

111TH CONGRESS
2^D SESSION

S. 428

To establish the Office of the Inspector General of the Senate.

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2011

Mrs. MCCASKILL introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To establish the Office of the Inspector General of the Senate.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. OFFICE OF THE INSPECTOR GENERAL OF THE**
4 **SENATE.**

5 (a) DEFINITIONS.—In this Act:

6 (1) COMMITTEE.—The term “Committee”
7 means the Committee on Rules and Administration
8 of the Senate.

9 (2) EMPLOYEE OF THE SENATE.—The term
10 “employee of the Senate” means an employee whose
11 pay is disbursed by the Secretary of the Senate.

1 (3) INSPECTOR GENERAL.—The term “Inspec-
2 tor General” means the Inspector General of the
3 Senate.

4 (4) OFFICE.—The term “Office” means the Of-
5 fice of the Inspector General of the Senate.

6 (b) ESTABLISHMENT OF OFFICE.—There is estab-
7 lished the Office of the Inspector General of the Senate
8 within the Senate. The Office shall be headed by the In-
9 spector General of the Senate.

10 (c) INSPECTOR GENERAL.—

11 (1) APPOINTMENT.—

12 (A) IN GENERAL.—The Inspector General
13 shall be appointed by, and under the general
14 supervision of the majority leader and the mi-
15 nority leader of the Senate, acting jointly. The
16 majority leader and the minority leader of the
17 Senate shall appoint the Inspector General
18 without regard to political affiliation and solely
19 on the basis of integrity and demonstrated abil-
20 ity in accounting, auditing, financial analysis,
21 law, management analysis, public administra-
22 tion, or investigations. The Inspector General
23 shall be subject to the policy direction and over-
24 sight of the Committee.

1 (B) INITIAL APPOINTMENT.—Not later
2 than January 1, 2010, the majority leader and
3 the minority leader of the Senate shall appoint
4 the first Inspector General under this section.

5 (2) TERM OF SERVICE.—The Inspector General
6 shall serve for a term of 5 years, and an individual
7 serving as Inspector General may be reappointed for
8 not more than 2 additional terms.

9 (3) REMOVAL.—The Inspector General may be
10 removed from office before the expiration of a term
11 only by a $\frac{2}{3}$ majority vote of the Committee, in con-
12 sultation with the majority leader and the minority
13 leader of the Senate and the Committee on Appro-
14 priations.

15 (4) SALARY.—The Inspector General shall be
16 paid at an annual rate of pay equal to the maximum
17 rate payable for an employee of standing committees
18 under section 105(e) of the Legislative Branch Ap-
19 propriations Act, 1968 (2 U.S.C. 61–1(e)).

20 (d) DUTIES.—

21 (1) IN GENERAL.—It shall be the duty and re-
22 sponsibility of the Inspector General to—

23 (A) provide policy direction for and to con-
24 duct, supervise, and coordinate audits and in-

1 investigations relating to the programs and oper-
2 ations of the Senate;

3 (B) review existing and proposed legisla-
4 tion and regulations relating to programs and
5 operations of the Senate and to make rec-
6 ommendations in the semiannual reports re-
7 quired by subsection (e) concerning the impact
8 of such legislation or regulations on the econ-
9 omy and efficiency in the administration of pro-
10 grams and operations administered or financed
11 by the Senate or the prevention and detection
12 of fraud and abuse in such programs and oper-
13 ations;

14 (C) recommend policies for, and to con-
15 duct, supervise, or coordinate other activities
16 carried out or financed by the Senate for the
17 purpose of promoting economy and efficiency in
18 the administration of, or preventing and detect-
19 ing fraud and abuse in, its programs and oper-
20 ations;

21 (D) recommend policies for, and to con-
22 duct, supervise, or coordinate relationships
23 within the Senate with respect to—

24 (i) all matters relating to the pro-
25 motion of economy and efficiency in the

1 administration of, or the prevention and
2 detection of fraud and abuse in, programs
3 and operations administered or financed by
4 the Senate; or

5 (ii) the identification and prosecution
6 of participants in such fraud or abuse; and

7 (E) keep the Committee and the Com-
8 mittee on Appropriations fully and currently in-
9 formed, by means of the reports required by
10 subsection (e) and otherwise, concerning fraud
11 and other serious problems, abuses, and defi-
12 ciencies relating to the administration of pro-
13 grams and operations administered or financed
14 by the Senate, to recommend corrective action
15 concerning such problems, abuses, and defi-
16 ciencies, and to report on the progress made in
17 implementing such corrective action.

