

IN THE SENATE

SENATE BILL NO. 1301

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE OFFICE OF THE INSPECTOR GENERAL; AMENDING TITLE 74, IDAHO
2 CODE, BY THE ADDITION OF A NEW CHAPTER 6, TITLE 74, IDAHO CODE, TO ES-
3 TABLISH THE OFFICE OF THE INSPECTOR GENERAL, TO ESTABLISH THE POWERS
4 AND DUTIES OF THE INSPECTOR GENERAL, TO CLARIFY THE APPLICABILITY OF
5 CERTAIN LAWS, TO EXEMPT THE JUDICIAL BRANCH OF GOVERNMENT FROM THE PRO-
6 VISIONS OF THIS ACT, TO PROVIDE THAT STATE AGENCIES AND OFFICERS SHALL
7 MAKE CERTAIN REPORTS TO AND COOPERATE WITH THE INSPECTOR GENERAL, TO
8 PROVIDE THAT THE INSPECTOR GENERAL MAY ENTER CERTAIN PREMISES, QUESTION
9 CERTAIN PERSONS AND INSPECT CERTAIN MATERIALS IN INVESTIGATIONS, TO
10 PROVIDE THAT THE INSPECTOR GENERAL AND INVESTIGATORS FOR THE INSPECTOR
11 GENERAL SHALL HAVE CERTAIN AUTHORITY, TO PROVIDE THAT THE INSPECTOR
12 GENERAL AND THE INSPECTOR GENERAL'S SUBORDINATES MAY ISSUE CERTAIN
13 SUBPOENAS OR SEEK CERTAIN SUBPOENAS FROM COURTS, TO PROVIDE THAT THE
14 INSPECTOR GENERAL SHALL MAKE CERTAIN REPORTS AND TO PROVIDE THAT THE
15 PROVISIONS OF THIS CHAPTER SHALL NOT LIMIT THE LEGISLATURE IN REVIEWING
16 THE OPERATIONS OF STATE AGENCIES.
17

18 Be It Enacted by the Legislature of the State of Idaho:

19 SECTION 1. That Title 74, Idaho Code, be, and the same is hereby amended
20 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
21 ter 6, Title 74, Idaho Code, and to read as follows:

22 CHAPTER 6

23 OFFICE OF THE INSPECTOR GENERAL

24 74-601. OFFICE OF THE INSPECTOR GENERAL ESTABLISHED. There is hereby
25 established the office of the state inspector general, which shall be headed
26 by a state inspector general appointed by the governor, subject to confirma-
27 tion by the senate. The state inspector general shall be appointed for a six
28 (6) year term.

29 (1) Vacancies shall be filled by appointment by the governor for the un-
30 expired term and shall be effective until thirty (30) days after the next en-
31 suing legislative session and, if confirmed, thereafter for the remainder of
32 such term.

33 (2) Upon the concurrence of the senate, the governor may remove the
34 state inspector general from office for malfeasance, misfeasance, incom-
35 petence, misconduct, neglect of duty, absenteeism, conflict of interest or
36 failure to carry out the policies of the state of Idaho as established in this
37 chapter.

38 74-602. POWERS AND DUTIES OF INSPECTOR GENERAL -- ENUMERATED -- APPLI-
39 CATION OF LAWS. (1) The state inspector general shall exercise the powers
40 and perform the duties conferred or imposed upon him by law. The state in-

1 spector general shall be responsible for the overall supervision of the of-
2 fice.

3 (2) The state inspector general shall have the power and duty to:

4 (a) Operate and manage the office and employ such personnel as may be
5 required to carry out the provisions of this chapter;

6 (b) Make and enter into contracts and agreements as may be necessary
7 and incidental to carry out the provisions of this chapter and apply for
8 and accept grants from the United States government and agencies and in-
9 strumentalities thereof, and any other source, in furtherance of the
10 provisions of this chapter;

11 (c) Receive complaints from whatever source that allege fraud, waste,
12 including task or program duplication, abuse or corruption by a state
13 agency or by any officer or employee of the foregoing and determine
14 whether the complaints give reasonable cause to investigate. In the
15 event the attorney general, a member of the Idaho state police or a
16 member of another law enforcement agency has reason to believe that an
17 elected official has committed a criminal violation, is in the process
18 of committing a criminal violation or is about to commit a criminal vio-
19 lation, such person shall report his belief to the inspector general;

