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FISCAL IMPACT REPORT

ORIGINAL DATE 01/20/16

SPONSOR Padilla **LAST UPDATED** _____ **HB** _____

SHORT TITLE Create State Inspector General Office **SB** 41

ANALYST Amacher

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
	\$500.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
	(\$500.00)		Recurring	Legislative Council Service

(Parenthesis () Indicate Revenue Decreases)

Relates to: SJR 21

SOURCES OF INFORMATION

LFC Files
 Attorney General's Office (AGO)
 Human Services Department (HSD)
 NM Higher Education Department (NMHED)

SUMMARY

Senate Bill 41 enacts the Inspector General Act, creates an independent Office of Inspector General (OIG) to investigate and inspect all branches of the New Mexico government, establishes a new permanent interim legislative oversight committee, provides this new office powers and duties, and makes an appropriation of \$500,000 from the general fund to Legislative Council Services. SB 41 requires action by a new legislative oversight committee prior to January 1, 2017.

As proposed in SB 41, the inspector general oversight committee is created as a permanent interim legislative committee. The committee is comprised of four members from the house of representatives and four members from the senate. Prior to January 1, 2017 this committee shall

Senate Bill 41 – Page 2

appoint an inspector general (IG); establish the IG's annual compensation; hear reports; establish policies and procedures; and may remove the IG from the office.

The IG shall receive and investigate complaints from any source concerning alleged fraud, waste, abuse, illegal acts and corruption within state government. The IG shall report and provide evidence of potential criminal matters to the attorney general or other law enforcement official. The IG shall report financial fraud, waste and abuse to the state auditor. The IG shall refer matters for further criminal, civil and administrative action to the appropriate prosecutorial or administrative agency.

FISCAL IMPLICATIONS

Senate Bill 41 creates a new office of inspector general and appropriates a recurring appropriation of \$500 thousand from the general fund to Legislative Council Services for expenditure in fiscal year 2017 to carry out the provisions of the Inspector General Act. Continuance of the office will depend on continuing annual appropriations.

The recurring appropriation of \$500 thousand may not be sufficient to: 1) create an independent OIG; 2) and, 3) provide staff and administrative support for a new permanent interim legislative oversight committee.

SIGNIFICANT ISSUES

SB 41 enacts the Inspector General Act to establish an indecent office of inspector general to conducts investigations and inspections of all branches of the New Mexico government. This includes a branch, department, institution, board, bureau, commission or committee of the state.

The proposed duties, operations, and responsibilities of the inspector general as outlined in SB 41 may be duplicative of those performed by the office of the state auditor and the New Mexico's attorney general's office. Furthermore, the New Mexico department of transportation, the human services department, children youth and families department, and the corrections department currently maintain office of the inspector general functions with investigative and/or audit divisions.

RELATIONSHIP

SB 41 relates to SJR21 which amends Article 4 of the New Mexico Constitution to create and office of the inspector general in the legislative branch of government. The qualifications of the inspector general and the powers and duties of the office are to be determined by the Legislature.

TECHNICAL ISSUES

The AGO suggests a clarification revising the clause in Section 6(B) (2), page 5, lines 19-22 to read as "investigate and inspect a person or legal entity with which an agency has entered into a contract..." because it is not clear whether "person" refers to only an individual or also to other legal entities that may enter into contracts, provide good and services, or receive grants.

OTHER SUBSTANTIVE ISSUES

The human services department (HSD) notes that the inspector general duties and powers as outlined in SB 41 would duplicate the efforts of the human services department office of inspector general. HSD also notes the ability of the state inspector general may conflict with federal and state laws. For example, under the Medicaid False Claims Act, NMSA, 1978, Sections 27-14-1 to 27-14-15, as currently written, requires the New Mexico human services department, as the single state agency authorized to administer the state's Medicaid program to investigate suspected violations of Medicaid false claims, and, where appropriate, bring civil actions for Medicaid false claims.

JMA/jo/jle