

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Senate Committee on Government Affairs

This measure may be considered for action during today's work session.

April 15, 2011

SENATE BILL 325

**Creates the Office of Inspector General in the Department of Administration.
(BDR 18-1062)**

Sponsored by: Senator Brower
Date Heard: April 4, 2011; April 13, 2011 (previous work session)
Fiscal Impact: Effect on Local Government: No
Effect on the State: Yes

Senate Bill 325 creates the Office of Inspector General in the Department of Administration. The Governor must appoint the Inspector General, who is directly responsible to the Governor. The bill requires the Inspector General to investigate, audit, and review the operation and management of each State agency to determine whether any act or omission amounting to fraud, waste, abuse, or corruption has occurred or may occur within that State agency. Senate Bill 325 also authorizes a law enforcement agency in this State, upon request of the Inspector General and to the extent that money is available, to provide officers, staff, and other assistance to the Inspector General. Finally, the bill includes the operating budget of the Office of Inspector General within certain provisions governing the Department of Administration's Operating Fund for Administrative Services.

Conceptual Amendment:

The attached conceptual amendment shifts the Division of Internal Audits from the Department of Administration to the Office of the State Controller. Specifically, the mock-up: (1) deletes Sections 1 through 7 of the bill; (2) amends Section 8 deleting the reference to the Office of Inspector General in the original bill and removing in NRS 232.213 the Division of Internal Audits as an entity of the Department of Administration; and (3) amends provisions in Chapter 353A of the NRS placing the Division under the Office of the State Controller.

(suggested by Chairman Lee)

MOCK-UP

PROPOSED AMENDMENT 6228 TO
SENATE BILL NO. 325

PREPARED FOR SENATE COMMITTEE ON GOVERNMENT AFFAIRS
APRIL 12, 2011

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 *Sec. 0.5. Chapter 227 of NRS is hereby amended by adding*
2 *thereto a new section to read as follows:*
3 *The Division of Internal Audits is hereby created within the Office of*
4 *State Controller.*
5 Section 1. ~~*Chapter 232 of NRS is hereby amended by adding*~~
6 ~~*thereto the provisions set forth as sections 2 to 6, inclusive, of this act.*~~
7 *(Deleted by amendment.)*
8 Sec. 2. ~~*As used in sections 2 to 6, inclusive, of this act, unless*~~
9 ~~*the context otherwise requires, "state agency" means any board,*~~
10 ~~*commission, department, division, officer or employee in the Executive*~~
11 ~~*Department of the State Government.*~~ *(Deleted by amendment.)*
12 Sec. 3. ~~*The Office of Inspector General is hereby*~~
13 ~~*created in the Department of Administration. The Office of Inspector*~~
14 ~~*General consists of the Inspector General and any person employed in*~~
15 ~~*the Office of Inspector General.*~~

1 ~~2. The Governor shall appoint the Inspector General. The~~
2 ~~Inspector General is in the unclassified service of the State and serves at~~
3 ~~the pleasure of the Governor.~~

4 ~~3. The Inspector General shall devote his or her entire time and~~
5 ~~attention to the business of his or her office and shall not engage in any~~
6 ~~other gainful employment or occupation.~~

7 ~~4. The Inspector General is directly responsible to the Governor~~
8 ~~in all matters relating to an investigation, audit or review conducted~~
9 ~~pursuant to sections 2 to 6, inclusive, of this act. (Deleted by~~
10 ~~amendment.)~~

11 **Sec. 4.** ~~{The Inspector General shall:~~

12 ~~1. Investigate, audit and review the operation and management of~~
13 ~~each state agency to determine whether any act or omission amounting~~
14 ~~to fraud, waste, abuse or corruption has occurred or may occur within~~
15 ~~that state agency;~~

16 ~~2. Periodically or upon request by the Governor submit a report~~
17 ~~to the Governor setting forth any findings and conclusions relating to an~~
18 ~~investigation, audit or review specified in subsection 1 and any suggested~~
19 ~~corrective or remedial actions, including, without limitation, increased~~
20 ~~oversight, carrying out or modification of any controls for internal~~
21 ~~management, termination of employment or referral to the Commission~~
22 ~~on Ethics or the Attorney General when appropriate;~~

