

# 52:15B-1

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2005 **CHAPTER:** 119

**NJSA:** 52:15B-1 (Establishes Office of the Inspector General)

**BILL NO:** S2195 (Substituted for A3676)

**SPONSOR(S):** Kenny and others

**DATE INTRODUCED:** December 13, 2004

**COMMITTEE:** **ASSEMBLY:** Appropriations  
**SENATE:** State Government; Budget and Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** June 30, 2005

**SENATE:** June 30, 2005

**DATE OF APPROVAL:** July 1, 2005

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (SCS (2<sup>nd</sup> Reprint) for S2195/S345 enacted)

### S2195/345

[SPONSOR'S STATEMENT \(S2195\):](#) (Begins on page 7 of original bill) [Yes](#)

[SPONSOR'S STATEMENT \(S345\):](#) (Begins on page 4 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** [Yes](#)

**SENATE:** Yes [1-31-05 \(Gov't\)](#)  
[3-7-05 \(Bud\)](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

### A3676

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes [3-10-05 \(Gov't\)](#)  
[6-9-05 \(App\)](#)

**SENATE:** No

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

**VETO MESSAGE:** No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

**FOLLOWING WERE PRINTED:**

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No

**REPORTS:**

No

**HEARINGS:**

Yes

**NEWSPAPER ARTICLES:**

"Inspector General, Public Advocate Enabling Laws Survive Budget Axe," 181 NJLJ 85 (July 11, 2005)

IS 7/3/07

Title 52.  
Chapter 15B. (New)  
Inspector General  
§§1-16 -  
C.52:15B-1 to  
52:15B-16  
§17 - Note & T&E

P.L. 2005, CHAPTER 119, *approved July 1, 2005*  
Senate Committee Substitute (*Second Reprint*) for  
Senate, Nos. 2195 and 345

1 AN ACT <sup>1</sup>[establing] establishing<sup>1</sup> <sup>2</sup>an<sup>2</sup> office of the Inspector  
2 General, supplementing Title 52 of the Revised Statutes <sup>1</sup>[and  
3 making an appropriation]<sup>1</sup>.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. The Legislature finds and declares that:

9 the State of New Jersey expends more than \$28 billion in taxpayer  
10 funds each year, and agencies at other levels of government expend  
11 billions more;

12 it is fundamental that all government officials be publicly  
13 accountable for such expenditures;

14 promoting integrity in the administration and operations of  
15 government and improving public accountability are the cornerstones  
16 of government;

17 one of the remedial actions that can be taken to improve such  
18 accountability is to identify areas where State spending is wasteful or  
19 inefficient;

20 the Governor has the responsibility to ensure a balanced budget,  
21 manage the operations of State government effectively and efficiently,  
22 and maintain necessary government programs and assistance to the  
23 public;

24 it is the duty of the Governor to guard against extravagance,  
25 waste, or fiscal mismanagement in the administration of any State  
26 appropriation;

27 it is critically important that public officers and employees, at all  
28 levels of government, discharge their duties and responsibilities in a  
29 lawful and ethical manner, while conserving the fiscal resources that  
30 have been entrusted to the government's care by the taxpayers;

31 there is a compelling need to centralize the responsibility for  
32 reviewing, auditing, evaluating, and overseeing the expenditure of  
33 State funds by, and the procurement process of, all State departments  
34 and agencies, independent authorities, county and municipal  
35 governments, and boards of education; and

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SBA committee amendments adopted March 7, 2005.

<sup>2</sup> Assembly floor amendments adopted June 20, 2005.

1       there is a need, therefore, to create the Office of the Inspector  
2 General, which will report directly to the Governor, to ensure that  
3 these responsibilities are met.

4  
5       2. a. There is hereby created an Office of the Inspector General.  
6 The office shall be established in the Executive Branch of the State  
7 Government and for the purposes of complying with the provisions of  
8 Article V, Section IV, paragraph 1 of the New Jersey Constitution, the  
9 office shall be allocated in, but not of, the Department of the Treasury.  
10 Notwithstanding this allocation, the office shall be independent of any  
11 supervision or control by the State Treasurer, or the department or by  
12 any division, board, office, or other officer thereof.

13       b. The Inspector General shall report directly to the Governor.

14       c. The Inspector General shall submit requests for the budget of  
15 the office directly to the Division of Budget and Accounting in the  
16 Department of the Treasury.

17  
18       3. a. The Office of the Inspector General shall be administered by  
19 the Inspector General. The Inspector General shall be appointed by  
20 the Governor with the advice and consent of the Senate. The  
21 Inspector General shall be a person qualified by education, training,  
22 and prior work experience to direct the work of the office and to  
23 perform the duties and functions and fulfill the responsibilities of the  
24 position.

25       b. The Inspector General shall serve for a term of five years and  
26 until a successor is appointed and has qualified.

27       c. The Inspector General shall devote full time to the duties and  
28 responsibilities of the office and shall receive a salary as shall be  
29 provided pursuant to law.

30       d. During the term of office, the Inspector General may be  
31 removed by the Governor only for cause upon notice and opportunity  
32 to be heard.

33       e. A vacancy in the position of Inspector General due to a cause  
34 other than the expiration of the term shall be filled for the unexpired  
35 term only in the same manner as the original appointment.

36  
37       4. A person who holds the position of Inspector General shall not  
38 be a candidate for, or hold elective public office, for a period of two  
39 years immediately following the termination of that person's service as  
40 Inspector General.

41  
42       5. a. The Inspector General shall establish the internal  
43 organizational structure of the office in a manner appropriate to  
44 carrying out the duties and functions, and fulfilling the responsibilities,  
45 of the office. The Inspector General shall have the power to appoint,  
46 employ, promote, and remove such assistants, employees, and

1 personnel as <sup>1</sup>[are deemed] the Inspector General deems<sup>1</sup> necessary  
2 for the efficient and effective administration of the office. <sup>1</sup>All such  
3 assistants, employees and personnel shall be deemed confidential  
4 employees for purposes of the "New Jersey Employer-Employee  
5 Relations Act," P.L.1941, c. 100 (C.34:13A-1 et seq.).<sup>1</sup>

6 b. Within the limits of funds appropriated for such purposes, the  
7 Inspector General may obtain the services of certified public  
8 accountants, qualified management consultants, and other  
9 professionals necessary to independently perform the duties and  
10 functions of the office.

11

12 6. The Inspector General is authorized to call upon any  
13 department, office, division or agency of State government to provide  
14 such information, resources, or other assistance deemed necessary to  
15 discharge the duties and functions and to fulfill the responsibilities of  
16 the Inspector General under this act. Each department, office, division  
17 and agency of this State shall cooperate with the Inspector General  
18 and furnish the office with the assistance necessary to accomplish the  
19 purposes of this act.

20

21 7. The Inspector General is authorized to:

22 establish a full-time program of audit, investigation, and  
23 performance review designed to provide increased accountability,  
24 integrity, and oversight of all recipients of State funds, including, but  
25 not limited to, State departments and agencies, independent  
26 authorities, county and municipal governments, and boards of  
27 education.

28 audit and monitor the awarding and the execution of contracts  
29 awarded by the State, or any of its independent authorities,  
30 commissions, boards, agencies, or instrumentalities, which contracts  
31 involve a significant expenditure of public funds or are comprised of  
32 complex or unique components, or both, as determined by the  
33 Inspector General.

34 investigate the performance of governmental officers, employees,  
35 appointees, functions, and programs in order to promote efficiency,  
36 <sup>2</sup>to<sup>2</sup> identify cost savings, and <sup>2</sup>to<sup>2</sup> detect and prevent misconduct  
37 within the programs and operations of any governmental agency  
38 funded by, or disbursing, State funds.

39 receive and investigate complaints concerning alleged fraud, waste,  
40 abuse, or mismanagement of State funds.

41

42 8. a. The Inspector General shall have all the powers necessary to  
43 carry out the duties and functions and to fulfill the responsibilities  
44 described in this act, including the power to conduct investigations,  
45 audits, evaluations, inspections, and other reviews.

46 b. The Inspector General and the office shall conduct audits,

1 investigations, and performance reviews in accordance with <sup>1</sup>[all  
2 currently recognized] prevailing<sup>1</sup> national and professional standards,  
3 rules, and practices relating to such audits, investigations, and reviews  
4 in government environments, and the Inspector General shall ensure  
5 that the office remains in compliance with such standards, rules, and  
6 practices.

7 c. In furtherance of an investigation, the Inspector General may  
8 compel at a specific time and place, by subpoena, the appearance and  
9 sworn testimony of any person whom the Inspector General reasonably  
10 believes may be able to give information relating to a matter under  
11 investigation. For this purpose, the Inspector General is empowered  
12 to administer oaths and examine witnesses under oath, and compel  
13 any person to produce at a specific time and place, by subpoena, any  
14 documents, books, records, papers, objects, or other evidence that the  
15 Inspector General reasonably believes may relate to a matter under  
16 investigation.

17 <sup>1</sup>[Failure to comply with a subpoena, issued pursuant to this  
18 subsection, to testify, to answer a proper question, or to produce  
19 books, papers, documents, or other objects, or misconduct on the part  
20 of a person attending an interview or hearing, shall be punishable by  
21 the Superior Court in the same manner as like failure or misconduct is  
22 punishable in an action pending in the court.] If any person to whom  
23 such subpoena is issued fails to appear or, having appeared, refuses to  
24 give testimony, or fails to produce the books, papers or other  
25 documents required, the Inspector General may apply to the Superior  
26 Court and the court may order the person to appear and give  
27 testimony or produce the books, papers or other documents, as  
28 applicable. Any person failing to obey the court's order may be  
29 punished by the court as for contempt.<sup>1</sup>

30 d. A person compelled to appear by the Inspector General and  
31 provide sworn testimony shall have the right to be accompanied by  
32 counsel, who shall be permitted to advise the witness of his or her  
33 rights. A witness compelled to appear and testify shall be accorded all  
34 due process rights.

35  
36 9. The Inspector General is authorized to cooperate and conduct  
37 joint investigations with other oversight or law enforcement  
38 authorities. The Inspector General is authorized and shall be permitted  
39 to participate in investigations conducted by other oversight or law  
40 enforcement authorities in this State.

