

1 SENATE BILL 41

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 Michael Padilla

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10 AN ACT

11 RELATING TO STATE GOVERNMENT; ENACTING THE INSPECTOR GENERAL
12 ACT; CREATING THE INDEPENDENT OFFICE OF INSPECTOR GENERAL;
13 CREATING AN INSPECTOR GENERAL OVERSIGHT COMMITTEE; PROVIDING
14 POWERS AND DUTIES; MAKING AN APPROPRIATION.

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

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
18 cited as the "Inspector General Act".

19 SECTION 2. [NEW MATERIAL] PURPOSE.--The purpose of the
20 Inspector General Act is to:

21 A. establish an independent office of inspector
22 general to conduct investigations and inspections of state
23 agencies in accordance with professional standards; and

24 B. provide increased accountability and oversight
25 of state agencies to deter and identify fraud, waste, abuse,

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1 illegal acts and corruption.

2 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
3 Inspector General Act:

4 A. "agency" means a branch, department,
5 institution, board, bureau, commission or committee of the
6 state; and

7 B. "office" means the office of inspector general.

8 SECTION 4. [NEW MATERIAL] OFFICE OF INSPECTOR GENERAL--
9 POSITION OF INSPECTOR GENERAL.--

10 A. The "office of inspector general" is created in
11 the legislative branch of government.

12 B. The head of the office is the "inspector
13 general".

14 SECTION 5. [NEW MATERIAL] INSPECTOR GENERAL OVERSIGHT
15 COMMITTEE--DUTIES--POWERS--STAFF.--

16 A. The "inspector general oversight committee" is
17 created as a permanent interim legislative committee. The
18 committee consists of eight members of the legislature. The
19 speaker of the house of representatives shall appoint four
20 members from the house of representatives, no more than two of
21 whom are from the same political party. The senate committees'
22 committee shall appoint four members from the senate, no more
23 than two of whom are from the same political party; provided
24 that, if the appointments are made in the interim, the
25 president pro tempore of the senate shall make those

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1 appointments after consultation with and the agreement of a
2 majority of the senate committees' committee. The members of
3 the oversight committee shall serve from the time of their
4 appointment until the first day of the regular session in odd-
5 numbered years.

6 B. The inspector general oversight committee:

7 (1) shall:

8 (a) before January 1, 2017, appoint an
9 inspector general: 1) without regard to political affiliation;
10 2) on the basis of integrity, capability of strong leadership
11 and demonstrated ability in accounting, auditing, financial
12 analysis, law, management analysis, public administration,
13 investigation, criminal justice or another relevant field; 3)
14 who, in the six years before appointment, did not serve as the
15 secretary or as the division director of an executive branch
16 department; and 4) is, or within six months of appointment will
17 become, certified by a national organization as an inspector
18 general;

19 (b) establish the inspector general's
20 annual compensation;

21 (c) hear reports from the office;

22 (d) develop and approve the office's
23 budgets; and

24 (e) establish the office's policies and
25 procedures; and

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1 (2) may remove the inspector general, who, if
2 removed, shall be given six months' notice of termination or
3 six months' salary as terminal pay.

4 C. The legislative council service shall staff the
5 inspector general oversight committee.

6 SECTION 6. [NEW MATERIAL] INSPECTOR GENERAL--DUTIES--
7 POWERS.--

8 A. The inspector general shall:

9 (1) receive and investigate complaints from
10 any source concerning alleged fraud, waste, abuse, illegal acts
11 and corruption in an agency;

12 (2) report and provide evidence of potential
13 criminal matters to the attorney general or another law
14 enforcement official and report financial fraud, waste and
15 abuse to the state auditor. The inspector general shall
16 otherwise refer matters for further criminal, civil and
17 administrative action to the appropriate prosecutorial or
18 administrative agencies;

19 (3) report the office's findings to the head
20 of an agency that it investigates or inspects and to
21 appropriate elected and appointed officials and make those
22 findings publicly available;

23 (4) if the inspector general becomes aware of
24 a particularly serious problem, abuse or deficiency related to
25 an agency's programs or operations or becomes aware of an

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1 agency's interference with the office's operations, immediately
2 report that information to the agency head and the inspector
3 general oversight committee;

4 (5) maintain information on the cost of
5 investigations and cooperate with appropriate prosecutorial and
6 administrative agencies in recouping those costs from
7 nongovernmental persons involved in willful misconduct; and

8 (6) except as otherwise provided by law, have
9 unrestricted access to an agency's records, data, reports,
10 contracts, memoranda, correspondence and any other information
11 necessary to carry out the duties of the office.

