

First Extraordinary Session, 2008

SENATE BILL NO. 42

BY SENATORS KOSTELKA, AMEDEE, BROOME, CHAISSON, DONAHUE,  
JACKSON, JOHN SMITH AND WALSWORTH

GOVERNMENT ORGANIZATION. Creates an independent office of the state inspector general within the office of the governor. (gov sig)

1 AN ACT  
2 To amend and reenact R.S. 36:801.1(A) and R.S. 44:4.1(B)(31) and to enact R.S. 36:4(I) and  
3 Part VI of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950, to be  
4 comprised of R.S. 49:220.11 through 220.16, relative to the creation of the office of  
5 the state inspector general; to provide for the appointment, term of office, powers,  
6 duties, and functions of the inspector general; to provide for the procedure for the  
7 appointment of the inspector general; to provide for staffing and funding of the  
8 office; to authorize the inspector general to examine, investigate, and make  
9 recommendations with respect to the prevention and detection of waste,  
10 inefficiencies, mismanagement, misconduct, abuse, fraud, and corruption in all  
11 entities in the executive branch of state government and other covered agencies; to  
12 provide for the assistance and cooperation of such covered agencies; to provide for  
13 confidentiality of certain records; to provide for referral of the results of  
14 investigations of criminal matters to the appropriate authorities for prosecution; to  
15 provide for reports by the inspector general; and to provide for related matters.  
16 Be it enacted by the Legislature of Louisiana:  
17 Section 1. R.S. 36:801.1(A) is hereby amended and reenacted and R.S. 36:4(I) is

1 hereby enacted to read as follows:

2 §4. Structure of executive branch of state government

3 \* \* \*

4 **I. The office of the state inspector general, as more specifically provided**  
5 **in R.S. 49:220.11 through 220.15, shall be placed within the office of the**  
6 **governor and shall perform and exercise its powers, duties, functions, and**  
7 **responsibilities in the manner provided for agencies transferred in accordance**  
8 **with the provisions of R.S. 36:801.1.**

9 \* \* \*

10 §801.1. Transfer; retention of all functions

11 A. The agencies transferred by the provisions of R.S. 36:4(D) **and (I)**, 4.1(C)  
12 and (G), 53(H), 209(R), 259(J), 409(N), 509(O), 651(D), 725(A), and 769(J) shall  
13 continue to be comprised and selected as provided by law.

14 \* \* \*

15 Section 2. R.S. 44:4(B)(31) is hereby amended and reenacted to read as follows:

16 §4.1. Exceptions

17 \* \* \*

18 B. The legislature further recognizes that there exist exceptions, exemptions,  
19 and limitations to the laws pertaining to public records throughout the revised  
20 statutes and codes of this state. Therefore, the following exceptions, exemptions, and  
21 limitations are hereby continued in effect by incorporation into this Chapter by  
22 citation:

23 \* \* \*

24 (31) R.S. 49:**220.15**, 956, 997, 1055

25 \* \* \*

26 Section 3. Part VI of Chapter 2 of Title 49 of the Louisiana Revised Statutes of 1950,  
27 comprised of R.S. 49:220.11 through 220.16, is hereby enacted to read as follows:

28 **PART VI. OFFICE OF THE STATE INSPECTOR GENERAL**

29 **§220.11. Office of the state inspector general; policy and purpose**

1           **A. The prevention and detection of waste, inefficiencies, mismanagement,**  
2           **misconduct, abuse, fraud, and corruption in all departments, offices, agencies,**  
3           **boards, commissions, task forces, authorities, and divisions of the executive**  
4           **branch of state government and in all levee districts, port commissions and**  
5           **districts, all hereinafter referred to in this Part collectively as "covered**  
6           **agencies" and individually as "covered agency," is an important responsibility**  
7           **of the state.**

8           **B. In view of the responsibility of the state, it is the purpose of this Part**  
9           **to establish an independent office of the state inspector general in the office of**  
10           **the governor to examine and investigate the management and affairs of covered**  
11           **agencies.**

12           **§220.12. Office of the state inspector general; creation; domicile; funding**

13           **A. The office of the state inspector general, referred to in this Part as the**  
14           **"office," is created and shall be a body corporate with the power to sue and be**  
15           **sued.**

