

SENATE BILL No. 424

By Committee on Federal and State Affairs

2-19

Proposed Amendment for SB 424
Senate Committee on Education
March 19, 2018
Tamera Lawrence
Office of Revisor of Statutes

1 AN ACT concerning education; establishing the office of education
2 inspector general within the office of the state treasurer; providing the
3 duties and functions thereof.
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) (1) There is hereby established within the office of the
7 state treasurer the office of education inspector general. All management
8 functions and personnel of the office of education inspector general shall
9 be administered under the direction and supervision of the state treasurer.
10 The purpose of the office of education inspector general is to establish a
11 full-time program of audit, investigation and performance review to
12 provide increased accountability, integrity and oversight of elementary and
13 secondary public education and the implementation and execution of the
14 Kansas school equity and enhancement act, K.S.A. 72-5131 et seq., and
15 amendments thereto, to assist in improving Kansas state department of
16 education and school district efficiency, and to assist in deterring and
17 identifying waste, misuse of funds and illegal acts. The specific duties of
18 the education inspector general shall be assigned by the state treasurer. The
19 office of education inspector general shall be independent and free from
20 political influence.

21 (2) The education inspector general shall be appointed by the state
22 treasurer and subject to confirmation by the senate as provided in K.S.A.
23 75-4315b, and amendments thereto. Except as provided in K.S.A. 46-
24 2601, and amendments thereto, no person appointed to the position of
25 education inspector general shall exercise any power, duty or function of
26 the education inspector general until confirmed by the senate. The
27 education inspector general shall be selected without regard to political
28 affiliation and on the basis of integrity and capacity for effectively carrying
29 out the duties of the office of education inspector general. The education
30 inspector general shall possess demonstrated knowledge, skills, abilities
31 and experience in conducting audits or investigations and shall be familiar
32 with the programs subject to oversight by the office of education inspector
33 general. The education inspector general shall exercise independent
34 judgment in performing the duties of the office of education inspector
35 general.

36 (3) No former or current manager of any agency subject to oversight

1 by the office of education inspector general may be appointed education
 2 inspector general within ~~two~~ years of that individual's period of service
 3 with such agency. The education inspector general shall hold at the time of
 4 appointment, or shall obtain within one year after confirmation,
 5 certification as a certified inspector general from a national organization
 6 that provides training to inspectors general.

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7 (4) A person appointed to the position of education inspector general
 8 shall serve at the pleasure of the state treasurer.

9 (5) The education inspector general shall be in the unclassified
 10 service and shall receive an annual salary in an amount equal to the annual
 11 salary paid by the state to the state treasurer.

12 (6) The education inspector general shall report to the state treasurer.
 13 Subject to subsection (a)(1), the education inspector general shall have
 14 general managerial control over the office of the education inspector
 15 general and shall organize the office as the education inspector general
 16 deems appropriate to carry out the responsibilities and functions of the
 17 office.

18 (7) Appropriations for the office of education inspector general shall
 19 be made to the state treasurer by separate line item appropriations for the
 20 office of education inspector general. Within the limits of appropriations
 21 therefor, the state treasurer may hire such employees in the unclassified
 22 service as are necessary to administer the office of the education inspector
 23 general. Such employees shall serve at the pleasure of the state treasurer.
 24 Subject to appropriations and subsection (a)(1), the education inspector
 25 general may obtain the services of certified public accountants, qualified
 26 management consultants, professional auditors or other professionals
 27 necessary to independently perform the functions of the office.

28 (b) The duties of the office of education inspector general shall be
 29 assigned by the state treasurer to comply with the purposes of this section.
 30 Such duties may include, but are not limited to, overseeing, auditing,
 31 investigating or making performance reviews of various aspects of public
 32 elementary and secondary education in Kansas, including, but not limited
 33 to, the implementation and execution of the Kansas school equity and
 34 enhancement act, K.S.A. 72-5131 et seq., and amendments thereto, or any
 35 distribution or formula for distribution of state moneys to the department,
 36 state board or any school district.