18 (2) ADMINISTRATION.—

19 (A) IN GENERAL.—In carrying out the re-
20 sponsibilities specified in paragraph (1)(A), the
21 Inspector General shall—

22 (i) comply with standards established
23 by the Comptroller General of the United
24 States for audits of Federal establish-

1 ments, organizations, programs, activities,
2 and functions;

3 (ii) establish guidelines for deter-
4 mining when it shall be appropriate to use
5 non-Federal auditors; and

6 (iii) take appropriate steps to assure
7 that any work performed by non-Federal
8 auditors complies with the standards estab-
9 lished by the Comptroller General de-
10 scribed under clause (i).

11 (B) COMPLIANCE.—For purposes of deter-
12 mining compliance with subparagraph (A)(i)
13 with respect to whether internal quality controls
14 are in place and operating and whether estab-
15 lished audit standards, policies, and procedures
16 are being followed by the Office, reviews shall
17 be performed exclusively by an audit entity in
18 the Federal Government, including the Govern-
19 ment Accountability Office.

20 (3) COORDINATION AND COOPERATION.—In
21 carrying out the duties and responsibilities estab-
22 lished under this Act, the Inspector General shall
23 give particular regard to the activities of the Comp-
24 troller General of the United States with a view to-

1 ward avoiding duplication and insuring effective co-
2 ordination and cooperation.

3 (4) REPORTS TO ATTORNEY GENERAL.—In car-
4 rying out the duties and responsibilities established
5 under this Act, the Inspector General shall report
6 expeditiously to the Attorney General whenever the
7 Inspector General has reasonable grounds to believe
8 there has been a violation of Federal criminal law.

9 (e) SEMIANNUAL REPORTS.—

10 (1) DEFINITIONS.—In this section—

11 (A) the term “disallowed cost” means a
12 questioned cost that management, in a manage-
13 ment decision, has sustained or agreed should
14 not be charged to the Government;

15 (B) the term “final action” means—

16 (i) the completion of all actions that
17 the management of a Senate operation or
18 program has concluded, in its management
19 decision, are necessary with respect to the
20 findings and recommendations included in
21 an audit report; and

22 (ii) in the event that the management
23 of a Senate operation or program con-
24 cludes no action is necessary, final action

1 occurs when a management decision has
2 been made;

3 (C) the term “management decision”
4 means the evaluation by the management of a
5 Senate operation or program of the findings
6 and recommendations included in an audit re-
7 port and the issuance of a final decision by
8 management concerning its response to such
9 findings and recommendations, including ac-
10 tions concluded to be necessary;

11 (D) the term “questioned cost” means a
12 cost that is questioned by the Office because
13 of—

14 (i) an alleged violation of a provision
15 of a law, regulation, contract, grant, coop-
16 erative agreement, or other agreement or
17 document governing the expenditure of
18 funds;

19 (ii) a finding that, at the time of the
20 audit, such cost is not supported by ade-
21 quate documentation; or

22 (iii) a finding that the expenditure of
23 funds for the intended purpose is unneces-
24 sary or unreasonable;

1 (E) the term “recommendation that funds
2 be put to better use” means a recommendation
3 by the Office that funds could be used more ef-
4 ficiently if management of a Senate operation
5 or program took actions to implement and com-
6 plete the recommendation, including—

7 (i) reductions in outlays;

8 (ii) deobligation of funds from pro-
9 grams or operations;

10 (iii) withdrawal of interest subsidy
11 costs on loans or loan guarantees, insur-
12 ance, or bonds;

13 (iv) costs not incurred by imple-
14 menting recommended improvements re-
15 lated to the operations of the program or
16 operation, a contractor or grantee;

17 (v) avoidance of unnecessary expendi-
18 tures noted in preaward reviews of con-
19 tract or grant agreements; or

20 (vi) any other savings which are spe-
21 cifically identified; and

22 (F) the term “unsupported cost” means a
23 cost that is questioned by the Office because
24 the Office found that, at the time of the audit,

1 such cost is not supported by adequate docu-
2 mentation.