12 B. The inspector general may, as necessary to
13 efficiently and effectively carry out the duties of the office:

14 (1) investigate and inspect an agency's
15 activities, processes and records in accordance with the
16 professional standards for inspectors general established by a
17 national organization selected by the inspector general and the
18 inspector general oversight committee;

19 (2) investigate and inspect a person with
20 which an agency has entered a contract, from which an agency
21 has procured goods or services or to which an agency has made a
22 grant;

23 (3) conduct investigations of an agency
24 employee's employment-related conduct;

25 (4) conduct an audit of an agency's employees'

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1 activities and processes to ensure efficient and effective
2 operations;

3 (5) engage in relevant prevention activities,
4 including conducting agency training;

5 (6) collaborate with other oversight or law
6 enforcement agencies on investigations and projects;

7 (7) recommend to an agency measures for
8 overcoming or correcting office-identified operational or
9 maintenance deficiencies or inefficiencies;

10 (8) monitor an agency's implementation of
11 those recommendations;

12 (9) engage in other activities to review an
13 agency's employees' actions that contribute to the agency's
14 inefficiency or ineffectiveness;

15 (10) subpoena witnesses, administer oaths and
16 affirmations, take testimony and compel the production of
17 books, papers, records and documents, including electronic
18 data, relevant to an investigation or inquiry undertaken by the
19 office. The subpoena power may be enforced through a district
20 court, and process shall be served without cost to the
21 committee by a sheriff or member of the New Mexico state
22 police;

23 (11) delegate the powers outlined in Paragraph
24 (10) of this subsection to a duly authorized deputy inspector
25 general;

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1 (12) encourage agency employees to report to
2 the office information about fraud, waste, abuse, illegal acts
3 and corruption in government; and

4 (13) hire and contract for professional,
5 technical and support staff.

6 SECTION 7. [NEW MATERIAL] COOPERATION WITH THE INSPECTOR
7 GENERAL.--

8 A. The inspector general oversight committee,
9 members of the legislature or any other state officials or
10 employees shall not prevent, impair or prohibit the inspector
11 general from initiating, pursuing or completing any
12 investigation or review that the inspector general may lawfully
13 undertake.

14 B. Every agency shall, to a reasonable extent and
15 upon request, furnish to the office the documents, material or
16 information requested by the office and not made confidential
17 by law.

18 SECTION 8. [NEW MATERIAL] OFFICE REPORTS--PUBLIC RECORD--
19 AGENCY RESPONSE.--

20 A. Beginning with fiscal year 2017, within sixty
21 days after the end of each fiscal year, the inspector general
22 shall issue an annual report that outlines the office's
23 investigative, inspection, review and assistance efforts and
24 that describes the office's accomplishments. The inspector
25 general shall provide copies of the report to the governor and

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1 the legislature.

2 B. Before an investigative report's issuance,
3 information collected during the office's investigative
4 activities shall be kept confidential. The identity of any
5 person who files a complaint that leads to an investigation by
6 the office shall not be publicly disclosed unless the person
7 consents in writing to the disclosure.

8 SECTION 9. [NEW MATERIAL] EXTERNAL REVIEW.--Every four
9 years, the inspector general shall submit all investigative
10 reports produced by the office for an objective, quality-
11 assurance review by an appropriate professional, nonpartisan
12 organization. A copy of the written report on the review shall
13 be transmitted to the inspector general oversight committee.
14 The report shall be made publicly available.

15 SECTION 10. APPROPRIATION.--Five hundred thousand dollars
16 (\$500,000) is appropriated from the general fund to the
17 legislative council service for expenditure in fiscal year 2017
18 to carry out the provisions of the Inspector General Act. Any
19 unexpended or unencumbered balance remaining at the end of
20 fiscal year 2017 shall revert to the general fund.