

1 SENATE BILL 227

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 John M. Sapien

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10 AN ACT

11 RELATING TO GOVERNMENT ACCOUNTABILITY; CREATING THE STATE
12 INSPECTOR GENERAL AND THE EXECUTIVE GOVERNMENT ACCOUNTABILITY
13 OFFICE; PROVIDING POWERS AND DUTIES; REQUIRING DEPARTMENT
14 INSPECTORS GENERAL TO REPORT TO THE OFFICE; ALLOWING SERVICE
15 FEES; CREATING A FUND; ALLOWING THE GOVERNOR TO CONSOLIDATE
16 CERTAIN FUNCTIONS BY EXECUTIVE ORDER.

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

19 SECTION 1. SHORT TITLE.--This act may be cited as the
20 "State Inspector General Act".

21 SECTION 2. DEFINITIONS.--As used in the State Inspector
22 General Act:

23 A. "executive agency" means a state agency under
24 the control of the governor, an agency administratively
25 attached to a state agency under the control of the governor or

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1 an adjunct agency and any other state agency of the executive
2 branch that is not under the control of another elected
3 executive officer;

4 B. "fund" means the executive government
5 accountability fund;

6 C. "office" means the executive government
7 accountability office; and

8 D. "state-funded entity" means a school district;
9 charter school; public post-secondary educational institution,
10 including a branch campus and a community college; and any
11 other recipient of state funding, including government
12 contractors.

13 SECTION 3. STATE INSPECTOR GENERAL--EXECUTIVE GOVERNMENT
14 ACCOUNTABILITY OFFICE--CREATED--PERSONNEL.--

15 A. The "executive government accountability office"
16 is created and is administratively attached to the department
17 of finance and administration. The department shall provide
18 administrative services for the office but shall not prevent,
19 impair or prohibit the office from initiating, carrying out or
20 completing any audit or investigation. The office shall be
21 headed by the "state inspector general".

22 B. The state inspector general shall be appointed
23 by the governor with the consent of the senate, without regard
24 to political affiliation and solely on the basis of integrity
25 and demonstrated ability in accounting, auditing, financial

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1 analysis, law, management analysis, public administration or
2 investigations. The state inspector general shall serve for
3 six years and may be reappointed for succeeding six-year terms.

4 C. The state inspector general may be removed by
5 the governor for incompetence, malfeasance or willful neglect
6 of duty. If the governor seeks to remove the state inspector
7 general from office, the governor shall communicate in writing
8 the reasons for removal to the legislature not later than
9 thirty days before the removal. The governor shall not remove
10 the state inspector general unless the removal is approved by a
11 two-thirds' vote of the members of the senate.

12 D. Within available appropriations, the state
13 inspector general may employ such professional and clerical
14 assistants as deemed necessary.

15 SECTION 4. OFFICE--DUTIES--CONFIDENTIALITY.--

16 A. The office shall:

17 (1) have the authority to audit, including
18 internal audits and compliance audits, and investigate
19 executive agencies and programs and all state-funded entities
20 to ensure efficient and effective operations; the proper use of
21 public funding; and the detection and prevention of fraud,
22 waste and abuse;

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

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1 (3) oversee executive agency offices of
2 inspectors general, including reviewing and approving work
3 plans and reports relating to the inspectors general of those
4 agencies, including approving the hiring of inspectors general
5 and staff;

6 (4) act as inspector general for executive
7 agencies that do not have an office of inspector general;

8 (5) plan and coordinate the work of the office
9 and the work of inspectors general and report the results to
10 the governor, the legislative finance committee and the
11 legislature;

12 (6) coordinate activities with the state
13 auditor, the medicaid fraud and elder abuse division of the
14 attorney general's office and the legislative finance
15 committee;

16 (7) be responsible for recommending changes or
17 corrective action and for reporting on progress made to improve
18 operations and to recover misspent public funding;

19 (8) refer potential criminal matters to the
20 attorney general or a district attorney and report violations
21 to the state auditor;

22 (9) as requested by the governor or an interim
23 legislative committee, gather executive agency and state-funded
24 entity information and analyze and validate the information;
25 provided, however, that this duty shall not affect the duty of

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1 an executive agency, school district, charter school or public
2 post-secondary educational institution to otherwise provide
3 information in a timely manner upon request of an interim
4 legislative committee;

5 (10) perform other duties that may be assigned
6 by the governor;

7 (11) assist executive agencies in resolving
8 financial post-audit findings and reviewing performance
9 measures;

10 (12) contract for professional services as
11 necessary to carry out the duties of the office;

12 (13) have the authority to accept federal
13 funds to perform duties consistent with the State Inspector
14 General Act; and

15 (14) promulgate rules, including the adoption
16 of professional standards, to carry out the provisions of the
17 State Inspector General Act.

18 B. The office shall not:

19 (1) perform audits of executive agency
20 financial statements; or

21 (2) disclose information made confidential by
22 law or release records exempt from the Inspection of Public
23 Records Act.

24 SECTION 5. EXECUTIVE AGENCY INSPECTORS GENERAL--POWERS
25 AND DUTIES--REPORTS TO STATE INSPECTOR GENERAL.--

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1 A. An inspector general employed by an executive
2 agency shall conduct periodic audits, including internal audits
3 and compliance audits, and shall investigate the misuse of
4 agency funds by the executive agency, contractors or other
5 recipients of executive agency funding to ensure efficient and
6 effective operations; the proper use of public funds; and the
7 detection and prevention of fraud, waste and abuse of public
8 money.

9 B. Inspectors general of executive agencies shall
10 issue reports on the results of audits and make them available
11 to the state inspector general and the executive agency head
12 and to the general public and shall provide additional reports
13 as requested by the state inspector general.

14 C. An executive agency inspector general shall be
15 operationally separate from other divisions of the executive
16 agency and shall report directly to the head of the executive
17 agency. The executive agency inspector general shall have
18 unrestricted access to records, data, reports, contracts,
19 memoranda, correspondence and any other information necessary
20 to carry out the duties of inspector general; provided,
21 however, that the executive agency inspector general shall not
22 disclose information made confidential by law or release
23 records that are exempt from the Inspection of Records Act.
24 The executive agency shall not prevent, impair or prohibit its
25 inspector general from initiating, carrying out or completing

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1 an audit or investigation.

2 D. The following executive agencies shall establish
3 and maintain agency-level offices of inspector general:

- 4 (1) children, youth and families department;
- 5 (2) corrections department;
- 6 (3) department of health;
- 7 (4) human services department;
- 8 (5) public education department; and
- 9 (6) taxation and revenue department.

10 SECTION 6. SERVICE FEES.--

11 A. The office may charge reasonable service fees to
12 executive agencies and state-funded entities for services
13 rendered in the exercise of its oversight and auditing
14 function.

15 B. The office shall establish by rule a schedule of
16 fees for services rendered to state agencies and state-funded
17 entities; provided that no fee shall exceed the actual cost of
18 providing the service for which the fee is charged. The office
19 shall consult with the state auditor, the department of finance
20 and administration and the legislative finance committee prior
21 to development of a fee schedule. A copy of the fee schedule
22 shall be provided to the legislature by filing with the
23 legislative library of the legislative council service.

24 C. Income from fees collected shall be deposited to
25 the credit of the fund.

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