3 (2) IN GENERAL.—Not later than April 30 and
4 October 31 of each year, the Inspector General shall
5 prepare semiannual reports summarizing the activi-
6 ties of the Office during the immediately preceding
7 6-month periods ending March 31 and September
8 30. Such reports shall include—

9 (A) a description of significant problems,
10 abuses, and deficiencies relating to the adminis-
11 tration of programs and operations of the Sen-
12 ate disclosed by such activities during the re-
13 porting period;

14 (B) a description of the recommendations
15 for corrective action made by the Office during
16 the reporting period with respect to significant
17 problems, abuses, or deficiencies identified
18 under subparagraph (A);

19 (C) an identification of each significant
20 recommendation described in previous semi-
21 annual reports on which corrective action has
22 not been completed;

23 (D) a summary of matters referred to
24 prosecutive authorities and the prosecutions
25 and convictions which have resulted;

1 (E) a listing, subdivided according to sub-
2 ject matter, of each audit report issued by the
3 Office during the reporting period and for each
4 audit report, where applicable, the total dollar
5 value of questioned costs (including a separate
6 category for the dollar value of unsupported
7 costs) and the dollar value of recommendations
8 that funds be put to better use;

9 (F) a summary of each particularly signifi-
10 cant report;

11 (G) statistical tables showing the total
12 number of audit reports and the total dollar
13 value of questioned costs (including a separate
14 category for the dollar value of unsupported
15 costs), for audit reports—

16 (i) for which no management decision
17 had been made by the commencement of
18 the reporting period;

19 (ii) which were issued during the re-
20 porting period;

21 (iii) for which a management decision
22 was made during the reporting period, in-
23 cluding—

24 (I) the dollar value of disallowed
25 costs; and

1 (II) the dollar value of costs not
2 disallowed; and

3 (iv) for which no management deci-
4 sion has been made by the end of the re-
5 porting period;

6 (H) statistical tables showing the total
7 number of audit reports and the dollar value of
8 recommendations that funds be put to better
9 use by management, for audit reports—

10 (i) for which no management decision
11 had been made by the commencement of
12 the reporting period;

13 (ii) which were issued during the re-
14 porting period;

15 (iii) for which a management decision
16 was made during the reporting period, in-
17 cluding—

18 (I) the dollar value of rec-
19 ommendations that were agreed to by
20 management; and

21 (II) the dollar value of rec-
22 ommendations that were not agreed to
23 by management; and

1 (iv) for which no management deci-
2 sion has been made by the end of the re-
3 porting period;

4 (I) a summary of each audit report issued
5 before the commencement of the reporting pe-
6 riod for which no management decision has
7 been made by the end of the reporting period
8 (including the date and title of each such re-
9 port), an explanation of the reasons such man-
10 agement decision has not been made, and a
11 statement concerning the desired timetable for
12 achieving a management decision on each such
13 report;

14 (J) a description and explanation of the
15 reasons for any significant revised management
16 decision made during the reporting period; and

17 (K) information concerning any significant
18 management decision with which the Inspector
19 General is in disagreement.

20 (3) COMMENTS.—Thirty days before the sub-
21 mission of a semiannual report under paragraph (2),
22 the Inspector General shall allow the programs or
23 operations of the Senate being investigated to com-
24 ment on the report and will include any comments
25 or correspondence from the program or operation of

1 the Senate being investigated as it relates to applica-
2 ble audit reports, final actions, management deci-
3 sions, disallowed costs recovered or unrecovered, and
4 any recommendations that funds be put to better
5 use.

6 (4) PUBLIC AVAILABILITY.—Within 60 days
7 after the transmission of a semiannual report, the
8 Inspector General shall make copies of such report
9 available to the public upon request and at a reason-
10 able cost.

11 (5) REPORTS OF CERTAIN PROBLEMS.—The In-
12 spector General shall report immediately to the
13 Committee and the Committee on Appropriations
14 whenever the Inspector General becomes aware of
15 particularly serious or flagrant problems, abuses, or
16 deficiencies relating to the administration of Senate
17 programs and operations.