23 ~~3. Establish a program for receiving, reviewing and investigating~~
24 ~~any complaint submitted to the Inspector General concerning any fraud,~~
25 ~~waste, abuse or corruption within any state agency and referral of those~~
26 ~~complaints to the appropriate state agency;~~

27 ~~4. Identify any other state agency that is responsible for~~
28 ~~investigating, auditing or reviewing the operation and management of a~~
29 ~~state agency, including, without limitation, the Chief of the Division of~~
30 ~~Internal Audits of the Department and the Inspector General of the~~
31 ~~Department of Corrections, and coordinate with those state agencies to~~
32 ~~share information and avoid any duplication of activities; and~~

33 ~~5. Perform any other task relating to his or her duties required by~~
34 ~~the Governor. (Deleted by amendment.)~~

35 **Sec. 5.** ~~{I. Upon request by the Inspector General, each~~
36 ~~state agency and any employee of that state agency shall cooperate with~~
37 ~~and provide assistance to the Inspector General in carrying out the~~
38 ~~provisions of sections 2 to 6, inclusive, of this act and shall, to the~~
39 ~~greatest extent practicable, ensure that the premises, equipment,~~
40 ~~employees and books, papers and other records of the state agency are~~
41 ~~available for use by the Inspector General in carrying out those~~
42 ~~provisions.~~

43 ~~2. To the extent that money is available for that purpose, any law~~
44 ~~enforcement agency in this State may, upon request by the Inspector~~
45 ~~General, provide officers, staff and any other assistance to the Inspector~~

1 ~~General in carrying out the provisions of sections 2 to 6, inclusive, of this~~
2 ~~act.~~ **(Deleted by amendment.)**

3 **Sec. 6.** ~~[Any book, paper, report or other record received,~~
4 ~~prepared or maintained by the Inspector General pursuant to sections 2-~~
5 ~~to 6, inclusive, of this act is confidential, except that the Inspector~~
6 ~~General~~

7 ~~1. Shall release any such record when subpoenaed by a court of~~
8 ~~competent jurisdiction or when required pursuant to~~
9 ~~NRS 239.0115;~~

10 ~~2. Shall make any such record available to the Legislative~~
11 ~~Auditor upon his or her request; and~~

12 ~~3. May make any such record available for inspection by an~~
13 ~~authorized representative of any other governmental entity for a matter~~
14 ~~officially before him or her.~~ **(Deleted by amendment.)**

15 **Sec. 7.** ~~[NRS 232.212 is hereby amended to read as follows:~~
16 ~~232.212 As used in NRS 232.212 to 232.2195, inclusive, and~~
17 ~~sections 2 to 6, inclusive, of this act, unless the context requires otherwise:~~

18 ~~1. "Department" means the Department of Administration.~~

19 ~~2. "Director" means the Director of the Department.]~~ **(Deleted by**
20 **amendment.)**

21 **Sec. 8.** NRS 232.213 is hereby amended to read as follows:

22 232.213 1. The Department of Administration is hereby
23 created.

24 2. The Department consists of a Director ~~of the Office of Inspector~~
25 ~~General~~ and the following divisions:

- 26 (a) Budget Division.
- 27 (b) Risk Management Division.
- 28 (c) Hearings Division, which consists of hearing officers,
29 compensation officers and appeals officers.
- 30 (d) Buildings and Grounds Division.
- 31 (e) Purchasing Division.
- 32 (f) Administrative Services Division.
- 33 ~~(g) Division of Internal Audits.~~

34 3. The Director may establish a Motor Pool Division or may assign
35 the functions of the State Motor Pool to one of the other divisions of the
36 Department.

37 **Sec. 9.** NRS 232.219 is hereby amended to read as follows:

38 232.219 1. The Department of Administration's Operating
39 Fund for Administrative Services is hereby created as an internal service
40 fund.

