

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

HOUSE BILL 1545

4  
5 By: Representatives T. Thomas, Vess  
6 By: Senator Bisbee

## For An Act To Be Entitled

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10 "AN ACT TO CREATE THE OFFICE OF INSPECTOR GENERAL; AND  
11 FOR OTHER PURPOSES."

## Subtitle

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14 "AN ACT TO CREATE THE OFFICE OF INSPECTOR  
15 GENERAL; AND FOR OTHER PURPOSES."

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

### SECTION 1. Definitions.

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21 For purposes of this act:

22 (1) "Corruption" means the violation of any state or federal law or  
23 regulation, including but not limited to, violations of conflict of interest,  
24 purchasing, anti-discrimination and environmental laws, as well as illegal  
25 activity such as fraud, bribery, theft, and physical abuse;

26 (2) "Entity director" means the director, chairman, or administrator of  
27 any state agency;

28 (3) "State agency" means any agency, office, department, commission,  
29 council, board, bureau, committee, and institution within the Executive branch  
30 of state government;

31 (4) "Employee" means any person who performs a full or part-time  
32 service for wages, salary, or other remuneration for an entity within the  
33 jurisdiction of the Office of Inspector General; and

34 (5) "Waste" means conduct or an omission which results in substantial  
35 abuse, misuse, destruction or loss of public funds, property, or manpower  
36 belonging to or derived from state or federal resources.

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SECTION 2. Creation and Policy Statement.

There is hereby created an Office of Inspector General within the executive branch of government. The Office of Inspector General shall be responsible for promoting accountability, integrity, and efficiency in the operation of the executive branch by detecting and preventing waste and corruption within the executive branch of government.

SECTION 3. Jurisdiction.

(a) The jurisdiction of this office extends to the Governor, state agencies, and any other person or entity transacting business with an entity within the jurisdiction of the Office of Inspector General.

(b) Responsibilities of entities within the jurisdiction of the Office of Inspector General.

(1) All state employees of the entities shall extend full cooperation and all reasonable assistance to the Office of Inspector General. In particular, each entity shall make its premises, equipment, personnel, books, records, papers, electronic communications or files readily available to the Office of Inspector General. The Inspector General or his designee may enter upon the premises of any entity within the jurisdiction of the Office of Inspector General, at any time, without prior announcement, if necessary to the successful completion of an investigation or inspection.

(2) It shall be the responsibility of the entity director to develop policies, programs and strategies to deal with all integrity related matters. The entity director shall be required to conduct internal investigations into complaints referred to the director by the Office of Inspector General. The entity director shall present to the Office of Inspector General a detailed report on the final disposition of each referral made by the Office of Inspector General.

(3) No provision of this act shall be construed to diminish the responsibility of entity employees to be vigilant in preventing and reporting waste and corruption.

(c) The following are excluded from the office's jurisdiction:

(1) The Arkansas General Assembly; and

(2) Arkansas courts;

(d) The following are excluded from the office's jurisdiction but may

1 request an investigation:

2 (1) The Secretary of State;

3 (2) The State Treasurer;

4 (3) The State Auditor;

5 (4) The Attorney General;

6 (5) The Lieutenant Governor;

7 (6) The State Land Commissioner;

8 (7) The Arkansas Game and Fish Commission; and

9 (8) The Arkansas Highway Commission.

10 (e) As a general rule, the Office of Inspector General will not become  
 11 involved in cases involving private disputes, labor-management issues, or  
 12 litigation.

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 14 SECTION 4. Authority.

15 (a) The Office of Inspector General is authorized to inspect and  
 16 examine, as well as receive complaints concerning, the management and affairs  
 17 of the entities within its jurisdiction regarding waste and corruption, and  
 18 if, upon examining the complaints received, there exists reasonable grounds  
 19 that justify further inquiry, may conduct investigation into those areas. In  
 20 performing any investigation or inspection, the Office of Inspector General  
 21 shall avoid interfering with the ongoing operations of the state entity being  
 22 investigated or inspected, except, insofar as is reasonably necessary to the  
 23 successful completion of an investigation or inspection.

24 (b) Administering Oaths and Issuing Subpoenas.

25 (1) The Office of Inspector General may require by subpoena the  
 26 production of all information, documents, reports, answers, records, accounts,  
 27 papers, and other data and documentary evidence necessary in the performance  
 28 of the functions assigned by this act.