41  
42 10. The Inspector General may decline to investigate a complaint  
43 received when it is determined that: the complaint is trivial, frivolous,  
44 vexatious or not made in good faith; the complaint has been too long  
45 delayed to justify a present investigation; the resources available,  
46 considering established priorities, are insufficient for an adequate

1 investigation; or the matter complained of is not within the Inspector  
2 General's investigatory authority.

3

4 11. The Inspector General is authorized to refer complaints  
5 received that allege criminal conduct to the Attorney General or other  
6 appropriate prosecutorial authority. In the course of conducting  
7 audits, investigations, and performance reviews, the Inspector General  
8 generally may refer matters for further civil, criminal, and  
9 administrative action to the appropriate authorities.

10

11 12. a. When the Inspector General refers complaints alleging  
12 criminal conduct to the Attorney General or other appropriate  
13 prosecutorial authority and the Attorney General or prosecutorial  
14 authority decides not to investigate or prosecute the matter, the  
15 Attorney General or the prosecutorial authority shall promptly notify  
16 the Inspector General. The Attorney General or the prosecutorial  
17 authority shall inform the Inspector General as to whether an  
18 investigation is ongoing with regard to any matter so referred. <sup>1</sup>The  
19 Inspector General shall preserve the confidentiality of the existence of  
20 any ongoing criminal investigation.<sup>1</sup>

21

22 If the Attorney General or the prosecutorial authority decides not  
23 to investigate or act upon the matter referred, the Inspector General  
24 is authorized to continue an investigation after the receipt of such a  
25 notice.

26 Upon completion of an investigation or, in a case where the  
27 investigation leads to prosecution, upon completion of the  
28 prosecution, the Attorney General or the prosecutorial authority shall  
29 report promptly the findings and results to the Inspector General. In  
30 the course of informing the Inspector General, the Attorney General  
31 or prosecutorial authority shall give full consideration to the authority,  
32 duties, functions, and responsibilities of the Inspector General, the  
33 public interest in disclosure, and the need for protecting the  
34 confidentiality of complainants and informants.

35 b. With respect to referrals other than those described in  
36 subsection a. of this section, the appropriate authority to which a  
37 matter has been referred by the Inspector General shall report to the  
38 Inspector General promptly when a final determination is made to not  
39 investigate or act upon the matter referred, or promptly upon  
40 completion of the investigation or action taken. The appropriate  
41 authority shall inform the Inspector General as to whether an  
42 investigation is ongoing with regard to any matter so referred.

43 In the course of informing the Inspector General, the appropriate  
44 authority shall give full consideration to the authority, duties,  
45 functions, and responsibilities of the Inspector General, the public  
46 interest in disclosure, and the need for protecting the confidentiality of  
47 complainants and informants.

1 If the governmental entity decides not to investigate or act upon  
2 the matter referred, the Inspector General is authorized to continue an  
3 investigation after the receipt of such a notice.

4 c. The Inspector General shall maintain a record of all matters  
5 referred and the responses received and shall be authorized to disclose  
6 information received as appropriate <sup>1</sup>and as may be necessary to  
7 resolve the matter referred<sup>1</sup>, to the extent consistent with the <sup>1</sup>[the]<sup>1</sup>  
8 public interest in disclosure and the need for protecting the  
9 confidentiality of complainants and informants <sup>1</sup>[, and as may be  
10 necessary to resolve the matter referred] and preserving the  
11 confidentiality of ongoing criminal investigations<sup>1</sup>.

12  
13 <sup>1</sup>13. Whenever a person requests access to a government record  
14 that the Inspector General, during the course of an investigation,  
15 obtained from another public agency, which record was open for  
16 public inspection, examination or copying before the investigation  
17 commenced, the public agency from which the Inspector General  
18 obtained the record shall comply with the request if made pursuant to  
19 P.L.1963, c.73 (C.47:1A-1 et seq.), provided that the request does not  
20 in any way identify the record sought by means of a reference to the  
21 Inspector General's investigation or to an investigation by any other  
22 public agency, including, but not limited to, a reference to a subpoena  
23 issued pursuant to such investigation.<sup>1</sup>

24  
25 <sup>1</sup>[13.] 14.<sup>1</sup> The Inspector General shall meet at periodic intervals,  
26 but at least twice annually, with the Attorney General, the State  
27 Treasurer, the State Auditor, and any other public officers or  
28 employees deemed necessary who perform audits, investigations, and  
29 performance reviews similar or identical to those authorized to be  
30 performed by the Inspector General for the purpose of consulting,  
31 coordinating, and cooperating with those officers and employees in the  
32 conduct of audits, investigations and reviews. The Attorney General,  
33 the State Treasurer, the State Auditor, and such other public officers  
34 or employees shall attend such meetings for the purpose of  
35 consultation, coordination, and cooperation with the Inspector  
36 General.

37 The focus of all parties during such meetings shall be to: facilitate  
38 communication and exchange information on completed, current, and  
39 future audits, investigations, and reviews; avoid duplication and  
40 fragmentation of efforts; optimize the use of resources; avoid  
41 divisiveness and organizational uncertainty; promote effective working  
42 relationships; and avoid the unnecessary expenditure of public funds.

43  
44 <sup>1</sup>[14.] 15.<sup>1</sup> The Inspector General shall report the findings of  
45 audits, investigations, and reviews performed by the office, and issue  
46 recommendations for corrective or remedial action, to the Governor



1 <sup>2</sup>, the President of the Senate and the Speaker of the General  
2 Assembly<sup>2</sup> and to the entity at issue. The Inspector General shall  
3 monitor the implementation of those recommendations.

4

5 <sup>1</sup>[15.] 16.<sup>1</sup> The Inspector General shall provide periodic reports  
6 to the Governor, and shall issue an annual report to the Governor and  
7 the Legislature, which shall be available to the public.

8

9 <sup>1</sup>[16. There is appropriated from the General Fund \$3,000,000]  
10 17. Such sums as may be required for the costs of the Office of the  
11 Inspector General shall be transferred from existing appropriations,  
12 subject to the approval of the Director of the Division of Budget and  
13 Accounting and such further approval as shall be required pursuant to  
14 the transfer provisions of the annual appropriations act,<sup>1</sup> to the Office  
15 of the Inspector General to establish the Office of the Inspector  
16 General and implement the provisions of this act.

17

18 <sup>1</sup>[17.] 18.<sup>1</sup> This act shall take effect immediately.

19

20

21

22

23 Establishes Office of the Inspector General.

# SENATE, No. 2195

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED DECEMBER 13, 2004

**Sponsored by:**

**Senator BERNARD F. KENNY, JR.**

**District 33 (Hudson)**

**Senator NICHOLAS ASSELTA**

**District 1 (Cape May, Atlantic and Cumberland)**

**Co-Sponsored by:**

**Senator Scutari**

**SYNOPSIS**

Establishes Office of the Inspector General; makes an appropriation.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT establishing an Office of the Inspector General,  
2 supplementing Title 52 of the Revised Statutes and making an  
3 appropriation.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. The Legislature finds and declares that:

9 the State of New Jersey expends more than \$28 billion in taxpayer  
10 funds each year, and agencies at other levels of government expend  
11 billions more;

12 it is fundamental that all government officials be publicly  
13 accountable for such expenditures;

14 promoting integrity in the administration and operations of  
15 government and improving public accountability are the cornerstones  
16 of government;

17 one of the remedial actions that can be taken to improve such  
18 accountability is to identify areas where State spending is wasteful or  
19 inefficient;

20 the Governor has the responsibility to ensure a balanced budget,  
21 manage the operations of State government effectively and efficiently,  
22 and maintain necessary government programs and assistance to the  
23 public;

24 it is the duty of the Governor to guard against extravagance, waste,  
25 or fiscal mismanagement in the administration of any State  
26 appropriation;

27 it is critically important that public officers and employees, at all  
28 levels of government, discharge their duties and responsibilities in a  
29 lawful and ethical manner, while conserving the fiscal resources that  
30 have been entrusted to the government's care by the taxpayers;

31 there is a compelling need to centralize the responsibility for  
32 reviewing, auditing, evaluating, and overseeing the expenditure of  
33 State funds by, and the procurement process of, all State departments  
34 and agencies, independent authorities, county and municipal  
35 governments, and boards of education; and

36 there is a need, therefore, to create the Office of the Inspector  
37 General, which will report directly to the Governor, to ensure that  
38 these responsibilities are met.

39

40 2. a. There is hereby created an Office of the Inspector General.  
41 The office shall be established in the Executive Branch of the State  
42 Government and for the purposes of complying with the provisions of  
43 Article V, Section IV, paragraph 1 of the New Jersey Constitution, the  
44 office shall be allocated in, but not of, the Department of the Treasury.  
45 Notwithstanding this allocation, the office shall be independent of any  
46 supervision or control by the State Treasurer, or the department or by

1 any division, board, office, or other officer thereof.

2 b. The Inspector General shall report directly to the Governor.

3 c. The Inspector General shall submit requests for the budget of  
4 the office directly to the Division of Budget and Accounting in the  
5 Department of the Treasury.

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7 3. a. The Office of the Inspector General shall be administered by  
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9 the Governor with the advice and consent of the Senate. The  
10 Inspector General shall be a person qualified by education, training,  
11 and prior work experience to direct the work of the office and to  
12 perform the duties and functions and fulfill the responsibilities of the  
13 position.

14 b. The Inspector General shall serve for a term of five years and  
15 until a successor is appointed and has qualified.

16 c. The Inspector General shall devote full time to the duties and  
17 responsibilities of the office and shall receive a salary as shall be  
18 provided pursuant to law.

19 d. During the term of office, the Inspector General may be  
20 removed by the Governor only for cause upon notice and opportunity  
21 to be heard.

22 e. A vacancy in the position of Inspector General due to a cause  
23 other than the expiration of the term shall be filled for the unexpired  
24 term only in the same manner as the original appointment.

25

26 4. A person who holds the position of Inspector General shall not  
27 be a candidate for, or hold elective public office, for a period of two  
28 years immediately following the termination of that person's service as  
29 Inspector General.