16           **B. The domicile of the office shall be in Baton Rouge.**

17           **C. The legislature shall make adequate appropriations to the office to**  
18           **enable it to implement this Part efficiently and effectively.**

19           **D. The attorney general or his designee shall be responsible for the legal**  
20           **representation of the office.**

21           **§220.13. State inspector general; appointment; term; vacancy; compensation**

22           **A.(1) There shall be a state inspector general, hereinafter referred to as**  
23           **the "inspector general," who shall be appointed by the governor with the**  
24           **consent of the Senate. No person appointed inspector general shall hold or be**  
25           **a candidate for any elective office, including elective political party office, or**  
26           **any other public office or political party office. No person shall be appointed**  
27           **inspector general who has held any elective office or political party office within**  
28           **two years immediately preceding his appointment. No former inspector general**  
29           **shall be eligible to become a qualified candidate for any elective office, including**

1 elective political party office, or shall assume any elective office or political  
2 party office within two years after the termination of his service as inspector  
3 general.

4 (2) If a vacancy exists in the office of the state inspector general for more  
5 than six months, the next highest level administrative position in the office of the  
6 state inspector general shall be the inspector general, subject to confirmation  
7 by the Senate.

8 B. The salary of the inspector general shall be fixed by the governor,  
9 which amount shall not exceed the amount approved for such position by the  
10 legislature while in session.

11 §220.14. Authority; duties; powers; standards; functions

12 A. The inspector general shall serve as the executive head and chief  
13 administrative officer of the office and shall have responsibility for the policies  
14 of the office, except as otherwise provided by this Part, and for the  
15 administration, control, and operation of the functions and affairs of the office.

16 B. The inspector general is authorized to examine and investigate the  
17 management and affairs of the covered agencies concerning waste,  
18 inefficiencies, mismanagement, misconduct, abuse, fraud, and corruption and  
19 he may conduct all necessary investigations, including but not limited to:

20 (1) Misuse of state-owned automobiles, planes, watercraft, and all other  
21 movable and immovable property.

22 (2) Evidence of a pattern of excessive bills on state contracts.

23 (3) Unauthorized use of leave.

24 (4) Mismanagement of governmental operations.

25 (5) Waste or abuse of things of value belonging to or used by the covered  
26 agencies.

27 (6) Construction, operation, and maintenance of facilities.

28 C.(1) The inspector general shall help prevent waste, inefficiency,  
29 mismanagement, misconduct, abuse, fraud, and corruption in covered agencies

1 by periodically reviewing policies and procedures and monitoring operations  
2 and making recommendations for improvement.

3 (2) The inspector general shall receive complaints of waste, inefficiency,  
4 mismanagement, misconduct, abuse, fraud, or corruption in covered agencies,  
5 and determine whether they warrant investigation by the inspector general or  
6 by appropriate federal, state, or local agencies; or conduct such investigations  
7 upon its own initiative. In order to accomplish this, the office of the state  
8 inspector general shall maintain a toll-free fraud hotline number and website  
9 for anonymous reporting.

10 (3) The inspector general shall investigate complaints of waste,  
11 inefficiencies, mismanagement, misconduct, abuse, fraud, and corruption and,  
12 when appropriate, recommend whether disciplinary action or further  
13 investigation by appropriate federal, state, or local agencies is warranted and  
14 take further action as appropriate.

15 (4) The inspector general shall report complaints of fraud, abuse, or  
16 corruption to such federal, state, or local agencies when there is evidence of  
17 what may be criminal activity and when otherwise appropriate and shall  
18 otherwise cooperate with such agencies in any further action.

19 (5) The inspector general shall make reports of his findings to the  
20 governor. Such reports shall be subject to the provisions of R.S. 44:1 et seq.

21 (6) The inspector general shall prepare an annual report to the governor  
22 and the Joint Legislative Committee on the Budget at fiscal year end that  
23 describes the accomplishments and contributions made by the office toward  
24 achieving the mission of helping to prevent and detect waste, fraud, and abuse  
25 in Louisiana government. Such reports shall be provided to legislators upon  
26 request.

27 D. When appropriate, the inspector general shall provide for an  
28 opportunity for agency response prior to the release of a report concerning the  
29 agency. This Section shall not apply when the inspector general, in conjunction

1 with the U.S. Attorney, attorney general, district attorney, or other  
2 prosecutorial agencies, determine that supplying the affected person or entity  
3 with such report will jeopardize a pending or potential criminal investigation.