20 (d) Investigate the management and operations of state agencies to de-
21 termine whether acts of fraud, waste, abuse or corruption have been com-
22 mitted or are being committed by state officers or employees, includ-
23 ing any allegations of criminal acts affecting the operations of state
24 agencies. However, no investigation of an elected official to deter-
25 mine whether a criminal violation has occurred, is occurring or is about
26 to occur shall be undertaken without a specific request from the attor-
27 ney general, a county or city prosecutor, the Idaho state police or a
28 member of another law enforcement agency;

29 (e) Prepare a detailed report of each investigation stating whether
30 fraud, waste, abuse or corruption has been detected. If fraud, waste,
31 abuse or corruption is detected, the report shall:

32 (i) Identify the person committing the wrongful act or omission;

33 (ii) Describe the wrongful act or omission; and

34 (iii) Describe any corrective measures taken by the state agency
35 in which the wrongful act or omission was committed to prevent re-
36 currences of similar actions;

37 (f) Provide timely notification to the attorney general and law en-
38 forcement agencies whenever the state inspector general has reasonable
39 grounds to believe there has been a violation of state criminal law;

40 (g) Assist citizens in understanding their rights and the processes
41 available to them to express concerns regarding the activities of a
42 state agency or any officer or employee of the foregoing;

43 (h) Maintain data on inquiries received, the types of assistance re-
44 quested, any actions taken and the disposition of each such matter;

45 (i) Upon request, assist citizens in using the procedures and processes
46 available to express concerns regarding the activities of a state
47 agency or any officer or employee of the foregoing;

48 (j) Ensure that citizens have access to the services provided by the
49 state inspector general and that citizens receive timely responses to

1 their inquiries from the state inspector general or his representa-
2 tives; and

3 (k) Perform all acts necessary or convenient to carry out the purposes
4 of this chapter.

5 (3) Except upon a finding by the inspector general of fraud, waste,
6 abuse or corruption, a complaint received and documents or materials relat-
7 ing to an investigation of such complaint conducted pursuant to this act are
8 exempt from public disclosure provided by chapter 3, title 9, Idaho Code.

9 (4) The judicial branch of state government is exempt from the provi-
10 sions of this act.

11 74-603. COOPERATION OF STATE AGENCIES AND OFFICERS. (1) Each state
12 agency and every officer and employee shall:

13 (a) Promptly report any allegations of criminal acts or acts of fraud,
14 waste, abuse, corruption or mistreatment; and

15 (b) Cooperate with, and provide assistance to, the state inspector gen-
16 eral in the performance of any investigation. Each state agency shall
17 make its premises, equipment, personnel, books, records and papers
18 readily available to the state inspector general upon request.

19 (2) When a state agency head or officer discovers any unauthorized, il-
20 legal, irregular, or unsafe handling or expenditure of state funds, or if it
21 comes to his attention that any unauthorized, illegal, or unsafe handling
22 or expenditure of state funds is contemplated but not consummated, he shall
23 promptly report the same to the state inspector general.

24 (3) The state inspector general may enter upon the premises of any state
25 agency at any time, without prior announcement, if necessary to the success-
26 ful completion of an investigation. In the course of an investigation, the
27 state inspector general may question any officer or employee serving in, and
28 any person transacting business with, the state agency and may inspect and
29 copy any books, records or papers in the possession of the state agency. The
30 state inspector general shall preserve the confidentiality of any informa-
31 tion obtained from a state agency during the course of an investigation in
32 accordance with applicable state and federal law.