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31 5. a. The Inspector General shall establish the internal  
32 organizational structure of the office in a manner appropriate to  
33 carrying out the duties and functions, and fulfilling the responsibilities,  
34 of the office. The Inspector General shall have the power to appoint,  
35 employ, promote, and remove such assistants, employees, and  
36 personnel are deemed necessary for the efficient and effective  
37 administration of the office.

38 b. Within the limits of funds appropriated for such purposes, the  
39 Inspector General may obtain the services of certified public  
40 accountants, qualified management consultants, and other  
41 professionals necessary to independently perform the duties and  
42 functions of the office.

43

44 6. The Inspector General is authorized to call upon any  
45 department, office, division or agency of State government to provide  
46 such information, resources, or other assistance deemed necessary to

1 discharge the duties and functions and to fulfill the responsibilities of  
2 the Inspector General under this act. Each department, office, division  
3 and agency of this State shall cooperate with the Inspector General  
4 and furnish the office with the assistance necessary to accomplish the  
5 purposes of this act.

6  
7 7. The Inspector General is authorized to:  
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9 performance review designed to provide increased accountability,  
10 integrity, and oversight of all recipients of State funds, including, but  
11 not limited to, State departments and agencies, independent  
12 authorities, county and municipal governments, and boards of  
13 education.

14 audit and monitor the awarding and the execution of contracts  
15 awarded by the State, or any of its independent authorities,  
16 commissions, boards, agencies, or instrumentalities, which contracts  
17 involve a significant expenditure of public funds or are comprised of  
18 complex or unique components, or both, as determined by the  
19 Inspector General.

20 investigate the performance of governmental officers, employees,  
21 appointees, functions, and programs in order to promote efficiency, to  
22 identify cost savings, and to detect and prevent misconduct within the  
23 programs and operations of any governmental agency funded by, or  
24 disbursing, State funds.

25 receive and investigate complaints concerning alleged fraud, waste,  
26 abuse, or mismanagement of State funds.

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28 8. a. The Inspector General shall have all the powers necessary to  
29 carry out the duties and functions and to fulfill the responsibilities  
30 described in this act, including the power to conduct investigations,  
31 audits, evaluations, inspections, and other reviews.

32 b. The Inspector General and the office shall conduct audits,  
33 investigations, and performance reviews in accordance with all  
34 currently recognized national and professional standards, rules, and  
35 practices relating to such audits, investigations, and reviews in  
36 government environments, and the Inspector General shall ensure that  
37 the office remains in compliance with such standards, rules, and  
38 practices.

39 c. In furtherance of an investigation, the Inspector General may  
40 compel at a specific time and place, by subpoena, the appearance and  
41 sworn testimony of any person whom the Inspector General reasonably  
42 believes may be able to give information relating to a matter under  
43 investigation. For this purpose, the Inspector General is empowered  
44 to administer oaths and examine witnesses under oath, and compel  
45 any person to produce at a specific time and place, by subpoena, any  
46 documents, books, records, papers, objects, or other evidence that the

1 Inspector General reasonably believes may relate to a matter under  
2 investigation.

3 Failure to comply with a subpoena, issued pursuant to this  
4 subsection, to testify, to answer a proper question, or to produce  
5 books, papers, documents, or other objects, or misconduct on the part  
6 of a person attending an interview or hearing, shall be punishable by  
7 the Superior Court in the same manner as like failure or misconduct is  
8 punishable in an action pending in the court.

9 d. A person compelled to appear by the Inspector General and  
10 provide sworn testimony shall have the right to be accompanied by  
11 counsel, who shall be permitted to advise the witness of his or her  
12 rights. A witness compelled to appear and testify shall be accorded all  
13 due process rights.

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16 joint investigations with other oversight or law enforcement  
17 authorities. The Inspector General is authorized and shall be permitted  
18 to participate in investigations conducted by other oversight or law  
19 enforcement authorities in this State.

20

21 10. The Inspector General may decline to investigate a complaint  
22 received when it is determined that: the complaint is trivial, frivolous,  
23 vexatious or not made in good faith; the complaint has been too long  
24 delayed to justify a present investigation; the resources available,  
25 considering established priorities, are insufficient for an adequate  
26 investigation; or the matter complained of is not within the Inspector  
27 General's investigatory authority.

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32 audits, investigations, and performance reviews, the Inspector General  
33 generally may refer matters for further civil, criminal, and  
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38 prosecutorial authority and the Attorney General or prosecutorial  
39 authority decides not to investigate or prosecute the matter, the  
40 Attorney General or the prosecutorial authority shall promptly notify  
41 the Inspector General. The Attorney General or the prosecutorial  
42 authority shall inform the Inspector General as to whether an  
43 investigation is ongoing with regard to any matter so referred.

44 If the Attorney General or the prosecutorial authority decides not  
45 to investigate or act upon the matter referred, the Inspector General  
46 is authorized to continue an investigation after the receipt of such a

1 notice.

2 Upon completion of an investigation or, in a case where the  
3 investigation leads to prosecution, upon completion of the  
4 prosecution, the Attorney General or the prosecutorial authority shall  
5 report promptly the findings and results to the Inspector General. In  
6 the course of informing the Inspector General, the Attorney General  
7 or prosecutorial authority shall give full consideration to the authority,  
8 duties, functions, and responsibilities of the Inspector General, the  
9 public interest in disclosure, and the need for protecting the  
10 confidentiality of complainants and informants.

11 b. With respect to referrals other than those described in subsection  
12 a. of this section, the appropriate authority to which a matter has been  
13 referred by the Inspector General shall report to the Inspector General  
14 promptly when a final determination is made to not investigate or act  
15 upon the matter referred, or promptly upon completion of the  
16 investigation or action taken. The appropriate authority shall inform  
17 the Inspector General as to whether an investigation is ongoing with  
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20 authority shall give full consideration to the authority, duties,  
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24 If the governmental entity decides not to investigate or act upon the  
25 matter referred, the Inspector General is authorized to continue an  
26 investigation after the receipt of such a notice.

27 c. The Inspector General shall maintain a record of all matters  
28 referred and the responses received and shall be authorized to disclose  
29 information received as appropriate, to the extent consistent with the  
30 the public interest in disclosure and the need for protecting the  
31 confidentiality of complainants and informants, and as may be  
32 necessary to resolve the matter referred.

33

34 13. The Inspector General shall meet at periodic intervals, but at  
35 least twice annually, with the Attorney General, the State Treasurer,  
36 the State Auditor, and any other public officers or employees deemed  
37 necessary who perform audits, investigations, and performance  
38 reviews similar or identical to those authorized to be performed by the  
39 Inspector General for the purpose of consulting, coordinating, and  
40 cooperating with those officers and employees in the conduct of  
41 audits, investigations and reviews. The Attorney General, the State  
42 Treasurer, the State Auditor, and such other public officers or  
43 employees shall attend such meetings for the purpose of consultation,  
44 coordination, and cooperation with the Inspector General.

45 The focus of all parties during such meetings shall be to: facilitate  
46 communication and exchange information on completed, current, and

1 future audits, investigations, and reviews; avoid duplication and  
2 fragmentation of efforts; optimize the use of resources; avoid  
3 divisiveness and organizational uncertainty; promote effective working  
4 relationships; and avoid the unnecessary expenditure of public funds.  
5

6 14. The Inspector General shall report the findings of audits,  
7 investigations, and reviews performed by the office, and issue  
8 recommendations for corrective or remedial action, to the Governor  
9 and to the entity at issue. The Inspector General shall monitor the  
10 implementation of those recommendations.  
11

12 15. The Inspector General shall provide periodic reports to the  
13 Governor, and shall issue an annual report to the Governor and the  
14 Legislature, which shall be available to the public.  
15

16 16. There is appropriated from the General Fund \$3,000,000 to the  
17 Office of the Inspector General to establish the Office of the Inspector  
18 General and implement the provisions of this act.  
19

20 17. This act shall take effect immediately.  
21  
22

23 STATEMENT  
24

25 This bill creates the Office of the Inspector General. It is based on  
26 Executive Order No. 7, issued by Acting Governor Codey on  
27 November 29, 2004, which established such an office.

28 Establishment of the Office of the Inspector General is necessary to  
29 centralize the responsibility for reviewing, auditing, evaluating and  
30 overseeing the expenditure of State funds by, and the procurement  
31 process of, all State departments and agencies, independent  
32 authorities, county and municipal governments, and boards of  
33 education.

34 Under the bill, the office will report directly to the Governor, but  
35 is allocated in, but not of, the Department of the Treasury.

36 The Inspector General would be appointed by the Governor with  
37 the advice and consent of the Senate. The person appointed would  
38 have to be qualified by education, training and experience to perform  
39 the duties and functions and fulfill the responsibilities of the position.  
40 The Inspector General would serve for a term of five years, but could  
41 be removed by the Governor for cause. A person serving as Inspector  
42 General would be precluded from being a candidate for, or holding,  
43 elective public office for, a period of two years after leaving office.

44 The Inspector General would be authorized to:

45 establish a full-time program of audit, investigation and  
46 performance review designed to provide increased accountability,



1 integrity and oversight of all recipients of State funds, including, but  
2 not limited to, all State departments and agencies, independent  
3 authorities, county and municipal governments, and boards of  
4 education.

5 audit and monitor the awarding and the execution of contracts  
6 awarded by the State, or any of its independent authorities,  
7 commissions, boards, agencies, or instrumentalities, which contracts  
8 involve a significant expenditure of public funds or are comprised of  
9 complex or unique components, or both, as determined by the  
10 Inspector General.

11 investigate the performance of governmental officers, employees,  
12 appointees, functions, and programs in order to promote efficiency, to  
13 identify cost savings, and to detect and prevent misconduct within the  
14 programs and operations of any governmental agency funded by, or  
15 disbursing, State funds.

16 receive and investigate complaints concerning alleged fraud, waste,  
17 abuse, or mismanagement of State funds.

18 The Inspector General would have all necessary powers to carry out  
19 this task, including the power to conduct investigations, audits,  
20 evaluations, inspections, and other reviews in accordance with  
21 professional standards relating to such investigations and audits in  
22 government environments and the power to issue subpoenas.

23 The Inspector General would refer complaints alleging criminal  
24 conduct to the Attorney General or other appropriate prosecutorial  
25 authority, and refer other matters for further civil, criminal and  
26 administrative action to the appropriate authorities. The appropriate  
27 officers or authorities to which the referrals are made would have to  
28 report back to the Inspector General.