4 E. All officers and employees of covered agencies shall extend full  
5 cooperation and all reasonable assistance to the inspector general.

6 F.(1) In the performance of his duties, the inspector general and any  
7 member of his staff designated by him may administer oaths and take the  
8 testimony of those sworn.

9 (2) In the performance of his duties, the inspector general or any  
10 member of his staff designated by him may compel the attendance of witnesses  
11 to be deposed under oath or the production of public and private records by  
12 issuing a subpoena for the production of those records, except that any  
13 subpoena for production of private records shall be in compliance with all  
14 applicable constitutionally established rights and processes. The subpoena may  
15 be served by certified mail, return receipt requested, at the addressee's  
16 residence or business address, or by representatives appointed by the inspector  
17 general, or may be directed for service to the office of the state police. If a  
18 person refuses to obey a subpoena issued by the inspector general, upon  
19 application by the inspector general, the district court of the parish in which the  
20 office of the state inspector general is domiciled may issue an order to the  
21 person requiring the person to appear before the court to show cause why an  
22 order shall not be issued ordering such person to obey the subpoena.

23 (3) The inspector general may obtain access to all records, information,  
24 data, reports, plans, projections, matters, contracts, memoranda,  
25 correspondence, and any other materials of a covered agency and shall be  
26 deemed to be an authorized representative and agent of each covered agency for  
27 the purposes of:

28 (a) Examining and investigating the records of all contractors,  
29 subcontractors, grantees, or subgrantees of covered agencies, which records

1 relate to contracts, subcontracts, grants, or subgrants with a covered agency.

2 (b) Obtaining access to any records of a covered agency in the possession  
3 of a third party, including but not limited to bank account records.

4 G. The inspector general and any employees of the inspector general  
5 shall carry identifying cards.

6 H. The office of state inspector general shall adhere to professional  
7 standards for initiating and conducting audits, investigations, inspections, and  
8 reviews such as those promulgated by the Association of Inspectors General.  
9 The office shall develop an operations manual available to the public that  
10 contains such standards.

11 I. The inspector general shall engage in prevention activities, including,  
12 but not limited to the following:

13 (1) Reviewing legislation.

14 (2) Reviewing rules, regulations, policies, procedures, and transactions.

15 (3) Training and education.

16 (4) Making recommendations to the governor and the legislature to  
17 strengthen public integrity laws.

18 J. Upon credible information of corruption or fraud, the office of state  
19 inspector general shall notify the appropriate law enforcement agencies.  
20 Subsequent to notifying the appropriate law enforcement agency, the inspector  
21 general may assist the law enforcement agency in concluding the investigation.  
22 Upon detecting a violation of one of the provisions of the state ethics code, the  
23 office of state inspector general may file a complaint with the Board of Ethics.

24 K. The office of state inspector general may monitor implementation of  
25 its recommendations made to covered agencies.

26 L. The office of state inspector general may conduct joint investigations  
27 and projects with other oversight or law enforcement agencies.

28 M. The inspector general shall do all things necessary to carry out the  
29 functions set forth in this Section.

1           **§220.15. Confidentiality of certain records**

2           Except for the reports of investigations released as provided in R.S.  
3           49:220.14, the records prepared or obtained by the inspector general in  
4           connection with investigations conducted by the inspector general shall be  
5           deemed confidential and protected from disclosure under R.S. 44:3 and 5. No  
6           privilege established by law shall be deemed waived on any record obtained by  
7           the inspector general in connection with the performance of the duties  
8           established in this Part. Any record or information obtained by the inspector  
9           general which is confidential pursuant to any other provision of law shall  
10           remain confidential, and it shall be a misdemeanor punishable by a fine of not  
11           more than two thousand dollars or imprisonment for not more than one year,  
12           or both, for the inspector general or any of his employees to make public any  
13           such information or record.

14           **§220.16. Definitions**

15           As used in this Part, the following terms shall have the meanings  
16           provided, unless the context requires otherwise:

17           (1) "Elective office" means any position which is established or  
18           authorized by the constitution or laws of this state or by the charter or  
19           ordinances of any political subdivision thereof, which is not a political party  
20           office, and which is filled by vote of the citizens of this state or of a political  
21           subdivision thereof.

