF
INSPECTORS GENERAL; PROVIDING POWERS AND DUTIES; CREATING THE
GOVERNMENT ACCOUNTABILITY COORDINATING COUNCIL; TRANSFERRING
FUNCTIONS, MONEY, RECORDS, PERSONNEL, PROPERTY AND CONTRACTS
PERTAINING TO AUDIT AND COMPLIANCE; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 6 of this act may be cited as the "State Inspectors
General Act".

SECTION 2. [NEW MATERIAL] PURPOSE OF OFFICES OF INSPECTOR
GENERAL.--The purpose of the State Inspectors General Act is to
create independent and objective units of each department
enumerated in Section 4 of that act to:

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1 A. conduct and supervise internal audits,
2 compliance audits and investigations relating to the programs
3 and operations of the department and state-funded entities;

4 B. provide coordination and recommendations
5 designed to promote economy, efficiency and effectiveness and
6 to prevent and detect fraud and abuse in the department and
7 state-funded entities; and

8 C. provide a means for keeping the cabinet
9 secretary, the governor, the state auditor and the legislature
10 informed about problems and deficiencies relating to the
11 administration of the department and state-funded entities and
12 the progress of any corrective actions.

13 **SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the**
14 **State Inspectors General Act:**

15 A. "department" means a cabinet department
16 enumerated in Section 4 of the State Inspectors General Act;
17 and

18 B. "state-funded entity" means a school district;
19 charter school; public post-secondary educational institution;
20 and any person who receives grants from or who contracts with a
21 department.

22 **SECTION 4. [NEW MATERIAL] OFFICES OF INSPECTOR**
23 **GENERAL--DUTIES--ORGANIZATION--CONFIDENTIALITY.--**

24 A. Each of the following departments shall
25 establish and maintain an office of inspector general:

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- 1 (1) children, youth and families department;
- 2 (2) corrections department;
- 3 (3) department of health;
- 4 (4) higher education department;
- 5 (5) human services department;
- 6 (6) public education department;
- 7 (7) department of finance and administration;

8 and

- 9 (8) department of transportation.

10 B. Each office of inspector general shall:

11 (1) have the authority to perform internal and
12 compliance audits and investigate its department and related
13 state-funded entities to ensure efficient and effective
14 operations; the proper use of public funding; and the detection
15 and prevention of fraud, waste and abuse;

16 (2) have unrestricted access to records, data,
17 reports, contracts, memoranda, correspondence and any other
18 information necessary to carry out the duties of the office;

19 (3) coordinate activities with the state
20 auditor; the medicaid fraud and elder abuse division of the
21 attorney general's office, as applicable; and the legislative
22 finance committee;

23 (4) recommend changes or corrective action and
24 report on progress made to improve operations and to recover
25 misspent public funding;

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1 (5) refer potential criminal matters to the
2 attorney general or a district attorney and report violations
3 to the state auditor;

4 (6) as requested by the governor or an interim
5 legislative committee, gather department and state-funded
6 entity information and analyze and validate the information;
7 provided, however, that this duty does not affect the duty of a
8 department or state-funded entity to otherwise provide
9 information in a timely manner upon request of an interim
10 legislative committee;

11 (7) review and report on the progress of the
12 department and the progress of related state-funded entities to
13 resolve financial post-audit findings and validate performance
14 measures reported in accordance with the Accountability in
15 Government Act;

16 (8) contract for professional services as
17 necessary to carry out the duties of the office;

18 (9) have the authority to accept federal funds
19 to perform duties consistent with the State Inspectors General
20 Act; and

21 (10) adopt professional standards to carry out
22 the provisions of the State Inspectors General Act.

23 C. The offices of inspector general shall not:

24 (1) perform audits of department financial
25 statements; or

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1 (2) publicly disclose information or records
2 made confidential by law or exempt from the Inspection of
3 Public Records Act.

4 SECTION 5. [NEW MATERIAL] OFFICES OF INSPECTOR GENERAL--
5 REPORTS.--

6 A. Each office of inspector general shall submit an
7 annual work plan on planned reports and reports in progress to
8 its department secretary, the government accountability
9 coordinating council and the legislative finance committee.

10 B. An office of inspector general shall issue
11 reports on the results of audits and investigations to the
12 department secretary, the government accountability
13 coordinating council, the legislative finance committee and the
14 public; provided that information in reports containing
15 information made confidential by law or exempt from the
16 Inspection of Public Records Act shall not be disclosed by the
17 office, the department, the government accountability
18 coordinating council or the legislative finance committee.