29 The Inspector General could decline to investigate a complaint  
30 received if: it is trivial, frivolous, vexatious or not made in good faith;  
31 it has been too long delayed to justify a present investigation; the  
32 resources available, considering established priorities, are insufficient  
33 for an adequate investigation; or the matter complained of is not  
34 within the Inspector General's investigatory authority.

35 The Inspector General would be authorized to cooperate with and  
36 conduct joint investigations with other oversight or law enforcement  
37 authorities and would be entitled to participate in investigations  
38 conducted by other oversight or law enforcement authorities in this  
39 State.

40 The Inspector General is required to meet periodically, but at least  
41 twice annually, with the Attorney General, the State Treasurer, the  
42 State Auditor, and any other public officers or employees deemed  
43 necessary who perform audits, investigations, and performance  
44 reviews similar or identical to those authorized to be performed by the  
45 Inspector General for the purpose of consulting, coordinating, and  
46 cooperating with those officers and employees in the conduct of

1 audits, investigations and reviews. The focus of all parties during such  
2 meetings will be to: facilitate communication and exchange  
3 information on completed, current, and future audits, investigations,  
4 and reviews; avoid duplication and fragmentation of efforts; optimize  
5 the use of resources; avoid divisiveness or organizational uncertainty;  
6 promote effective working relationships; and avoid the unnecessary  
7 expenditure of public funds.

8 The Inspector General is directed to establish the internal  
9 organizational structure of the office; appoint such assistants,  
10 employees and personnel as may be necessary for the efficient and  
11 effective administration of the office; and obtain the services of  
12 certified public accountants, qualified management consultants and  
13 other professionals necessary to independently perform the duties and  
14 functions of the office.

15 The Inspector General would report the findings of such audits or  
16 investigations performed by the office, and issue recommendations for  
17 corrective or remedial action, to the Governor and to the entity at  
18 issue. The Inspector General would monitor the implementation of  
19 those recommendations. The Inspector General would be required to  
20 provide periodic reports to the Governor and to issue a public annual  
21 report to the Governor and the Legislature.

22 The bill appropriates from the State General Fund \$3,000,000 to  
23 implement this act.

**SENATE, No. 345**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

**Sponsored by:**

**Senator WILLIAM L. GORMLEY**

**District 2 (Atlantic)**

**Senator JOHN H. ADLER**

**District 6 (Camden)**

**SYNOPSIS**

Creates the position of Inspector General.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



S345 GORMLEY, ADLER

2

1 AN ACT establishing the position of Inspector General and  
2 supplementing Title 52 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. There is hereby established the position of inspector general in,  
8 but not of, the Department of Law and Public Safety. The inspector  
9 general shall be appointed by the Governor with the advice and  
10 consent of the Senate. The inspector general shall devote full time to  
11 the duties of the office and shall receive such salary as shall be  
12 provided by law. Any vacancy occurring in the position shall be filled  
13 in the same manner as the original appointment.

14

15 2. a. The inspector general shall have the authority to investigate  
16 the fiscal, professional and administrative practices and procedures of  
17 any department and any entity, public or private, receiving public funds  
18 under the authority of a department. The inspector general shall  
19 recommend policies, procedures and programs to promote integrity  
20 and efficiency in the use, disbursement and expenditure of public  
21 funds, and preventing and detecting waste, fraud, abuse, corruption,  
22 political and unethical conduct related to the use, disbursement and  
23 expenditure of those funds.

24 b. The inspector general shall establish and implement procedures  
25 for eliciting, receiving, processing, responding to and investigating  
26 complaints concerning personnel and the use or disbursement of funds  
27 from interested citizens, employees, public officials, or government  
28 agencies having an interest in the matter.

29 c. In furtherance of an investigation the inspector general may  
30 compel at a specific time and place, by subpoena, the appearance and  
31 sworn testimony of any person who the inspector general reasonably  
32 believes may be able to give information relating to a matter under  
33 investigation. For this purpose the inspector general is empowered to  
34 administer oaths and examine witnesses under oath, and compel any  
35 person to produce at a specific time and place, by subpoena, any  
36 documents, books, records, papers, objects, or other evidence which  
37 the inspector general reasonably believes may relate to a matter under  
38 investigation.

39

40 3. Failure to comply with a subpoena, issued pursuant to section  
41 2 of P.L. , c. (C. ) (now pending before the Legislature as this  
42 bill), to testify, to answer a proper question, to produce books, papers,  
43 documents or other objects, or misconduct on the part of a person  
44 attending an interview or hearing conducted pursuant to section 2  
45 shall be punishable by the Superior Court in the same manner as like  
46 failure or misconduct is punishable in an action pending in the court.

1       4. a. If the inspector general receives a complaint or otherwise  
2 encounters a deficiency or misconduct that pertains to compliance with  
3 State or federal laws or regulations or rules administered by any  
4 government agency, the inspector general shall make referral thereof  
5 directly to the appropriate government agency for action.

6       b. If the inspector general receives a complaint or if an  
7 investigation conducted by the inspector general discloses facts that  
8 the inspector general determines warrants the institution of civil  
9 proceedings by a government agency against any person or public  
10 entity, the matter shall be referred to the government agency with  
11 authority to institute the proceedings.

12       c. If the inspector general receives a complaint or if an  
13 investigation conducted by the inspector general discloses information  
14 or facts indicating the possible commission of a criminal offense, the  
15 inspector general shall promptly notify the Attorney General. If the  
16 Attorney General chooses not to investigate or prosecute the matter,  
17 either under the supervision of the Attorney General or under the  
18 supervision of the appropriate county prosecutor, the Attorney  
19 General shall promptly notify the inspector general who may then  
20 continue the investigation. The Attorney General or the county  
21 prosecutor shall, upon request of the inspector general, advise as to  
22 whether an investigation is ongoing as to any matter so referred.  
23 Upon completion of the investigation or, in a case where the  
24 investigation leads to prosecution, upon completion of the  
25 prosecution, the Attorney General or the county prosecutor shall  
26 report the findings to the inspector general. In reporting pursuant to  
27 this section, the Attorney General or county prosecutor shall give full  
28 consideration to the inspector general's duties, the public interest in  
29 disclosure and the need for protecting the confidentiality of  
30 complainants and informants. To the extent consistent with the  
31 foregoing, the inspector general shall monitor these referrals and  
32 responses, maintain a record thereof and shall be authorized to  
33 disclose information received as appropriate and as may be necessary  
34 to resolve the matter referred.

35       d. With respect to all referrals, other than a referral pursuant to  
36 subsection c. of this section, the government agency, other than an  
37 agency of the federal government, shall report to the inspector general  
38 on its findings and actions with respect to a referral within 30 days  
39 after receipt thereof and every 30 days thereafter until final action on  
40 each referral. The inspector general shall monitor all the referrals and  
41 responses and maintain a record thereof. The inspector general, giving  
42 consideration to the need for protecting the confidentiality of  
43 complainants and informants shall be authorized to make disclosure of  
44 the information as appropriate and as may be necessary to resolve the  
45 matter referred.

1       5. The inspector general shall annually file a report with the  
2 Legislature summarizing the activities of the inspector general for the  
3 preceding fiscal year, document significant problems in the use and  
4 disbursement and expenditure of public funds, if any, and set forth any  
5 opinions or recommendations which will improve the use,  
6 disbursement and expenditure of public funds, including suggestions  
7 or recommendations for legislative consideration and for changes in  
8 the policy, procedures, programs or rules and regulations of any  
9 government agency.

10

11       6. This act shall take effect immediately.

12

13

14

#### STATEMENT

15

16       This bill would establish the position of inspector general in, but not  
17 of, the Department of Law and Public Safety. The inspector general  
18 would be appointed by the Governor with the advice and consent of  
19 the Senate.

20       The bill provides that the inspector general would have the  
21 authority to investigate the fiscal, professional and administrative  
22 practices and procedures of any department and any entity, public or  
23 private, receiving public funds under the authority of a department,  
24 and would recommend policies, procedures and programs to promote  
25 integrity and efficiency in the use, disbursement and expenditure of  
26 public funds.

27       Under the bill, the inspector general would be authorized to issue  
28 subpoenas to compel testimony relating to a matter under  
29 investigation.

30       The inspector general would file annual reports with the Legislature  
31 summarizing his activities and including any recommendations to  
32 improve the use, disbursement and expenditure of public funds.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 2195 and 345**

# **STATE OF NEW JERSEY**

DATED: JUNE 9, 2005

The Assembly Appropriations Committee reports favorably Senate Bill Nos. 2195 and 345 (SCS/1R).

Senate Bill Nos. 2195 and 345 (SCS/1R) creates the Office of the Inspector General. It is based on Executive Order No. 7, issued by Acting Governor Codey on November 29, 2004, which established such an office.

The purpose of establishing the Office of the Inspector General is to centralize in one office the responsibility for reviewing, auditing, evaluating and overseeing the expenditure of State funds by, and the procurement process of, State departments and agencies, independent authorities, county and municipal governments, and boards of education.

The bill allocates the office in, but not of, the Department of the Treasury, but the Inspector General will report directly to the Governor and submit budget requests for the office directly to the Director of the Division of Budget and Accounting.

The Inspector General is to be appointed by the Governor with the advice and consent of the Senate. The Inspector General would serve for a term of five years, but could be removed by the Governor for cause. A person serving as Inspector General could not, for two years after leaving that position, be a candidate for, or hold, elective public office.

The Inspector General is authorized to:

(1) Establish a full-time program of audit, investigation and performance review designed to provide increased accountability, integrity and oversight of all recipients of State funds, including, but not limited to, State departments and agencies, independent authorities, county and municipal governments, and boards of education;

(2) Audit and monitor the awarding and the execution of contracts awarded by the State, or any of its independent authorities, commissions, boards, agencies, or instrumentalities, if those contracts

involve a significant expenditure of public funds or are comprised of complex or unique components, or both, as determined by the Inspector General;

(3) Investigate the performance of governmental officers, employees, appointees, functions, and programs to promote efficiency, identify cost savings, and detect and prevent misconduct within the programs and operations of any governmental agency funded by, or disbursing, State funds; and

(4) Receive and investigate complaints concerning alleged fraud, waste, abuse, or mismanagement of State funds.