22           (2) "Public office" means any state, district, parish or municipal office,  
23           elective or appointive, or any position as member on a board or commission,  
24           elective or appointive, when the office or position is established by the  
25           constitution or laws of this state.

26           Section 4. The books, papers, records, monies, and other property possessed,  
27           controlled, or used by the office of the inspector general which was created prior to the  
28           effective date of this Act initially by executive order and continued thereafter shall continue  
29           to be possessed, controlled, and used by the office of the state inspector general created in

1 this Act. The employees of the office of the inspector general which was created initially  
 2 by executive order and continued thereafter prior to the effective date of this Act shall, to the  
 3 extent required and in accordance with applicable civil service laws, continue to be  
 4 employees of the office of the state inspector general created by this Act and continue to  
 5 perform the functions they performed prior to the effective date of this Act.

6 Section 5. This Act shall become effective upon signature by the governor or, if not  
 7 signed by the governor, upon expiration of the time for bills to become law without signature  
 8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 9 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 10 effective on the day following such approval.

---

The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Thomas F. Wade.

---

#### DIGEST

Proposed law establishes the office of the state inspector general within the office of the  
 governor and domiciled in Baton Rouge.

Requires that the legislature make adequate appropriations to the office to enable it to  
 implement proposed law.

Provides that there shall be a state inspector general ("inspector general"), appointed by the  
 governor with the consent of the Senate.

Prohibits a person appointed inspector general from holding or being a candidate for any  
 elective office, including elective political party office, or any other public office or political  
 party office. Provides that no person shall be appointed inspector general who has held any  
 elective office or political party office within two years immediately preceding his  
 appointment. Further no former inspector general shall be eligible to become a qualified  
 candidate for any elective office, including elective political party office, or shall assume any  
 elective office or political party office within two years after the termination of his service  
 as inspector general. Provides that if a vacancy exists in the office of the inspector general  
 for more than six months, the next highest level administrative position in the office of the  
 inspector general shall be the inspector general, subject to confirmation by the Senate.

Provides that the salary of the inspector general shall be fixed by the governor, which  
 amount shall not exceed the amount approved for such position by the legislature while in  
 session.

Provides that the inspector general shall serve as the executive head and chief administrative  
 officer of the office and shall have responsibility for the policies of the office, except as  
 otherwise provided by proposed law, and for the administration, control, and operation of  
 the functions and affairs of the office.

Authorizes the inspector general to examine and investigate the management and affairs of  
 the covered agencies (all departments, offices, agencies, boards, commissions, task forces,  
 authorities, and divisions of the executive branch of state government and in all levee

districts, port commissions and districts) concerning waste, inefficiencies, mismanagement, misconduct, abuse, fraud, and corruption and, if there exist reasonable grounds that justify further inquiry, to conduct investigations into such areas, including but not limited to:

- (a) Misuse of state-owned automobiles, planes, watercraft, and all other movable and immovable property.
- (b) Evidence of a pattern of excessive bills on state contracts.
- (c) Unauthorized use of leave.
- (d) Mismanagement of governmental operations.
- (e) Waste or abuse of things of value belonging to or used by the covered agencies.
- (f) Construction, operation, and maintenance of facilities.

Provides that the inspector general shall help prevent waste, inefficiency, mismanagement, misconduct, abuse, fraud, and corruption in covered agencies by periodically reviewing policies and procedures and monitoring operations and making recommendations for improvement.

Provides that the inspector general shall receive complaints of waste, inefficiency, mismanagement, misconduct, abuse, fraud, or corruption in covered agencies and determine whether they warrant investigation by the inspector general or by appropriate federal, state, or local agencies. Requires the inspector general's office to maintain a toll-free hotline number and website for anonymous reporting.

Requires that the inspector general investigate complaints of waste, inefficiencies, mismanagement, misconduct, abuse, fraud, and corruption and, when appropriate, recommend whether disciplinary action or further investigation by appropriate federal, state, or local agencies is warranted and take further action as appropriate.

Requires that the inspector general report complaints of fraud, abuse, or corruption to such federal, state, or local agencies when there is evidence of what may be criminal activity and when otherwise appropriate and shall otherwise cooperate with such agencies in any further action.