18 (6) PUBLIC DISCLOSURES OF INFORMATION.—

19 (A) IN GENERAL.—Nothing in this sub-
20 section shall be construed to authorize the pub-
21 lic disclosure of information which is—

22 (i) specifically prohibited from disclo-
23 sure by any other provision of law;

24 (ii) specifically required by Executive
25 order to be protected from disclosure in

1 the interest of national defense or national
2 security or in the conduct of foreign af-
3 fairs; or

4 (iii) a part of an ongoing criminal in-
5 vestigation.

6 (B) EXCEPTION.—Notwithstanding para-
7 graph (A)(iii), any report under this subsection
8 may be disclosed to the public in a form which
9 includes information with respect to a part of
10 an ongoing criminal investigation if such infor-
11 mation has been included in a public record.

12 (C) NO WITHHOLDING OF INFORMATION
13 FROM COMMITTEES.—Except to the extent and
14 in the manner provided under section 6103(f)
15 of the Internal Revenue Code of 1986, nothing
16 in this subsection or in any other provision of
17 this Act shall be construed to authorize or per-
18 mit the withholding of information from the
19 Committee or Committee on Appropriations.

20 (f) WEBSITE.—

21 (1) IN GENERAL.—The Office shall establish
22 and maintain a website.

23 (2) REQUIREMENTS FOR THE OFFICE
24 WEBSITE.—

1 (A) POSTING OF REPORTS AND AUDITS.—

2 The Inspector General shall—

3 (i) not later than 3 days after any re-
4 port or audit (or portion of any report or
5 audit) is made publicly available, post that
6 report or audit (or portion of that report
7 or audit) on the website of the Office; and

8 (ii) ensure that any posted report or
9 audit (or portion of that report or audit)
10 described under clause (i)—

11 (I) is easily accessible from a di-
12 rect link on the homepage of the
13 website of the Office;

14 (II) includes a summary of the
15 findings of the Inspector General; and

16 (III) is in a format that—

17 (aa) is searchable and
18 downloadable; and

19 (bb) facilitates printing by
20 individuals of the public access-
21 ing the website.

22 (B) REPORTING OF FRAUD, WASTE, AND
23 ABUSE.—

24 (i) IN GENERAL.—The Inspector Gen-
25 eral shall establish and maintain a direct

1 link on the homepage of the website for in-
2 dividuals to report fraud, waste, and
3 abuse. Individuals reporting fraud, waste,
4 or abuse using the direct link established
5 under this subparagraph shall not be re-
6 quired to provide personally identifying in-
7 formation relating to that individual.

8 (ii) ANONYMITY.—The Inspector Gen-
9 eral shall not disclose the identity of any
10 individual making a report under this sub-
11 paragraph without the consent of the indi-
12 vidual, unless the Inspector General deter-
13 mines that such a disclosure is unavoidable
14 during the course of the investigation.

15 (g) INVESTIGATION OF COMPLAINTS OF EMPLOYEES

16 AND MEMBERS.—

17 (1) AUTHORITY.—The Inspector General may
18 receive and investigate complaints or information
19 from an employee of the Senate or a Senator con-
20 cerning the possible existence of an activity consti-
21 tuting a violation of law, rules, or regulations, or
22 mismanagement, gross waste of funds, abuse of au-
23 thority, or a substantial and specific danger to the
24 public health and safety, including complaints or
25 other relative information.

1 (2) NONDISCLOSURE.—The Inspector General
2 shall not, after receipt of a complaint or information
3 from an employee of the Senate or a Senator, dis-
4 close the identity of the employee or Senator without
5 the consent of the employee or Senator, unless re-
6 quired by law or the Inspector General determines
7 such disclosure is otherwise unavoidable during the
8 course of the investigation.

9 (3) PROHIBITING RETALIATION.—An employee
10 of the Senate or Senator who has authority to take,
11 direct others to take, recommend, or approve any
12 personnel action, shall not, with respect to such au-
13 thority, take or threaten to take any action against
14 any employee or Senator as a reprisal for making a
15 complaint or disclosing information to the Inspector
16 General, unless the complaint was made or the infor-
17 mation disclosed with the knowledge that it was
18 false or with willful disregard for its truth or falsity.