The Inspector General is to have all necessary powers to carry out this task, including the power to conduct investigations, audits, evaluations, inspections, and other reviews in accordance with professional standards relating to such investigations and audits in government environments and the power to issue subpoenas.

The Inspector General is authorized to refer complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority, and refer other matters for further civil, criminal and administrative action to the appropriate authorities. The appropriate officer or authority to which a referral is made would have to report back to the Inspector General as to whether the officer or authority declines to investigate the matter referred, or alternatively, whether the matter is under investigation. In the latter case, the officer or authority is directed, upon completion of the investigation (or prosecution, if appropriate), to report the findings and results to the Inspector General. If the officer or authority declines to investigate a matter referred, the Inspector General is authorized to go forward with an investigation.

The Inspector General could decline to investigate a complaint received if: it is trivial, frivolous, vexatious or not made in good faith; it has been too long delayed to justify a present investigation; the resources available, considering established priorities, are insufficient for an adequate investigation; or the matter complained of is not within the Inspector General's investigatory authority.

The Inspector General is authorized to cooperate with and conduct joint investigations with other oversight or law enforcement authorities and would be entitled to participate in investigations conducted by other oversight or law enforcement authorities in this State.

The Inspector General is required to meet periodically, but at least twice annually, with the Attorney General, the State Treasurer, the State Auditor, and any other public officers or employees deemed necessary who perform audits, investigations, and performance reviews similar or identical to those authorized to be performed by the Inspector General for the purpose of consulting, coordinating, and cooperating with those officers and employees in the conduct of audits, investigations and reviews.

The Inspector General is authorized to obtain the services of certified public accountants, qualified management consultants and



other professionals necessary to independently perform the duties and functions of the office.

The Inspector General is to report the findings of audits or investigations performed by the office, and issue recommendations for corrective or remedial action, to the Governor and to the entity at issue. The Inspector General would monitor the implementation of those recommendations. The Inspector General would be required to provide periodic reports to the Governor and to issue a public annual report to the Governor and the Legislature.

As reported, this bill is identical to Assembly Bill No. 3676 (1R), as also reported by the committee.

FISCAL IMPACT:

Under Executive Order No. 7, a total of \$1,222,000 has been transferred from other appropriations to fund the office in FY2005. The Governor's FY2006 Budget recommends an appropriation of \$2,500,000 for the office.

Minority Statement

by

Assemblymen Pennachio, Corodemus and Merkt and  
Assemblywoman Myers

This bill merely maintains the status quo despite recent experience showing that the status quo is just not good enough. Codifying the current Office of Inspector General simply perpetuates the weakness, ineffectiveness, and lack of accountability that presently characterize that office. New Jersey does not need an appointed "inspector" who is accountable only to the very Governor whose administration is supposed to be scrutinized by that official. By the very nature of the office, the Inspector General will only review government activities when that review has the blessing of the Governor.

The creation of the Office of Inspector General was an acceptable stopgap measure pending the establishment of a permanent, independent, and accountable office dedicated to government reform. As a long-term response to the recent revelations of government mismanagement in New Jersey, however, it fails the test of adequacy.

This bill is better than nothing, but New Jersey's taxpayers deserve better than merely "better than nothing." State government clearly needs new and aggressive measures to counter corruption, waste, and fraud, and the status quo is simply not sufficient to the task. In order to be genuinely independent of the Governor and accountable to the taxpayers, the office must be elective. In order to be truly permanent and potent, it must be constitutionally founded.

Several proposals exist that would create an independent, elected

officer who would be directly accountable to the voters and taxpayers. This committee should reject the status quo and instead review those proposals and develop a constitutionally established, permanent, elective, unfettered and independent office to do the work required to restore confidence in government. This committee should not settle for anything less, because the public will not be mollified by anything less.

# SENATE STATE GOVERNMENT COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 2195 and 345**

# **STATE OF NEW JERSEY**

DATED: JANUARY 31, 2005

The Senate State Government Committee reports favorably Senate Committee Substitute for Senate Nos. 2195 and 345.

This substitute creates the Office of the Inspector General. It is based on Executive Order No. 7, issued by Acting Governor Codey on November 29, 2004, which established such an office.

The purpose of the establishment of the Office of the Inspector General is to centralize in one office responsibility for reviewing, auditing, evaluating and overseeing the expenditure of State funds by, and the procurement process of, all State departments and agencies, independent authorities, county and municipal governments, and boards of education.

Under the substitute, the office will report directly to the Governor, but is allocated in, but not of, the Department of the Treasury.

The Inspector General is to be appointed by the Governor with the advice and consent of the Senate. The person appointed would have to be qualified by education, training and experience to perform the duties and functions and fulfill the responsibilities of the position. The Inspector General would serve for a term of five years, but could be removed by the Governor for cause. A person serving as Inspector General would be precluded from being a candidate for, or holding, elective public office for, a period of two years after leaving office.

The Inspector General would be authorized to:

establish a full-time program of audit, investigation and performance review designed to provide increased accountability, integrity and oversight of all recipients of State funds, including, but not limited to, all State departments and agencies, independent authorities, county and municipal governments, and boards of education;

audit and monitor the awarding and the execution of contracts awarded by the State, or any of its independent authorities, commissions, boards, agencies, or instrumentalities, which contracts involve a significant expenditure of public funds or are comprised of complex or unique components, or both, as determined by the Inspector General;

investigate the performance of governmental officers, employees, appointees, functions, and programs to promote efficiency, identify cost savings, and detect and prevent misconduct within the programs and operations of any governmental agency funded by, or disbursing, State funds; and

receive and investigate complaints concerning alleged fraud, waste, abuse, or mismanagement of State funds.

The Inspector General would have all necessary powers to carry out this task, including the power to conduct investigations, audits, evaluations, inspections, and other reviews in accordance with professional standards relating to such investigations and audits in government environments and the power to issue subpoenas.

The Inspector General would refer complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority, and refer other matters for further civil, criminal and administrative action to the appropriate authorities. The appropriate officers or authorities to which the referrals are made would have to report back to the Inspector General.

The Inspector General could decline to investigate a complaint received if: it is trivial, frivolous, vexatious or not made in good faith; it has been too long delayed to justify a present investigation; the resources available, considering established priorities, are insufficient for an adequate investigation; or the matter complained of is not within the Inspector General's investigatory authority.

The Inspector General would be authorized to cooperate with and conduct joint investigations with other oversight or law enforcement authorities and would be entitled to participate in investigations conducted by other oversight or law enforcement authorities in this State.

The Inspector General is required to meet periodically, but at least twice annually, with the Attorney General, the State Treasurer, the State Auditor, and any other public officers or employees deemed necessary who perform audits, investigations, and performance reviews similar or identical to those authorized to be performed by the Inspector General for the purpose of consulting, coordinating, and cooperating with those officers and employees in the conduct of audits, investigations and reviews. The focus of all parties during such meetings will be to: facilitate communication and exchange information on completed, current, and future audits, investigations, and reviews; avoid duplication and fragmentation of efforts; optimize the use of resources; avoid divisiveness or organizational uncertainty; promote effective working relationships; and avoid the unnecessary expenditure of public funds.

The Inspector General is directed to establish the internal organizational structure of the office; appoint such assistants, employees and personnel as may be necessary for the efficient and effective administration of the office; and obtain the services of certified public accountants, qualified management consultants and

other professionals necessary to independently perform the duties and functions of the office.

The Inspector General would report the findings of such audits or investigations performed by the office, and issue recommendations for corrective or remedial action, to the Governor and to the entity at issue. The Inspector General would monitor the implementation of those recommendations. The Inspector General would be required to provide periodic reports to the Governor and to issue a public annual report to the Governor and the Legislature.

The substitute appropriates from the State General Fund \$3,000,000 for its implementation.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 2195 and 345**

with committee amendments

# STATE OF NEW JERSEY

DATED: MARCH 7, 2005

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill Nos. 2195 and 345 SCS.

This bill creates the Office of the Inspector General. It is based on Executive Order No. 7, issued by Acting Governor Codey on November 29, 2004, which established such an office.

The purpose of establishing the Office of the Inspector General is to centralize in one office the responsibility for reviewing, auditing, evaluating and overseeing the expenditure of State funds by, and the procurement process of, State departments and agencies, independent authorities, county and municipal governments, and boards of education.

The bill allocates the office in, but not of, the Department of the Treasury, but the Inspector General will report directly to the Governor and submit budget requests for the office directly to the Director of the Division of Budget and Accounting.

The Inspector General is to be appointed by the Governor with the advice and consent of the Senate. The Inspector General would serve for a term of five years, but could be removed by the Governor for cause. A person serving as Inspector General could not, for two years after leaving that position, be a candidate for, or hold, elective public office.

The Inspector General is authorized to:

(1) Establish a full-time program of audit, investigation and performance review designed to provide increased accountability, integrity and oversight of all recipients of State funds, including, but not limited to, State departments and agencies, independent authorities, county and municipal governments, and boards of education;

(2) Audit and monitor the awarding and the execution of contracts awarded by the State, or any of its independent authorities, commissions, boards, agencies, or instrumentalities, if those contracts

involve a significant expenditure of public funds or are comprised of complex or unique components, or both, as determined by the Inspector General;

(3) Investigate the performance of governmental officers, employees, appointees, functions, and programs to promote efficiency, identify cost savings, and detect and prevent misconduct within the programs and operations of any governmental agency funded by, or disbursing, State funds; and

(4) Receive and investigate complaints concerning alleged fraud, waste, abuse, or mismanagement of State funds.

The Inspector General is to have all necessary powers to carry out this task, including the power to conduct investigations, audits, evaluations, inspections, and other reviews in accordance with professional standards relating to such investigations and audits in government environments and the power to issue subpoenas.

The Inspector General is authorized to refer complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority, and refer other matters for further civil, criminal and administrative action to the appropriate authorities. The appropriate officer or authority to which a referral is made would have to report back to the Inspector General as to whether the officer or authority declines to investigate the matter referred, or alternatively, whether the matter is under investigation. In the latter case, the officer or authority is directed, upon completion of the investigation (or prosecution, if appropriate), to report the findings and results to the Inspector General. If the officer or authority declines to investigate a matter referred, the Inspector General is authorized to go forward with an investigation.