29 (A) Any party or person to whom the subpoena or similar  
 30 process is directed may object to the issuance of the subpoena or process.  
 31 Any circuit court shall sustain the subpoena or similar process only to the  
 32 extent that it is found to be in accordance with the law applicable to the  
 33 issuance of subpoenas in civil actions.

34 (B) Unless provided otherwise by any applicable provision  
 35 of law, the Inspector General or his designee may issue a subpoena only after  
 36 giving notice of the proposed issuance of the subpoena and an opportunity to

1 contest its issuance to the persons who are the subject of the investigation  
2 by the Office of Inspector General. However, the Office of Inspector General  
3 may omit the notice and opportunity if it obtains an order from a circuit  
4 court of competent jurisdiction approving the omission because of any one or  
5 more of the following:

6 (i) The whereabouts of the persons who are the  
7 subject of the investigation by the Office of Inspector General are unknown  
8 and could not be ascertained with reasonable efforts;

9 (ii) Such notice to the persons who are the subject  
10 of the investigation by the Office of Inspector General would seriously  
11 interfere with the ability of the Office of Inspector General to obtain the  
12 evidence necessary to perform investigatory responsibilities; or

13 (iii) Such notice would result in imminent peril to  
14 the health, safety, or welfare of person or persons.

15 (2) The Office of Inspector General may administer to or take  
16 from any person an oath, affirmation, or affidavit, whenever necessary in the  
17 performance of the functions assigned by this act.

18 (c) Freedom of Information Act Exemption. All records in the  
19 possession of the Office of Inspector General concerning inspections and  
20 ongoing investigations of suspected waste and corruption shall be confidential  
21 and shall not be public records as defined by the Arkansas Freedom of  
22 Information Act. Unless otherwise exempt, all other records not subject to an  
23 ongoing inspection or investigation as mentioned above, shall be obtainable  
24 through the Arkansas Freedom of Information Act.

25 (d) The Office of Inspector General shall be exempted from coverage of  
26 the Arkansas Administrative Procedure Act.

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28 SECTION 5. Duties and Responsibilities.

29 (a) The Office of Inspector General shall do all of the following:

30 (1) Assist in the prevention of waste and corruption in the  
31 entities within the jurisdiction of the Office of Inspector General by  
32 periodically inspecting their policies, procedures, and operations;

33 (2) Receive complaints alleging waste or corruption by entities  
34 within the jurisdiction of the Office of Inspector General, and determine  
35 whether the information contained in those complaints allege facts that give  
36 reasonable cause to investigate;

1           (3) Investigate complaints of waste or corruption when  
2 appropriate;

3           (4) Refer any corruption found to exist to the proper law  
4 enforcement agency;

5           (5) Issue recommendations, as appropriate, to entities within the  
6 jurisdiction of the Office of Inspector General based on the findings of an  
7 inspection or investigation;

8           (6) At the discretion of the Office of Inspector General, refer  
9 complaints to entity directors for investigation;

10          (7) Maintain a complete record of each complaint, investigation  
11 and inspection;

12          (8) Ensure that the Governor's Office and the Legislative Council  
13 are immediately apprised of all recommendations made to covered entities, as  
14 well as all referrals made to law enforcement agencies;

15          (9) Work in conjunction with other law enforcement agencies when  
16 appropriate; and

17          (10) Prepare an annual, comprehensive, public report for the  
18 legislature on the activities of the Office of Inspector General. The report  
19 shall be due July 1 of every fiscal year and shall include a summary of all  
20 records mentioned in subsection (a). The report shall also include  
21 information analyzing identifiable financial savings produced as a result of  
22 the operation of the Office of Inspector General.

23          (b) Any entity within the jurisdiction of the Office of Inspector  
24 General which receives a recommendation can accept and implement the  
25 recommendation within the time specified in the recommendation, or it can  
26 challenge the recommendation. If an entity accepts the recommendation, it  
27 will be subjected to a follow-up inspection to ensure compliance; no response  
28 to the recommendation within one (1) month of the issuance of said  
29 recommendation will be viewed as acceptance.

30          (c) If a covered entity challenges the recommendation, the entity  
31 director or his designee must respond in writing to the Legislative Council  
32 and the Governor's Office detailing the rationale for objecting to the  
33 recommendation.

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35       SECTION 6. Inspector General Council.

