

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 227

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

AN ACT

RELATING TO GOVERNMENT ACCOUNTABILITY; CREATING THE GOVERNMENT
ACCOUNTABILITY OFFICE OF THE LEGISLATIVE FINANCE COMMITTEE;
ENACTING THE STATE INSPECTORS GENERAL ACT; PROVIDING POWERS AND
DUTIES; REQUIRING DEPARTMENT INSPECTORS GENERAL TO REPORT TO
THE OFFICE.

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

SECTION 1. A new section of Chapter 2, Article 5 NMSA
1978 is enacted to read:

"~~[NEW MATERIAL] LEGISLATIVE FINANCE COMMITTEE--GOVERNMENT
ACCOUNTABILITY OFFICE--CREATED--POWERS AND DUTIES.--~~

A. As used in this section and Section 2 of this
2013 act, "agency" means any department, agency, institution or
instrumentality of the state or a political subdivision of the
state.

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1 B. The "government accountability office" is
2 created as a division of the legislative finance committee.
3 The office shall be staffed by persons knowledgeable and
4 proficient in program and performance evaluation, and research
5 or policy analysis. The director of the legislative finance
6 committee shall appoint government accountability office staff
7 without regard to party affiliation and solely on the
8 appointees' fitness to perform the duties of the positions for
9 which they are hired.

10 C. The government accountability office shall
11 conduct program evaluations, information technology evaluations
12 and special reviews of agencies to provide policymakers with
13 objective, independent and credible assessments of those
14 agencies to allow the policymakers to:

15 (1) determine whether expenditures of public
16 funds are producing desired results;

17 (2) determine whether agencies are complying
18 with state and federal procedures relevant to their operation
19 and funding;

20 (3) determine whether policy alternatives
21 could improve operations and save money; and

22 (4) assess the effect of agency operations on
23 state finances.

24 D. The government accountability office shall
25 coordinate its activities with executive agency offices of

1 inspector general as necessary.

2 E. The government accountability office shall
 3 report the results of work performed pursuant to this section
 4 to the legislative finance committee and shall make final
 5 reports available to the legislature and the public.

6 Background materials, including working papers and notes used
 7 as part of any program evaluation or review, are not public
 8 records for the purpose of the Inspection of Public Records
 9 Act.

10 F. Each agency shall, upon request, furnish to the
 11 government accountability office such documents, material or
 12 information as may be requested by the director or staff of the
 13 office. Information provided by an agency pursuant to this
 14 section that is confidential by law or exempt from public
 15 inspection under the Inspection of Public Records Act shall not
 16 be disclosed by the director or staff. Penalties for improper
 17 disclosure of confidential or exempt information shall apply to
 18 the director or staff."

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

21 "[NEW MATERIAL] LEGISLATIVE FINANCE COMMITTEE--REPORTS OF
 22 INSPECTORS GENERAL.--

23 A. Pursuant to the State Inspectors General Act,
 24 the legislative finance committee shall receive and review from
 25 offices of inspector general:

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1 (1) annual work plans and quarterly updates of
2 investigations and planned audits, including internal audits
3 and compliance audits;

4 (2) annual reports;

5 (3) reports on the results of investigations
6 and individual audits, including internal audits and compliance
7 audits; and

8 (4) other reports and information as a result
9 of coordination with offices of inspector general.

10 B. Information and reports containing information
11 made confidential by law or exempt from the Inspection of
12 Public Records Act shall not be disclosed by the legislative
13 finance committee."

14 SECTION 3. [NEW MATERIAL] SHORT TITLE.--Sections 3
15 through 8 of this act may be cited as the "State Inspectors
16 General Act".

17 SECTION 4. [NEW MATERIAL] DEFINITIONS.--As used in the
18 State Inspectors General Act:

19 A. "department" means a cabinet department listed
20 in Section 6 of the State Inspectors General Act; and

21 B. "state-funded entity" means a school district;
22 charter school; public post-secondary educational institution,
23 including a branch campus and a community college; and persons
24 who receive grants from or who contract with a department.