The Inspector General could decline to investigate a complaint received if: it is trivial, frivolous, vexatious or not made in good faith; it has been too long delayed to justify a present investigation; the resources available, considering established priorities, are insufficient for an adequate investigation; or the matter complained of is not within the Inspector General's investigatory authority.

The Inspector General is authorized to cooperate with and conduct joint investigations with other oversight or law enforcement authorities and would be entitled to participate in investigations conducted by other oversight or law enforcement authorities in this State.

The Inspector General is required to meet periodically, but at least twice annually, with the Attorney General, the State Treasurer, the State Auditor, and any other public officers or employees deemed necessary who perform audits, investigations, and performance reviews similar or identical to those authorized to be performed by the Inspector General for the purpose of consulting, coordinating, and cooperating with those officers and employees in the conduct of audits, investigations and reviews.

The Inspector General is authorized to obtain the services of certified public accountants, qualified management consultants and

other professionals necessary to independently perform the duties and functions of the office.

The Inspector General is to report the findings of audits or investigations performed by the office, and issue recommendations for corrective or remedial action, to the Governor and to the entity at issue. The Inspector General would monitor the implementation of those recommendations. The Inspector General would be required to provide periodic reports to the Governor and to issue a public annual report to the Governor and the Legislature.

#### COMMITTEE AMENDMENTS

Committee amendments to the bill:

(1) Clarify that authority for determining the personnel policies necessary for the efficient and effective administration of the Office of the Inspector General rests with the Inspector General;

(2) Provide that employees of the Office of the Inspector General shall be confidential employees for purposes of the statute governing relations between public employers and their employees;

(3) Clarify that it is the “prevailing” national and professional standards that are to govern the Inspector General’s conduct of audits, investigations and performance reviews, rather than the entire range of those that are “currently recognized”;

(4) Clarify the procedure that is to govern the compulsion of testimony or document production when a person fails to respond to the Inspector General’s subpoena of such testimony or documents;

(5) Provide explicitly that, when informed in response to referral of a matter to a prosecutorial authority that the matter is under ongoing criminal investigation, the Inspector General is to preserve the confidentiality of the existence of that investigation;

(6) Provide that the Inspector General’s disclosure of information received in response to matters referred shall be limited to the extent that such disclosure is consistent with preserving the confidentiality of ongoing criminal investigations;

(7) Provide that whenever proper request is made for access to a government record that the Inspector General obtained from another public agency during an investigation, and that record had been open for public inspection, examination or copying before the investigation commenced, then the public agency from which the Inspector General obtained the record shall comply with the request, provided that the request does not identify the record sought by reference to the Inspector General's investigation or to an investigation by any other public agency; and

(8) Replace a specific appropriation of \$3 million with language providing for transfer to the Office of the Inspector General from existing appropriations, subject to the approval of the Director of the Division of Budget and Accounting and any other approval required by the annual appropriations act, of such sums as may be required for the costs of the Office.



FISCAL IMPACT

The bill, as amended, provides for the transfer from existing appropriations of such sums as may be required for the Office of Inspector General.

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, Nos. 2195 and 345**

with Assembly Floor Amendments  
(Proposed By Assemblyman SIRES)

ADOPTED: JUNE 20, 2005

This Assembly floor amendment requires that, in addition to the Governor and the public entity at issue, the President of the Senate and the Speaker of the General Assembly will receive the findings and recommendations of audits, investigations, and reviews performed by the Inspector General.

Also, technical amendments were made to insert clarifying words already present in A3676(1R).

**LEGISLATIVE FISCAL ESTIMATE**  
**[FIRST REPRINT]**  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**SENATE, Nos. 2195 and 345**  
**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

DATED: JUNE 23, 2005

**SUMMARY**

**Synopsis:** Establishes Office of the Inspector General.  
**Type of Impact:** State Expenditure Increase: General Fund.  
**Agencies Affected:** Office of the Inspector General, Department of the Treasury.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>
<b>State Cost</b>	Indeterminate - See Comments Below		

- ! Provides for the establishment of the Office of the Inspector General.
- ! The Office of Legislative Services (OLS) cannot determine the fiscal impact of this legislation because the legislation permits the Inspector General to establish the internal organizational structure of the office and does not specify the number or scope of audits and performance reviews the Office may conduct.
- ! The OLS notes that the Governor's FY 2006 Budget recommends a \$2.5 million appropriation for the Office of the Inspector General and provides supplemental budget authority as needed.
- ! The OLS further notes that \$1.2 million was transferred in FY 2005 from other appropriations to fund the Office of the Inspector General, pursuant to Executive Order No. 7, issued by the Governor on November 29, 2004.

**BILL DESCRIPTION**

Senate Committee Substitute (1R) for Senate Bill Nos. 2195 and 345 of 2005 creates the Office of the Inspector General. The bill allocated the office in, but not of, the Department of the Treasury, but the Inspector General will report directly to the Governor and submit budget requests for the office directly to the Director of the Division of Budget and Accounting.

As amended, a specific appropriation of \$3 million was replaced with language providing for transfer to the Office of the Inspector General from existing appropriations, subject to the approval of the Director of the Division of Budget and Accounting and any other approval required by the annual appropriations act, of such sums as may be required for the costs of the Office.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS cannot determine the fiscal impact of this legislation because the bill is permissive in that it allows the Inspector General to establish the internal organization and structure of the office. The Inspector General is given the authority to appoint and promote personnel as deemed necessary to carry out the duties and functions of the office. Also, the bill does not specify the number or scope of audits and performance reviews the Inspector General is to undertake each year.

The Office of the Inspector General was established under the provisions of Executive Order No. 7, issued by the Governor on November 29, 2004. This bill establishes that Office in statute. The bill provides for transfer to the Office of the Inspector General from existing appropriations, subject to the approval of the Director of the Division of Budget and Accounting and any other approval required by the annual appropriations act, of such sums as may be required for the costs of the Office.

The OLS notes that the FY 2006 Budget recommends a \$2.5 million General Fund appropriation to finance costs associated with the Office of the Inspector General and provides supplemental budget authority through proposed budget language. The FY 2006 budget anticipates 18 positions, eight of which are filled including three on loan from other agencies. OLS also notes that \$1.2 million was transferred in FY 2005 from other appropriations to fund the Office.

Based on the information provided in the FY 2006 Budget, OLS believes that a \$2.5 million annual appropriation is reasonable to fund the Office of the Inspector General. However, OLS cautions that these costs could increase due to the provisions of this bill that authorize supplemental budget authority from existing appropriations.

Section: *State Government*

Analyst: *James F. Vari*  
*Senior Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

**ASSEMBLY, No. 3676**

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**STATE OF NEW JERSEY**  
**211th LEGISLATURE**

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INTRODUCED JANUARY 10, 2005

**Sponsored by:**  
**Assemblyman ALBIO SIRES**  
**District 33 (Hudson)**

**SYNOPSIS**

Establishes Office of the Inspector General; makes an appropriation.

**CURRENT VERSION OF TEXT**

As introduced.



A3676 SIRES

2

1 AN ACT establishing an Office of the Inspector General,  
2 supplementing Title 52 of the Revised Statutes and making an  
3 appropriation.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. The Legislature finds and declares that:

9 the State of New Jersey expends more than \$28 billion in taxpayer  
10 funds each year, and agencies at other levels of government expend  
11 billions more;

12 it is fundamental that all government officials be publicly  
13 accountable for such expenditures;

14 promoting integrity in the administration and operations of  
15 government and improving public accountability are the cornerstones  
16 of government;

17 one of the remedial actions that can be taken to improve such  
18 accountability is to identify areas where State spending is wasteful or  
19 inefficient;

20 the Governor has the responsibility to ensure a balanced budget,  
21 manage the operations of State government effectively and efficiently,  
22 and maintain necessary government programs and assistance to the  
23 public;

24 it is the duty of the Governor to guard against extravagance, waste,  
25 or fiscal mismanagement in the administration of any State  
26 appropriation;

27 it is critically important that public officers and employees, at all  
28 levels of government, discharge their duties and responsibilities in a  
29 lawful and ethical manner, while conserving the fiscal resources that  
30 have been entrusted to the government's care by the taxpayers;

31 there is a compelling need to centralize the responsibility for  
32 reviewing, auditing, evaluating, and overseeing the expenditure of  
33 State funds by, and the procurement process of, all State departments  
34 and agencies, independent authorities, county and municipal  
35 governments, and boards of education; and

36 there is a need, therefore, to create the Office of the Inspector  
37 General, which will report directly to the Governor, to ensure that  
38 these responsibilities are met.

39

40 2. a. There is hereby created an Office of the Inspector General.  
41 The office shall be established in the Executive Branch of the State  
42 Government and for the purposes of complying with the provisions of  
43 Article V, Section IV, paragraph 1 of the New Jersey Constitution, the  
44 office shall be allocated in, but not of, the Department of the Treasury.

45 Notwithstanding this allocation, the office shall be independent of any  
46 supervision or control by the State Treasurer, or the department or by

**A3676 SIRES**

1 any division, board, office, or other officer thereof.

2 b. The Inspector General shall report directly to the Governor.

3 c. The Inspector General shall submit requests for the budget of  
4 the office directly to the Division of Budget and Accounting in the  
5 Department of the Treasury.

6

7 3. a. The Office of the Inspector General shall be administered by  
8 the Inspector General. The Inspector General shall be appointed by  
9 the Governor with the advice and consent of the Senate. The  
10 Inspector General shall be a person qualified by education, training,  
11 and prior work experience to direct the work of the office and to  
12 perform the duties and functions and fulfill the responsibilities of the  
13 position.

14 b. The Inspector General shall serve for a term of five years and  
15 until a successor is appointed and has qualified.

16 c. The Inspector General shall devote full time to the duties and  
17 responsibilities of the office and shall receive a salary as shall be  
18 provided pursuant to law.

19 d. During the term of office, the Inspector General may be  
20 removed by the Governor only for cause upon notice and opportunity  
21 to be heard.

22 e. A vacancy in the position of Inspector General due to a cause  
23 other than the expiration of the term shall be filled for the unexpired  
24 term only in the same manner as the original appointment.