36       (a) There is created the Inspector General Council. The Inspector

1 General Council shall be comprised of all Constitutional Officers located in  
2 the executive branch of state government, which includes the Governor,  
3 Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State,  
4 Attorney General and Land Commissioner.

5 (b) The Governor shall be the chairman of the council.

6 (c) An affirmative vote of at least four (4) members is required for  
7 passage of any action of the council.

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9 SECTION 7. Inspector General.

10 (a) Appointment and Oversight.

11 (1) The Inspector General shall be appointed by the Governor,  
12 subject to confirmation by the Inspector General Council, and shall serve at  
13 the pleasure of the Governor. Failure to confirm the Governor's nominee for  
14 appointment must be made without regard to political affiliation and must be  
15 accompanied by a written, public response, detailing the rationale for the  
16 rejection of the Governor's appointee for the office.

17 (2) Removal of the Inspector General. The Inspector General may  
18 be removed from office by the Governor, subject to confirmation by the  
19 Inspector General Council. In the event the authority vested in the Governor  
20 to remove the Inspector General is exercised, the Governor must send a written  
21 public report to each member of the Inspector General Council, detailing the  
22 rationale for the removal of the Inspector General. Failure to confirm the  
23 decision to remove the Inspector General must be made without regard to  
24 political affiliation and must be accompanied by a written response, detailing  
25 the rationale for the failure to confirm the removal decision.

26 (3) Oversight for the Office of Inspector General is conducted by  
27 a legislative committee composed of four (4) members. The Speaker of the  
28 House and President Pro Tem of the Senate shall select two (2) members of  
29 their respective houses to compose this committee. The committee shall meet  
30 quarterly with the Inspector General to review the ongoing operations of the  
31 Office of Inspector General. All quarterly meetings of this legislative  
32 committee shall be exempt from the provisions of the Freedom of Information  
33 Act to protect the confidentiality of the ongoing investigations and  
34 inspections of the Office of Inspector General.

35 (4) The Office of Inspector General is subject to an annual audit  
36 by the Division of Legislative Audit.

1           (b) Qualifications.

2           (1) Only an individual who meets one or more of the following  
3 qualifications is eligible to be appointed Inspector General:

4           (A) A minimum of five (5) years experience in a supervisory  
5 or managerial role in state or federal law enforcement; or

6           (B) Admission to the bar of this or any other state for a  
7 minimum of five (5) years; or

8           (C) Certification as a certified public accountant in this  
9 or any other state for a minimum of five (5) years; or

10          (D) A minimum of five (5) years experience in a supervisory  
11 or managerial role with a federal Office of Inspector General.

12          (E) Any combination of (A) – (D) for a minimum of five (5)  
13 years.

14          (2) Any individual who meets the qualifications set out in  
15 subdivisions (b)(1)(A)-(E) and has been convicted, in this or any other state,  
16 of a felony or of any crime involving fraud, dishonesty, or moral turpitude  
17 shall not be eligible for appointment as Inspector General.

18          (c) Duties and Responsibilities. The Inspector General shall be  
19 responsible for supervising the Office of Inspector General and carrying out  
20 the responsibilities of that office, which include, but are not limited to:

21          (1) Ensuring the efficient operation of the Office of Inspector  
22 General and preserving the integrity of that office and staff;

23          (2) Coordinating investigations and inspections conducted by the  
24 Office of Inspector General;

25          (3) At his or her discretion, referring complaints to entity  
26 directors for investigation;

27          (4) Participating in investigations or inspections when  
28 appropriate;

29          (5) Serving as liaison for the Office of Inspector General to, and  
30 working in conjunction with, other law enforcement agencies, when appropriate;

31          (6) Employing the staff necessary to carry out the administrative  
32 and functional duties of the Office of Inspector General; and

33          (7) Developing an operational manual outlining the policies and  
34 procedures of the Office of Inspector General.

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36          SECTION 8. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
2 Revision Commission shall incorporate the same in the Code.

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4 SECTION 9. If any provision of this act or the application thereof to  
5 any person or circumstance is held invalid, such invalidity shall not affect  
6 other provisions or applications of the act which can be given effect without  
7 the invalid provision or application, and to this end the provisions of this  
8 act are declared to be severable.

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10 SECTION 10. All laws and parts of laws in conflict with this act are  
11 hereby repealed.