33 74-604. ENFORCEMENT OF LAWS BY STATE INSPECTOR GENERAL OR INVESTI-
34 GATORS -- AUTHORITY OF INVESTIGATORS. (1) The state inspector general or
35 investigators appointed by him shall be sworn to enforce the statutes and
36 rules pertaining to the office. The investigators appointed by the state
37 inspector general shall have the same investigative authority as the state
38 inspector general. The state inspector general or investigators appointed
39 by him also shall have the authority to issue summonses for violations of
40 the statutes that the state inspector general is required to enforce. In
41 the event a person issued such a summons fails or refuses to discontinue the
42 unlawful acts or refuses to give a written promise to appear at the time and
43 place specified in the summons, the investigator may appear before a magis-
44 trate or other issuing authority having jurisdiction to obtain a criminal
45 warrant pursuant to law.

46 (2) All investigators appointed by the state inspector general are
47 vested with the authority to administer oaths or affirmations for the pur-
48 pose of receiving complaints and conducting investigations of violations of

1 the statutes and regulations that the state inspector general is required to
2 enforce. Such investigators are vested with the authority to obtain, serve
3 and execute any warrant, paper or process issued by any court or magistrate
4 or under the authority of the state inspector general.

5 74-605. SUBPOENAS. (1) The state inspector general or a designated
6 subordinate may issue a subpoena for the appearance of an individual before
7 any hearing conducted by the office. The subpoena shall be served by the
8 state inspector general or a designated subordinate and enforced by the
9 court of that jurisdiction.

10 (2) The state inspector general or a designated subordinate may make an
11 ex parte application to the circuit court for the county or city wherein ev-
12 idence sought is kept for the issuance of a subpoena duces tecum in further-
13 ance of an investigation or to request production of any relevant records,
14 documents and physical or other evidence of any person, partnership, asso-
15 ciation or corporation located in the state. The court may issue and compel
16 compliance with such a subpoena on a showing of reasonable cause. Upon de-
17 termining that reasonable cause exists to believe that evidence may be de-
18 stroyed or altered, the court may issue a subpoena duces tecum requiring the
19 immediate production of evidence.

20 74-606. REPORTS. (1) The state inspector general shall prepare an
21 annual report, submitted to the governor, the joint finance appropriations
22 committee, the senate state affairs committee and the house state affairs
23 committee, no later than January 10 of each year, summarizing the activities
24 of the office. Such report shall include, but need not be limited to:

25 (a) A description of any significant problems, abuses and deficiencies
26 related to the management or operation of state agencies during the re-
27 porting period;

28 (b) A description of the recommendations for any corrective actions
29 made by the office during the reporting period with respect to signifi-
30 cant problems, abuses or deficiencies identified;

31 (c) A summary of matters referred to the attorneys for the attorney gen-
32 eral and law enforcement agencies and actions taken on them during the
33 reporting period;

34 (d) Information concerning the number of complaints received and types
35 of investigations completed by the office during the reporting period;
36 and

37 (e) The development and maintenance of internal audit programs in state
38 agencies.

39 (2) The state inspector general shall notify the governor's office,
40 the speaker, majority leader and minority leader of the house of represen-
41 tatives, and the president pro tempore, majority leader and minority leader
42 of the senate of problems, abuses or deficiencies relating to the management
43 or operation of a state agency.

44 (3) The state inspector general shall keep the appropriate state agen-
45 cies advised of the office's activities as they relate to each respective
46 state agency on at least a quarterly basis, and of any significant problems,
47 abuses or deficiencies relating to the management or operation of a state
48 agency. However, when the state inspector general becomes aware of signif-

1 icant problems, abuses or deficiencies relating to the management or opera-
2 tion of a state agency, the state inspector general shall report the same im-
3 mediately to the governor's office.

4 (4) The state inspector general may conduct such additional investiga-
5 tions and make such reports relating to the management and operation of state
6 agencies as are, in the judgment of the state inspector general, necessary or
7 desirable.

8 (5) Notwithstanding any other provision of law, the reports, informa-
9 tion or documents required by or under this section shall be transmitted di-
10 rectly to the governor's office and the legislature by the state inspector
11 general.

12 (6) Records that are confidential under federal or state law shall be
13 maintained as confidential by the state inspector general and shall not be
14 further disclosed, except as required by law.

15 74-607. OVERSIGHT OF LEGISLATURE NOT LIMITED. Nothing in this chap-
16 ter shall be construed to limit or prevent the legislature from reviewing the
17 operations of any state agency.