41 2. The operating budget of each of the following entities must
42 include an amount representing that entity's share of the operating costs of
43 the central accounting function of the Department:

- 44 (a) State Public Works Board;
- 45 (b) Budget Division;

- 1 (c) Buildings and Grounds Division;
- 2 (d) Purchasing Division;
- 3 (e) Hearings Division;
- 4 (f) Risk Management Division;
- 5 (g) ~~Division of Internal Audits;~~ and
- 6 ~~(h)~~ If separately established, the Motor Pool Division ~~;~~ and
- 7 ~~(i) Office of Inspector General;~~
- 8 3. All money received for the central accounting services of the
- 9 Department must be deposited in the State Treasury for credit to the
- 10 Operating Fund.
- 11 4. All expenses of the central accounting function of the
- 12 Department must be paid from the Fund as other claims against the State
- 13 are paid.
- 14 **Sec. 10. NRS 353A.036 is hereby amended to read as follows:**
- 15 353A.036 "Division" means the Division of Internal Audits of the
- 16 ~~Department of Administration;~~
- 17 ~~Sec. 10.~~ **Office of the State Controller.**
- 18 **Sec. 11. NRS 353A.045 is hereby amended to read as**
- 19 **follows:**
- 20 353A.045 The Chief shall:
- 21 1. Report to the ~~Director;~~ **State Controller.**
- 22 2. Develop long-term and annual work plans to be based on the
- 23 results of periodic documented risk assessments. The annual work plan
- 24 must list the agencies to which the Division will provide training and
- 25 assistance and be submitted to the ~~Director;~~ **State Controller** for approval.
- 26 Such agencies must not include:
- 27 (a) A board created by the provisions of NRS 590.485 and chapters
- 28 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of
- 29 NRS.
- 30 (b) The Nevada System of Higher Education.
- 31 (c) The Public Employees' Retirement System.
- 32 (d) The Housing Division of the Department of Business and
- 33 Industry.
- 34 (e) The Colorado River Commission of Nevada.
- 35 3. Provide a copy of the approved annual work plan to the
- 36 Legislative Auditor.
- 37 4. In consultation with the ~~Director;~~ **State Controller,** prepare a
- 38 plan for auditing executive branch agencies for each fiscal year and present
- 39 the plan to the Committee for its review and approval. Each plan for
- 40 auditing must:
- 41 (a) State the agencies which will be audited, the proposed scope and
- 42 assignment of those audits and the related resources which will be used for
- 43 those audits; and
- 44 (b) Ensure that the internal accounting, administrative controls and
- 45 financial management of each agency are reviewed periodically.

1 5. Perform the audits of the programs and activities of the agencies
2 in accordance with the plan approved pursuant to subsection 5 of NRS
3 353A.038 and prepare audit reports of his or her findings.

4 6. Review each agency that is audited pursuant to subsection 5 and
5 advise those agencies concerning internal accounting, administrative
6 controls and financial management.

7 7. Submit to each agency that is audited pursuant to subsection 5
8 analyses, appraisals and recommendations concerning:

9 (a) The adequacy of the internal accounting and administrative
10 controls of the agency; and

11 (b) The efficiency and effectiveness of the management of the
12 agency.

13 8. Report any possible abuses, illegal actions, errors, omissions and
14 conflicts of interest of which the Division becomes aware during the
15 performance of an audit.

16 9. Adopt the standards of the Institute of Internal Auditors for
17 conducting and reporting on internal audits.

18 10. Consult with the Legislative Auditor concerning the plan for
19 auditing and the scope of audits to avoid duplication of effort and undue
20 disruption of the functions of agencies that are audited pursuant to
21 subsection 5.

22 11. Appoint a Manager of Internal Controls.

23 **Sec. 12. NRS 353A.065 is hereby amended to read as follows:**

24 353A.065 1. Within 90 days after the end of each fiscal year,
25 the Chief shall submit an annual report to the Committee for its approval
26 which:

27 (a) Lists the agencies to which the Division provided training and
28 assistance;

29 (b) Separately lists any other activities undertaken by the Division
30 that are related to the provision of training and assistance and the status of
31 those activities;

32 (c) Contains a list of the final reports that have been submitted
33 pursuant to NRS 353A.085;

34 (d) Contains a separate list of any other activities undertaken by the
35 Division that are related to the final reports submitted pursuant to NRS
36 353A.085 and the status of those activities; and

37 (e) Describes the accomplishments of the Division.