25 SECTION 5. [NEW MATERIAL] PURPOSE OF OFFICES OF INSPECTOR

1 GENERAL.--The purpose of the State Inspectors General Act is to
 2 create independent and objective units of each department
 3 enumerated in Section 4 of the State Inspectors General Act to:

4 A. conduct and supervise internal audits,
 5 compliance audits and investigations relating to the programs
 6 and operations of the department and state-funded entities;

7 B. provide coordination and recommendations
 8 designed to promote economy, efficiency and effectiveness and
 9 to prevent and detect fraud and abuse in departments and state-
 10 funded entities; and

11 C. provide a means for keeping cabinet secretaries,
 12 the governor, the state auditor and the legislature informed
 13 about problems and deficiencies relating to the administration
 14 of departments and state-funded entities and progress of
 15 corrective action.

16 SECTION 6. [NEW MATERIAL] OFFICES OF INSPECTOR GENERAL--
 17 DUTIES--ORGANIZATION--CONFIDENTIALITY.--

18 A. The following departments shall establish and
 19 maintain offices of inspector general:

- 20 (1) children, youth and families department;
- 21 (2) corrections department;
- 22 (3) department of health;
- 23 (4) higher education department;
- 24 (5) human services department;
- 25 (6) public education department;

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- 1 (7) department of finance and administration;
- 2 (8) department of transportation; and
- 3 (9) taxation and revenue department.

4 B. Each office of inspector general shall:

5 (1) have the authority to audit, including
6 internal audits and compliance audits, and investigate its
7 department and related state-funded entities to ensure
8 efficient and effective operations; the proper use of public
9 funding; and the detection and prevention of fraud, waste and
10 abuse;

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

14 (3) coordinate activities with the state
15 auditor; the medicaid fraud and elder abuse division of the
16 attorney general's office, as applicable; and the legislative
17 finance committee;

18 (4) recommend changes or corrective action and
19 report on progress made to improve operations and to recover
20 misspent public funding;

21 (5) refer potential criminal matters to the
22 attorney general or a district attorney and report violations
23 to the state auditor;

24 (6) as requested by the governor or an interim
25 legislative committee, gather department and state-funded

1 entity information and analyze and validate the information;
 2 provided, however, that this duty shall not affect the duty of
 3 a department or state-funded entity to otherwise provide
 4 information in a timely manner upon request of an interim
 5 legislative committee;

6 (7) review and report on the progress of the
 7 department and the progress of related state-funded entities to
 8 resolve financial post-audit findings and validate performance
 9 measures reported in accordance with the Accountability in
 10 Government Act;

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

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

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

18 C. The offices of inspector general shall not:

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

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

24 SECTION 7. [NEW MATERIAL] OFFICES OF INSPECTOR GENERAL--
 25 REPORTS.--

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1 A. Each office of inspector general shall submit an
2 annual work plan on planned reports and reports in progress to
3 its department secretary and the legislative finance committee.

4 B. An office of inspector general shall issue
5 reports on the results of audits, including internal audits and
6 compliance audits, and investigations to the department
7 secretary, the legislative finance committee and the public;
8 provided that information in reports containing information
9 made confidential by law or exempt from the Inspection of
10 Public Records Act shall not be disclosed by the office, the
11 department or the legislative finance committee.

12 C. Each inspector general shall issue an annual
13 report not later than September 1 summarizing the work of the
14 office during the preceding fiscal year, including reports
15 issued; findings and cost savings identified and
16 recommendations made to the department and its related state-
17 funded entities; and the progress of the department and state-
18 funded entities to resolve findings, save or recover public
19 money and implement recommendations.

20 SECTION 8. [NEW MATERIAL] APPOINTMENT--ORGANIZATION.--

21 A. The secretary of a department shall appoint an
22 inspector general without regard to political affiliation and
23 solely on the basis of integrity and demonstrated ability in
24 accounting, auditing, financial analysis, law, management
25 analysis, public administration or investigations, and any

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1 action taken to hire, remove or suspend the inspector general
2 shall be reported to the legislative finance committee within
3 fifteen days with the reason for such action. An inspector
4 general and employees in the department's office of inspector
5 general shall be classified employees as provided by the
6 Personnel Act.

7 B. The office of inspector general shall be
8 operationally separate from other divisions of the department
9 and shall report directly to the secretary. The department
10 shall not prevent, impair or prohibit its inspector general
11 from initiating, carrying out or completing an audit, including
12 an internal audit or a compliance audit, or an investigation.

13 SECTION 9. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2013.

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