25

26 4. A person who holds the position of Inspector General shall not  
27 be a candidate for, or hold elective public office, for a period of two  
28 years immediately following the termination of that person's service as  
29 Inspector General.

30

31 5. a. The Inspector General shall establish the internal  
32 organizational structure of the office in a manner appropriate to  
33 carrying out the duties and functions, and fulfilling the responsibilities,  
34 of the office. The Inspector General shall have the power to appoint,  
35 employ, promote, and remove such assistants, employees, and  
36 personnel are deemed necessary for the efficient and effective  
37 administration of the office.

38 b. Within the limits of funds appropriated for such purposes, the  
39 Inspector General may obtain the services of certified public  
40 accountants, qualified management consultants, and other  
41 professionals necessary to independently perform the duties and  
42 functions of the office.

43

44 6. The Inspector General is authorized to call upon any  
45 department, office, division or agency of State government to provide  
46 such information, resources, or other assistance deemed necessary to

## A3676 SIRES

1 discharge the duties and functions and to fulfill the responsibilities of  
2 the Inspector General under this act. Each department, office, division  
3 and agency of this State shall cooperate with the Inspector General  
4 and furnish the office with the assistance necessary to accomplish the  
5 purposes of this act.

6

7 7. The Inspector General is authorized to:  
8 establish a full-time program of audit, investigation, and  
9 performance review designed to provide increased accountability,  
10 integrity, and oversight of all recipients of State funds, including, but  
11 not limited to, State departments and agencies, independent  
12 authorities, county and municipal governments, and boards of  
13 education.

14 audit and monitor the awarding and the execution of contracts  
15 awarded by the State, or any of its independent authorities,  
16 commissions, boards, agencies, or instrumentalities, which contracts  
17 involve a significant expenditure of public funds or are comprised of  
18 complex or unique components, or both, as determined by the  
19 Inspector General.

20 investigate the performance of governmental officers, employees,  
21 appointees, functions, and programs in order to promote efficiency, to  
22 identify cost savings, and to detect and prevent misconduct within the  
23 programs and operations of any governmental agency funded by, or  
24 disbursing, State funds.

25 receive and investigate complaints concerning alleged fraud, waste,  
26 abuse, or mismanagement of State funds.

27

28 8. a. The Inspector General shall have all the powers necessary to  
29 carry out the duties and functions and to fulfill the responsibilities  
30 described in this act, including the power to conduct investigations,  
31 audits, evaluations, inspections, and other reviews.

32 b. The Inspector General and the office shall conduct audits,  
33 investigations, and performance reviews in accordance with all  
34 currently recognized national and professional standards, rules, and  
35 practices relating to such audits, investigations, and reviews in  
36 government environments, and the Inspector General shall ensure that  
37 the office remains in compliance with such standards, rules, and  
38 practices.

39 c. In furtherance of an investigation, the Inspector General may  
40 compel at a specific time and place, by subpoena, the appearance and  
41 sworn testimony of any person whom the Inspector General reasonably  
42 believes may be able to give information relating to a matter under  
43 investigation. For this purpose, the Inspector General is empowered  
44 to administer oaths and examine witnesses under oath, and compel any  
45 person to produce at a specific time and place, by subpoena, any  
46 documents, books, records, papers, objects, or other evidence that the



1 Inspector General reasonably believes may relate to a matter under  
2 investigation.

3 Failure to comply with a subpoena, issued pursuant to this  
4 subsection, to testify, to answer a proper question, or to produce  
5 books, papers, documents, or other objects, or misconduct on the part  
6 of a person attending an interview or hearing, shall be punishable by  
7 the Superior Court in the same manner as like failure or misconduct is  
8 punishable in an action pending in the court.

9 d. A person compelled to appear by the Inspector General and  
10 provide sworn testimony shall have the right to be accompanied by  
11 counsel, who shall be permitted to advise the witness of his or her  
12 rights. A witness compelled to appear and testify shall be accorded all  
13 due process rights.

14

15 9. The Inspector General is authorized to cooperate and conduct  
16 joint investigations with other oversight or law enforcement  
17 authorities. The Inspector General is authorized and shall be permitted  
18 to participate in investigations conducted by other oversight or law  
19 enforcement authorities in this State.

20

21 10. The Inspector General may decline to investigate a complaint  
22 received when it is determined that: the complaint is trivial, frivolous,  
23 vexatious or not made in good faith; the complaint has been too long  
24 delayed to justify a present investigation; the resources available,  
25 considering established priorities, are insufficient for an adequate  
26 investigation; or the matter complained of is not within the Inspector  
27 General's investigatory authority.

28

29 11. The Inspector General is authorized to refer complaints  
30 received that allege criminal conduct to the Attorney General or other  
31 appropriate prosecutorial authority. In the course of conducting  
32 audits, investigations, and performance reviews, the Inspector General  
33 generally may refer matters for further civil, criminal, and  
34 administrative action to the appropriate authorities.

35

36 12. a. When the Inspector General refers complaints alleging  
37 criminal conduct to the Attorney General or other appropriate  
38 prosecutorial authority and the Attorney General or prosecutorial  
39 authority decides not to investigate or prosecute the matter, the  
40 Attorney General or the prosecutorial authority shall promptly notify  
41 the Inspector General. The Attorney General or the prosecutorial  
42 authority shall inform the Inspector General as to whether an  
43 investigation is ongoing with regard to any matter so referred.

44 If the Attorney General or the prosecutorial authority decides not  
45 to investigate or act upon the matter referred, the Inspector General  
46 is authorized to continue an investigation after the receipt of such a

1 notice.

2 Upon completion of an investigation or, in a case where the  
3 investigation leads to prosecution, upon completion of the  
4 prosecution, the Attorney General or the prosecutorial authority shall  
5 report promptly the findings and results to the Inspector General. In  
6 the course of informing the Inspector General, the Attorney General  
7 or prosecutorial authority shall give full consideration to the authority,  
8 duties, functions, and responsibilities of the Inspector General, the  
9 public interest in disclosure, and the need for protecting the  
10 confidentiality of complainants and informants.

11 b. With respect to referrals other than those described in subsection  
12 a. of this section, the appropriate authority to which a matter has been  
13 referred by the Inspector General shall report to the Inspector General  
14 promptly when a final determination is made to not investigate or act  
15 upon the matter referred, or promptly upon completion of the  
16 investigation or action taken. The appropriate authority shall inform  
17 the Inspector General as to whether an investigation is ongoing with  
18 regard to any matter so referred.

19 In the course of informing the Inspector General, the appropriate  
20 authority shall give full consideration to the authority, duties,  
21 functions, and responsibilities of the Inspector General, the public  
22 interest in disclosure, and the need for protecting the confidentiality of  
23 complainants and informants.

24 If the governmental entity decides not to investigate or act upon the  
25 matter referred, the Inspector General is authorized to continue an  
26 investigation after the receipt of such a notice.

27 c. The Inspector General shall maintain a record of all matters  
28 referred and the responses received and shall be authorized to disclose  
29 information received as appropriate, to the extent consistent with the  
30 the public interest in disclosure and the need for protecting the  
31 confidentiality of complainants and informants, and as may be  
32 necessary to resolve the matter referred.

33

34 13. The Inspector General shall meet at periodic intervals, but at  
35 least twice annually, with the Attorney General, the State Treasurer,  
36 the State Auditor, and any other public officers or employees deemed  
37 necessary who perform audits, investigations, and performance  
38 reviews similar or identical to those authorized to be performed by the  
39 Inspector General for the purpose of consulting, coordinating, and  
40 cooperating with those officers and employees in the conduct of  
41 audits, investigations and reviews. The Attorney General, the State  
42 Treasurer, the State Auditor, and such other public officers or  
43 employees shall attend such meetings for the purpose of consultation,  
44 coordination, and cooperation with the Inspector General.

45 The focus of all parties during such meetings shall be to: facilitate  
46 communication and exchange information on completed, current, and

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1 future audits, investigations, and reviews; avoid duplication and  
2 fragmentation of efforts; optimize the use of resources; avoid  
3 divisiveness and organizational uncertainty; promote effective working  
4 relationships; and avoid the unnecessary expenditure of public funds.  
5

6 14. The Inspector General shall report the findings of audits,  
7 investigations, and reviews performed by the office, and issue  
8 recommendations for corrective or remedial action, to the Governor  
9 and to the entity at issue. The Inspector General shall monitor the  
10 implementation of those recommendations.  
11

12 15. The Inspector General shall provide periodic reports to the  
13 Governor, and shall issue an annual report to the Governor and the  
14 Legislature, which shall be available to the public.  
15

16 16. There is appropriated from the General Fund \$3,000,000 to the  
17 Office of the Inspector General to establish the Office of the Inspector  
18 General and implement the provisions of this act.  
19

20 17. This act shall take effect immediately.  
21  
22

23 STATEMENT  
24

25 This bill creates the Office of the Inspector General. It is based on  
26 Executive Order No. 7, issued by Acting Governor Codey on  
27 November 29, 2004, which established such an office.

28 Establishment of the Office of the Inspector General is necessary to  
29 centralize the responsibility for reviewing, auditing, evaluating and  
30 overseeing the expenditure of State funds by, and the procurement  
31 process of, all State departments and agencies, independent  
32 authorities, county and municipal governments, and boards of  
33 education.

34 Under the bill, the office will report directly to the Governor, but  
35 is allocated in, but not of, the Department of the Treasury.

36 The Inspector General would be appointed by the Governor with  
37 the advice and consent of the Senate. The person appointed would  
38 have to be qualified by education, training and experience to perform  
39 the duties and functions and fulfill the responsibilities of the position.  
40 The Inspector General would serve for a term of five years, but could  
41 be removed by the Governor for cause. A person serving as Inspector  
42 General would be precluded from being a candidate for, or holding,  
43 elective public office for, a period of two years after leaving office.

44 The Inspector General would be authorized to:

45 establish a full-time program of audit, investigation and  
46 performance review designed to provide increased accountability,

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8

1 integrity and oversight of all recipients of State funds, including, but  
2 not limited to, all State departments and agencies, independent  
3 authorities, county and municipal governments, and boards of  
4 education.