38 2. The Chief shall provide a copy of the annual report to the:

39 (a) Committee;

40 (b) ~~Director;~~ **State Controller;**

41 (c) Interim Finance Committee; and

42 (d) Legislative Auditor.

43 **Sec. 13.** This act becomes effective on July 1, 2011.

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Nevada Revised Statutes addressing the duties of the Chief of the Division of Internal Audits and the duties of the Division

NRS 353A.045 Duties of Chief. The Chief shall:

1. Report to the Director.
2. Develop long-term and annual work plans to be based on the results of periodic documented risk assessments. The annual work plan must list the agencies to which the Division will provide training and assistance and be submitted to the Director for approval. Such agencies must not include:
 - (a) A board created by the provisions of [NRS 590.485](#) and [chapters 623](#) to [625A](#), inclusive, [628](#), [630](#) to [644](#), inclusive, [648](#), [654](#) and [656](#) of NRS.
 - (b) The Nevada System of Higher Education.
 - (c) The Public Employees' Retirement System.
 - (d) The Housing Division of the Department of Business and Industry.
 - (e) The Colorado River Commission of Nevada.
3. Provide a copy of the approved annual work plan to the Legislative Auditor.
4. In consultation with the Director, prepare a plan for auditing executive branch agencies for each fiscal year and present the plan to the Committee for its review and approval. Each plan for auditing must:
 - (a) State the agencies which will be audited, the proposed scope and assignment of those audits and the related resources which will be used for those audits; and
 - (b) Ensure that the internal accounting, administrative controls and financial management of each agency are reviewed periodically.
5. Perform the audits of the programs and activities of the agencies in accordance with the plan approved pursuant to subsection 5 of [NRS 353A.038](#) and prepare audit reports of his or her findings.
6. Review each agency that is audited pursuant to subsection 5 and advise those agencies concerning internal accounting, administrative controls and financial management.
7. Submit to each agency that is audited pursuant to subsection 5 analyses, appraisals and recommendations concerning:
 - (a) The adequacy of the internal accounting and administrative controls of the agency; and
 - (b) The efficiency and effectiveness of the management of the agency.
8. Report any possible abuses, illegal actions, errors, omissions and conflicts of interest of which the Division becomes aware during the performance of an audit.
9. Adopt the standards of the Institute of Internal Auditors for conducting and reporting on internal audits.
10. Consult with the Legislative Auditor concerning the plan for auditing and the scope of audits to avoid duplication of effort and undue disruption of the functions of agencies that are audited pursuant to subsection 5.
11. Appoint a Manager of Internal Controls.
(Added to NRS by 1995, 397; A 1997, 505; [1999, 2890](#); [2001, 944](#); [2003, 626, 909, 2077](#); [2005, 1139](#))

NRS 353A.055 Duties of Division; prohibited acts.

1. The Division shall:
 - (a) Determine the adequacy of the system of internal accounting, administrative control and financial management of each agency to which the Division provides training and assistance.
 - (b) Adopt regulations, approved by the Committee, requiring the provision of training to any employee of an agency who is responsible for administering budgetary accounts. The training must address:
 - (1) The laws and regulations of this state and the Federal Government applicable to the operations of the agency.
 - (2) Internal accounting, administrative controls and financial management.
 - (3) Techniques to address the adequacy of controls of the agency.
 - (c) Develop and administer a procedure to evaluate the effectiveness of any training provided to an agency.
 - (d) Provide technical assistance to agencies in developing and carrying out their systems of internal accounting, administrative controls and financial management.
 - (e) Prepare separate reports for each agency which summarize the results of the training and assistance provided to the agency.
2. The Division shall not:
 - (a) Provide any services to an agency that is under the direct control or administration of a constitutional officer unless the constitutional officer requests such services.
 - (b) Conduct investigations, but shall refer such matters to the appropriate agency.
(Added to NRS by 1995, 397; A 1997, 505; [1999, 2891](#))