Provides that the inspector general shall make reports of his findings to the governor. Such reports shall be subject to the provisions of R.S. 44:1 et seq.

Requires that the inspector general prepare an annual report to the governor and the Joint Legislative Committee on the Budget at fiscal year end that describes the accomplishments and contributions made by the office toward achieving the mission of helping to prevent and detect waste, fraud, and abuse in Louisiana government. Provides that the reports shall be available to legislators upon request.

Provides that when appropriate, the inspector general shall provide for an opportunity for agency response prior to the release of a report concerning the agency. Provides an exception to this requirement when the inspector general, in conjunction with the U.S. Attorney, attorney general, district attorney, or other prosecutorial agencies determine that supplying the affected person or entity with such report will jeopardize a pending or potential criminal investigation.

Requires that all officers and employees of covered agencies shall extend full cooperation and all reasonable assistance to the inspector general.

In the performance of his duties, the inspector general and any member of his staff

designated by him may administer oaths and take the testimony of those sworn.

In the performance of his duties, the inspector general or any member of his staff designated by him may compel the attendance of witnesses to be deposed under oath or the production of public and private records by issuing a subpoena for the production of those records. The subpoena may be served by certified mail, return receipt requested, at the addressee's residence or business address, or by representatives appointed by the inspector general, or may be directed for service to the office of the state police.

If a person refuses to obey a subpoena issued by the inspector general, upon application by the inspector general the district court of the parish in which the office of state inspector general is domiciled may issue an order to the person requiring the person to appear before the court to show cause why an order shall not be issued ordering such person to obey the subpoena.

The inspector general may obtain access to and examine any records of a covered agency and shall be deemed to be an authorized representative and agent of each covered agency for the purposes of:

- (a) Examining and investigating the records of all contractors, subcontractors, grantees, or subgrantees of covered agencies, which records relate to contracts, subcontracts, grants, or subgrants with a covered agency.
- (b) Obtaining access to any records of a covered agency in the possession of a third party, including but not limited to bank account records.

Requires that the inspector general and any employees of the inspector general carry identifying cards.

Provides that the office of state inspector general shall adhere to professional standards for initiating and conducting audits, investigations, inspections, and reviews such as those promulgated by the Association of Inspectors General. Provides that the office shall develop an operations manual available to the public that contains such standards.

Provides that the inspector general shall engage in prevention activities, including but not limited to:

- (a) Reviewing legislation.
- (b) Reviewing rules, regulations, policies, procedures, and transactions.
- (c) Training and education.
- (d) Making recommendations to the governor and the legislature to strengthen public integrity laws.

Provides that upon credible information of corruption or fraud, the office of state inspector general shall notify the appropriate law enforcement agencies. Authorizes the inspector general may assist the law enforcement agency in concluding the investigation. Provides that upon detecting a violation of one of the provisions of the state ethics code, the office of state inspector general may file a complaint with the Board of Ethics.

Provides that the office of state inspector general may monitor implementation of its recommendations made to covered agencies. Further provides that the office of state inspector general may conduct joint investigations and projects with other oversight or law enforcement agencies.

Provides that except for the reports of investigations released as provided in proposed law,

the records prepared or obtained by the inspector general in connection with investigations conducted by the inspector general shall be deemed confidential. Provides that any record or information obtained by the inspector general which is confidential pursuant to any other provision of law shall remain confidential, and it shall be a misdemeanor punishable by a fine of not more than \$2,000 or imprisonment for not more than one year or both for the inspector general or any of his employees to make public any such information or record.

Provides that the books, papers, records, monies, and other property possessed, controlled, or used by the office of the inspector general which was created prior to the effective date of this Act initially by executive order and continued thereafter shall continue to be possessed, controlled, and used by the office of the inspector general created in this Act.

Provides that the employees of the office of the inspector general which was created initially by executive order and continued thereafter prior to the effective date of this Act shall, to the extent required and in accordance with applicable civil service laws, continue to be employees of the office of the inspector general created by this Act and continue to perform the functions they performed prior to the effective date of this Act.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 36:801.1(A) and R.S. 44:4.1(B)(31); adds R.S. 36:4(I) and R.S. 49:220.11-220.16)