

111TH CONGRESS  
2D 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       specter 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           vestigations 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-

ments, organizations, programs, activities,  
and functions;

(ii) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(iii) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General described under clause (i).

(B) COMPLIANCE.—For purposes of determining compliance with subparagraph (A)(i) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by the Office, reviews shall be performed exclusively by an audit entity in the Federal Government, including the Government Accountability Office.

(3) COORDINATION AND COOPERATION.—In carrying out the duties and responsibilities established under this Act, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view to-

ward avoiding duplication and insuring effective coordination and cooperation.

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

(e) SEMIANNUAL REPORTS.—

(1) DEFINITIONS.—In this section—

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

(B) the term “final action” means—

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

(ii) in the event that the management of a Senate operation or program concludes 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;



(E) the term “recommendation that funds be put to better use” means a recommendation by the Office that funds could be used more efficiently if management of a Senate operation or program took actions to implement and complete the recommendation, including—

(i) reductions in outlays;

(ii) deobligation of funds from programs or operations;

(iii) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds;

(iv) costs not incurred by implementing recommended improvements related to the operations of the program or operation, a contractor or grantee;

(v) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or

(vi) any other savings which are specifically identified; and

(F) the term “unsupported cost” means a cost that is questioned by the Office because 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



link on the homepage of the website for individuals to report fraud, waste, and abuse. Individuals reporting fraud, waste, or abuse using the direct link established under this subparagraph shall not be required to provide personally identifying information relating to that individual.

(ii) ANONYMITY.—The Inspector General shall not disclose the identity of any individual making a report under this subparagraph without the consent of the individual, unless the Inspector General determines that such a disclosure is unavoidable during the course of the investigation.

(g) INVESTIGATION OF COMPLAINTS OF EMPLOYEES AND MEMBERS.—

(1) AUTHORITY.—The Inspector General may receive and investigate complaints or information from an employee of the Senate or a Senator concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety, including complaints or 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.

○