

LFC Requester:	Caroline Malone
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date January 22, 2015
Original **Amendment** **Bill No:** SB 204
Correction **Substitute**

Sponsor: Sen. John M. Sapien **Agency Code:** Attorney General's Office
Short STATE INSPECTORS **Person Writing** Carla C. Martinez, AAG
Title: GENERAL ACT **Phone:** 827-6776 **Email** cmartinez@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	The appropriations associated with office of inspector general for CYFD, NMCD, DOH, HED, PED, DFA and DOT	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Section 8 of the bill proposes to transfer all appropriations related to offices of inspector general for CYFD, NMCD, DOH, HED, PED, DFA and DOT to the newly created office of inspector general.

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
NA	NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Indeterminate

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 204 creates the State Inspectors General Act. It establishes offices of inspectors general in the following departments: 1) Children, Youth and Families Department; 2) Corrections Department; 3) Department of Health; 4) Higher Education Department; 5) Human Services Department; 6) Public Education Department; 7) Department of Finance and Administration; and 8) Department of Transportation. The secretaries of each department appoint inspectors general and the offices are required to be separate from other divisions of their departments and report directly to their secretaries.

The bill specifies a range of duties for each office of inspector general, including coordinating activities with the State Auditor, the Medicaid Fraud Unit of the Attorney General’s Office, and the LFC. The bill prohibits offices of inspector general from performing audits of department financial statements and from publicly disclosing information or records made confidential by law or exempt from the Inspection of Public Records Act.

The bill also creates the “Government Accountability Coordinating Council,” which consists of the State Auditor, the Attorney General, inspectors general of departments and the Director of the LFC. The council receives and reviews from offices of inspectors general annual work plans, quarterly updates of investigations and planned audits, and reports on the results of investigations.

The bill also makes certain appropriations and transfers to carry out the purposes of the Act.

FISCAL IMPLICATIONS

The bill makes certain appropriations and transfers to carry out the purposes of the Act, but any fiscal impact on the Attorney General’s Office is indeterminate. Coordination with the Attorney General’s Medicaid Fraud Unit and on criminal affairs and participation on the “Government Accountability Coordinating Council will increase the duties and activities of the Attorney General’s Office, but the operational and related fiscal impact is indeterminate at this time.

SIGNIFICANT ISSUES

The broad language of Section 4(B)(2) of the bill does not restrict the OIGs' access to any particular department, so the OIGs' authority to access records could be construed to apply to any department or branch of government. Thus, the bill's provisions may require disclosure of executive privilege information or confidential law enforcement information. Given these issues, Section 4(B)(2) may result in the unlawful encroachment and violate principles of separation of powers. As a result, it may result in costly and lengthy litigation. The bill does provide the OIGs shall not publicly disclose information or records made confidential by law; however, providing unrestricted access in some cases may cause a violation of professional standards for the individuals/agencies compelled to provide information as a result of the enactment of Section 4(B)(2).

The bill creates the Government Accountability Coordinating Council, but the bill does not contain much details regarding how often the Council should meet and other duties that may clarify the Council's intended purpose.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A