37 (c) (1) The education inspector general or any employee of the
 38 education inspector general's office shall have access to all pertinent
 39 information, confidential or otherwise, and to all personnel and facilities of
 40 a school district, state agency, and any local governmental agency that are
 41 necessary to perform the duties of the office. School districts, state
 42 agencies and local governmental agencies shall provide the education
 43 inspector general requested information, assistance or cooperation.

Any information requested by the education inspector
 general shall be provided within 30 days of such request.

1 (2) To carry out the duties of the office of education inspector
2 general, the education inspector general shall have the power to compel by
3 subpoena the attendance and testimony of witnesses and the production of
4 documents, electronic records and papers directly related to any audit,
5 investigation or performance review.

6 (d) The education inspector general shall make annual reports,
7 findings and recommendations regarding the office's investigations, audits
8 or performance reviews to the department, state board, the legislative post
9 auditor, the senate committees on ways and means and education, the
10 house committees on appropriations and K-12 budget, the attorney general
11 or the governor. Such reports shall include, but not be limited to, a detailed
12 summary of the investigations undertaken in the previous fiscal year and
13 the results of such investigations, if any. Such summaries shall comply
14 with confidentiality laws and requirements.

15 (e) Based on the education inspector general's findings, the education
16 inspector general may make recommendations for changes in law, rules
17 and regulations, policy or procedures as the education inspector general
18 deems appropriate to carry out the provisions of law or to improve
19 efficiency.

20 (f) The scope, timing and completion of any audit, investigation or
21 performance review conducted by the education inspector general shall be
22 within the discretion of the education inspector general. Any audit
23 conducted by the education inspector general's office shall adhere to and
24 comply with all provisions of generally accepted governmental auditing
25 standards promulgated by the United States government accountability
26 office.

27 (g) Except as otherwise provided in this section, the education
28 inspector general and all employees and former employees of the office of
29 education inspector general shall be subject to the same duty of
30 confidentiality imposed by law on any such person or agency with regard
31 to any such information, and shall be subject to any civil or criminal
32 penalties imposed by law for violations of such duty of confidentiality. The
33 duty of confidentiality imposed on the education inspector general and all
34 employees and former employees of the office of education inspector
35 general shall be subject to the provisions of subsection (h), and the
36 education inspector general may furnish all such information to the state
37 treasurer or attorney general pursuant to subsection (h). Upon receipt
38 thereof, the state treasurer or attorney general and all assistants and all
39 other employees and former employees of such offices shall be subject to
40 the same duty of confidentiality, with the exceptions that any such
41 information may be disclosed in criminal or other proceedings that may be
42 instituted and prosecuted by the attorney general, and any such
43 information furnished to the attorney general under subsection (h) may be

1 entered into evidence in any such proceedings.

2 (h) All investigations conducted by the education inspector general
3 shall be conducted in a manner that ensures the preservation of evidence
4 for use in criminal prosecutions, civil actions or agency administrative
5 actions. If the education inspector general determines that a possible
6 criminal act, false claim or any instances of misfeasance, malfeasance or
7 nonfeasance by a public officer or employee has been committed, the
8 education inspector general shall immediately notify the state treasurer. If
9 the state treasurer agrees that a criminal act, false claim or instance of
10 misfeasance, malfeasance or nonfeasance by a public officer or employee
11 has been committed, the state treasurer shall notify the attorney general.

(1)

12 (i) Nothing in this section shall limit investigations by any state
13 department or agency that may otherwise be required or permitted by law
14 or that may be necessary in carrying out the duties and functions of such
15 agency.

16 (j) As used in this section:

17 (1) "Department" means the Kansas state department of education.

18 (2) "Pertinent information" does not include personally identifiable
19 student data.

20 (3) "School district" means any public school district organized under
21 the laws of this state.

22 (4) "State board" means the state board of education.

23 Sec. 2. This act shall take effect and be in force from and after its
24 publication in the statute book.

(2) If the state treasurer notifies the attorney general pursuant to paragraph (1), the attorney general shall file a cause of action against the appropriate public officers and employees if the evidence provided by the state treasurer warrants such action. If the attorney general determines no such action is warranted, the attorney general shall submit a report to the governor and the legislature explaining the reason why no such action was filed. Such report shall be submitted within XX days of receiving notification from the state treasurer pursuant to paragraph (1).