19 (4) INDEPENDENCE IN CARRYING OUT DU-
20 TIES.—A Senator or an employee of the Senate, in-
21 cluding the majority leader or minority leader of the
22 Senate, or the Committee, may not prevent or pro-
23 hibit the Inspector General from carrying out any of
24 the duties or responsibilities assigned to the Inspec-
25 tor General under this section.

1 (h) POWERS.—

2 (1) IN GENERAL.—In addition to the authority
3 otherwise provided by this Act, the Inspector Gen-
4 eral in carrying out the provisions of this Act, is au-
5 thorized to—

6 (A) have access to all records, reports, au-
7 dits, reviews, documents, papers, recommenda-
8 tions, or other material available which relate to
9 Senate programs and operations with respect to
10 which the Inspector General has responsibilities
11 under this Act;

12 (B) make such investigations and reports
13 relating to the administration of the Senate
14 programs and operations, in the judgment of
15 the Inspector General, necessary or desirable;

16 (C) request such information or assistance
17 as may be necessary for carrying out the duties
18 and responsibilities provided by this Act from
19 any Federal, State, or local governmental agen-
20 cy or unit thereof;

21 (D) require by subpoena the production of
22 all information, documents, reports, answers,
23 records, accounts, papers, and other data and
24 documentary evidence necessary in the perform-
25 ance of the functions assigned by this Act,

1 which subpoena, in the case of contumacy or re-
2 fusal to obey, shall be enforceable by order of
3 any appropriate United States district court,
4 except that procedures other than subpoenas
5 shall be used by the Inspector General to obtain
6 documents and information from Senate pro-
7 grams and operations;

8 (E) administer to or take from any person
9 an oath, affirmation, or affidavit, whenever nec-
10 essary in the performance of the functions as-
11 signed by this Act, which oath, affirmation, or
12 affidavit when administered or taken by or be-
13 fore an employee of the Office designated by
14 the Inspector General shall have the same force
15 and effect as if administered or taken by or be-
16 fore an officer having a seal;

17 (F) have direct and prompt access to the
18 Senate program or operation involved when nec-
19 essary for any purpose pertaining to the per-
20 formance of functions and responsibilities under
21 this Act; and

22 (G) the extent and in such amounts as
23 may be provided in advance by appropriations
24 Acts, to enter into contracts and other arrange-
25 ments for audits, studies, analyses, and other

1 services with public agencies and with private
2 persons, and to make such payments as may be
3 necessary to carry out the provisions of this
4 Act.

5 (2) STAFF.—

6 (A) IN GENERAL.—The Inspector General
7 may appoint and fix the pay of such personnel
8 as the Inspector General considers appropriate
9 subject to the approval of the Committee, ex-
10 cept that no personnel of the Office (other than
11 the Inspector General) may be paid at an an-
12 nual rate greater than \$500 less than the an-
13 nual rate of pay of the Inspector General under
14 subsection (c)(4).

15 (B) EXPERTS AND CONSULTANTS.—In
16 carrying out the functions of the Office, the In-
17 spector General may procure the temporary
18 (not to exceed 1 year) or intermittent services
19 of individual consultants, or organizations
20 thereof, in the same manner and under the
21 same conditions as a standing committee of the
22 Senate may procure such services under section
23 202(i) of the Legislative Reorganization Act of
24 1946 (2 U. S.C. 72a(i)).

1 (C) INDEPENDENCE IN APPOINTING
2 STAFF.—No individual may carry out any of
3 the duties or responsibilities of the Office unless
4 the individual is appointed by the Inspector
5 General, or provides services procured by the
6 Inspector General, under this paragraph. Noth-
7 ing in this subparagraph may be construed to
8 prohibit the Inspector General from entering
9 into a contract or other arrangement for the
10 provision of services under this section.

11 (3) EQUIPMENT AND SUPPLIES.—The Com-
12 mittee shall provide the Office with appropriate and
13 adequate office space, together with such equipment,
14 supplies, and communications facilities and services
15 as determined by the Inspector General to be nec-
16 essary for the operation of the Office, and shall pro-
17 vide necessary maintenance services for such office
18 space and the equipment and facilities located there-
19 in.

20 (i) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to carry out this Act
22 \$4,000,000 for fiscal year 2011.

23 (j) EFFECTIVE DATE.—This section shall take effect
24 on October 1, 2011.

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