19 C. Each inspector general shall issue an annual
20 report not later than September 1 summarizing the work of the
21 office during the preceding fiscal year, including reports
22 issued; findings and cost savings identified and
23 recommendations made to the department and its related
24 state-funded entities; and the progress of the department and
25 state-funded entities to resolve findings, save or recover

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1 public money or implement recommendations.

2 SECTION 6. [NEW MATERIAL] APPOINTMENT--ORGANIZATION.--

3 A. The secretary of a department shall appoint an
4 inspector general without regard to political affiliation and
5 solely on the basis of integrity and demonstrated ability in
6 accounting, auditing, financial analysis, law, management
7 analysis, public administration or investigations, and any
8 action taken to hire, remove or suspend the inspector general
9 shall be reported to the legislative finance committee within
10 fifteen days. An inspector general and employees in the
11 department's office of inspector general shall be classified
12 employees as provided by the Personnel Act.

13 B. The office of inspector general shall be
14 operationally separate from other divisions of the department
15 and shall report directly to the secretary. The department
16 shall not prevent, impair or prohibit its inspector general
17 from initiating, carrying out or completing an audit, including
18 an internal audit or a compliance audit, or an investigation.

19 SECTION 7. A new section of Chapter 2, Article 5 NMSA
20 1978 is enacted to read:

21 "[NEW MATERIAL] GOVERNMENT ACCOUNTABILITY COORDINATING
22 COUNCIL--REPORTS OF INSPECTORS GENERAL.--

23 A. The "government accountability coordinating
24 council" is created, consisting of the state auditor, the
25 attorney general, inspectors general of departments and the

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1 director of the legislative finance committee or the director's
2 designee. The council shall select a chair and vice chair for
3 a term of two years.

4 B. The council shall receive and review from
5 offices of inspector general:

6 (1) annual work plans and quarterly updates of
7 investigations and planned audits;

8 (2) annual reports;

9 (3) reports on the results of investigations
10 and individual audits; and

11 (4) other reports and information as a result
12 of coordination with offices and agencies of the council.

13 C. Information and reports containing information
14 made confidential by law or exempt from the Inspection of
15 Public Records Act shall not be disclosed by the council or its
16 member agencies."

17 SECTION 8. TRANSFER OF FUNCTIONS, APPROPRIATIONS, MONEY,
18 PERSONNEL AND PROPERTY.--On the effective date of this act,
19 each department enumerated in Section 4 of the State Inspectors
20 General Act shall transfer all functions, appropriations,
21 money, personnel, records, equipment, furniture and other
22 property of the department pertaining to the department's audit
23 and compliance to the department's newly created office of
24 inspector general.

25 SECTION 9. APPROPRIATIONS.--

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1 A. The following amounts are appropriated from the
2 following sources to the following departments to establish
3 offices of inspector general for expenditure in fiscal year
4 2015:

5 (1) one hundred eighteen thousand two hundred
6 forty-five dollars (\$118,245) from the general fund and
7 fourteen thousand six hundred fourteen dollars (\$14,614) from
8 federal funds to the children, youth and families department;

9 (2) nine hundred eighty-two thousand five
10 hundred sixteen dollars (\$982,516) from the general fund to the
11 corrections department;

12 (3) two hundred ten thousand four hundred
13 sixty dollars (\$210,460) from the general fund to the
14 department of health;

15 (4) eighty-four thousand seven hundred
16 fourteen dollars (\$84,714) from the general fund to the higher
17 education department;

18 (5) one hundred ninety-one thousand six
19 hundred ninety-nine dollars (\$191,699) from the general fund,
20 three hundred forty-five thousand fifty-eight dollars
21 (\$345,058) from other state funds and seven hundred forty-one
22 thousand two hundred thirty-seven dollars (\$741,237) from
23 federal funds to the human services department;

24 (6) eighty-four thousand six hundred twenty-
25 one dollars (\$84,621) from the general fund and one hundred

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1 three thousand four hundred twenty-five dollars (\$103,425) from
2 federal funds to the public education department;

3 (7) one hundred sixty-six thousand six hundred
4 seventy-five dollars (\$166,675) from the general fund to the
5 department of finance and administration; and

6 (8) three hundred forty-two thousand six
7 hundred twenty-five dollars (\$342,625) from the state road fund
8 to the department of transportation.

9 B. Any unexpended or unencumbered balance remaining
10 from the appropriations in Subsection A of this section at the
11 end of fiscal year 2015 shall revert to the funds from which
12 appropriated.