5 audit and monitor the awarding and the execution of contracts  
6 awarded by the State, or any of its independent authorities,  
7 commissions, boards, agencies, or instrumentalities, which contracts  
8 involve a significant expenditure of public funds or are comprised of  
9 complex or unique components, or both, as determined by the  
10 Inspector General.

11 investigate the performance of governmental officers, employees,  
12 appointees, functions, and programs in order to promote efficiency, to  
13 identify cost savings, and to detect and prevent misconduct within the  
14 programs and operations of any governmental agency funded by, or  
15 disbursing, State funds.

16 receive and investigate complaints concerning alleged fraud, waste,  
17 abuse, or mismanagement of State funds.

18 The Inspector General would have all necessary powers to carry out  
19 this task, including the power to conduct investigations, audits,  
20 evaluations, inspections, and other reviews in accordance with  
21 professional standards relating to such investigations and audits in  
22 government environments and the power to issue subpoenas.

23 The Inspector General would refer complaints alleging criminal  
24 conduct to the Attorney General or other appropriate prosecutorial  
25 authority, and refer other matters for further civil, criminal and  
26 administrative action to the appropriate authorities. The appropriate  
27 officers or authorities to which the referrals are made would have to  
28 report back to the Inspector General.

29 The Inspector General could decline to investigate a complaint  
30 received if: it is trivial, frivolous, vexatious or not made in good faith;  
31 it has been too long delayed to justify a present investigation; the  
32 resources available, considering established priorities, are insufficient  
33 for an adequate investigation; or the matter complained of is not  
34 within the Inspector General's investigatory authority.

35 The Inspector General would be authorized to cooperate with and  
36 conduct joint investigations with other oversight or law enforcement  
37 authorities and would be entitled to participate in investigations  
38 conducted by other oversight or law enforcement authorities in this  
39 State.

40 The Inspector General is required to meet periodically, but at least  
41 twice annually, with the Attorney General, the State Treasurer, the  
42 State Auditor, and any other public officers or employees deemed  
43 necessary who perform audits, investigations, and performance  
44 reviews similar or identical to those authorized to be performed by the  
45 Inspector General for the purpose of consulting, coordinating, and  
46 cooperating with those officers and employees in the conduct of

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9

1 audits, investigations and reviews. The focus of all parties during such  
2 meetings will be to: facilitate communication and exchange  
3 information on completed, current, and future audits, investigations,  
4 and reviews; avoid duplication and fragmentation of efforts; optimize  
5 the use of resources; avoid divisiveness or organizational uncertainty;  
6 promote effective working relationships; and avoid the unnecessary  
7 expenditure of public funds.

8 The Inspector General is directed to establish the internal  
9 organizational structure of the office; appoint such assistants,  
10 employees and personnel as may be necessary for the efficient and  
11 effective administration of the office; and obtain the services of  
12 certified public accountants, qualified management consultants and  
13 other professionals necessary to independently perform the duties and  
14 functions of the office.

15 The Inspector General would report the findings of such audits or  
16 investigations performed by the office, and issue recommendations for  
17 corrective or remedial action, to the Governor and to the entity at  
18 issue. The Inspector General would monitor the implementation of  
19 those recommendations. The Inspector General would be required to  
20 provide periodic reports to the Governor and to issue a public annual  
21 report to the Governor and the Legislature.

22 The bill appropriates from the State General Fund \$3,000,000 to  
23 implement this act.

# ASSEMBLY STATE GOVERNMENT COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3676**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 10, 2005

The Assembly State Government Committee reports favorably and with committee amendments Assembly, No. 3676.

As amended, this bill creates the Office of the Inspector General. It is based on Executive Order No. 7, issued by Acting Governor Codey on November 29, 2004, which established such an office.

The purpose of establishing the Office of the Inspector General is to centralize in one office the responsibility for reviewing, auditing, evaluating and overseeing the expenditure of State funds by, and the procurement process of, State departments and agencies, independent authorities, county and municipal governments, and boards of education.

The bill allocates the office in, but not of, the Department of the Treasury, but the Inspector General will report directly to the Governor and submit budget requests for the office directly to the Director of the Division of Budget and Accounting.

The Inspector General is to be appointed by the Governor with the advice and consent of the Senate. The Inspector General would serve for a term of five years, but could be removed by the Governor for cause. A person serving as Inspector General could not, for two years after leaving that position, be a candidate for, or hold, elective public office.

The Inspector General is authorized to:

(1) establish a full-time program of audit, investigation and performance review designed to provide increased accountability, integrity and oversight of all recipients of State funds, including, but not limited to, State departments and agencies, independent authorities, county and municipal governments, and boards of education;

(2) audit and monitor the awarding and the execution of contracts awarded by the State, or any of its independent authorities, commissions, boards, agencies, or instrumentalities, if those contracts involve a significant expenditure of public funds or are comprised of complex or unique components, or both, as determined by the Inspector General;

(3) investigate the performance of governmental officers, employees, appointees, functions, and programs to promote efficiency, identify cost savings, and detect and prevent misconduct within the programs and operations of any governmental agency funded by, or disbursing, State funds; and

(4) receive and investigate complaints concerning alleged fraud, waste, abuse, or mismanagement of State funds.

The Inspector General is to have all necessary powers to carry out this task, including the power to conduct investigations, audits, evaluations, inspections, and other reviews in accordance with professional standards relating to such investigations and audits in government environments and the power to issue subpoenas.

The Inspector General is authorized to refer complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority, and refer other matters for further civil, criminal and administrative action to the appropriate authorities. The appropriate officer or authority to which a referral is made would have to report back to the Inspector General as to whether the officer or authority declines to investigate the matter referred, or alternatively, whether the matter is under investigation. In the latter case, the officer or authority is directed, upon completion of the investigation (or prosecution, if appropriate), to report the findings and results to the Inspector General. If the officer or authority declines to investigate a matter referred, the Inspector General is authorized to go forward with an investigation.

The Inspector General could decline to investigate a complaint received if: it is trivial, frivolous, vexatious or not made in good faith; it has been too long delayed to justify a present investigation; the resources available, considering established priorities, are insufficient for an adequate investigation; or the matter complained of is not within the Inspector General's investigatory authority.

The Inspector General is authorized to cooperate with and conduct joint investigations with other oversight or law enforcement authorities and would be entitled to participate in investigations conducted by other oversight or law enforcement authorities in this State.

The Inspector General is required to meet periodically, but at least twice annually, with the Attorney General, the State Treasurer, the State Auditor, and any other public officers or employees deemed necessary who perform audits, investigations, and performance reviews similar or identical to those authorized to be performed by the Inspector General for the purpose of consulting, coordinating, and cooperating with those officers and employees in the conduct of audits, investigations and reviews.

The Inspector General is authorized to obtain the services of certified public accountants, qualified management consultants and other professionals necessary to independently perform the duties and functions of the office.

The Inspector General is to report the findings of audits or investigations performed by the office, and issue recommendations for corrective or remedial action, to the Governor and to the entity at issue. The Inspector General would monitor the implementation of those recommendations. The Inspector General would be required to provide periodic reports to the Governor and to issue a public annual report to the Governor and the Legislature.

Assembly, No. 3676 (1R) is the same as Senate, Nos. 2195 and 345 SCS (1R) of 2005.

#### COMMITTEE AMENDMENTS

The committee amended the bill to:

(1) clarify that authority for determining the personnel policies necessary for the efficient and effective administration of the Office of the Inspector General rests with the Inspector General;

(2) provide that employees of the Office of the Inspector General shall be confidential employees for purposes of the statute governing relations between public employers and their employees;

(3) clarify that it is the “prevailing” national and professional standards that are to govern the Inspector General’s conduct of audits, investigations and performance reviews, rather than the entire range of those that are “currently recognized”;

(4) clarify the procedure that is to govern the compulsion of testimony or document production when a person fails to respond to the Inspector General’s subpoena of such testimony or documents;

(5) provide explicitly that, when informed in response to referral of a matter to a prosecutorial authority that the matter is under ongoing criminal investigation, the Inspector General is to preserve the confidentiality of the existence of that investigation;

(6) provide that the Inspector General’s disclosure of information received in response to matters referred shall be limited to the extent that such disclosure is consistent with preserving the confidentiality of ongoing criminal investigations;

(7) provide that whenever proper request is made for access to a government record that the Inspector General obtained from another public agency during an investigation, and that record had been open for public inspection, examination or copying before the investigation commenced, then the public agency from which the Inspector General obtained the record shall comply with the request, provided that the request does not identify the record sought by reference to the Inspector General's investigation or to an investigation by any other public agency; and

(8) replace a specific appropriation of \$3 million with language providing for transfer to the Office of the Inspector General from existing appropriations, subject to the approval of the Director of the Division of Budget and Accounting and any other approval required by the annual appropriations act, of such sums as may be required for the costs of the Office.



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### ASSEMBLY, No. 3676

# STATE OF NEW JERSEY

DATED: JUNE 9, 2005

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3676 (1R).

Assembly Bill No. 3676 (1R) creates the Office of the Inspector General. It is based on Executive Order No. 7, issued by Acting Governor Codey on November 29, 2004, which established such an office.

The purpose of establishing the Office of the Inspector General is to centralize in one office the responsibility for reviewing, auditing, evaluating and overseeing the expenditure of State funds by, and the procurement process of, State departments and agencies, independent authorities, county and municipal governments, and boards of education.

The bill allocates the office in, but not of, the Department of the Treasury, but the Inspector General will report directly to the Governor and submit budget requests for the office directly to the Director of the Division of Budget and Accounting.

The Inspector General is to be appointed by the Governor with the advice and consent of the Senate. The Inspector General would serve for a term of five years, but could be removed by the Governor for cause. A person serving as Inspector General could not, for two years after leaving that position, be a candidate for, or hold, elective public office.

The Inspector General is authorized to:

(1) establish a full-time program of audit, investigation and performance review designed to provide increased accountability, integrity and oversight of all recipients of State funds, including, but not limited to, State departments and agencies, independent authorities, county and municipal governments, and boards of education;

(2) audit and monitor the awarding and the execution of contracts awarded by the State, or any of its independent authorities, commissions, boards, agencies, or instrumentalities, if those contracts involve a significant expenditure of public funds or are comprised of complex or unique components, or both, as determined by the Inspector General;

(3) investigate the performance of governmental officers, employees, appointees, functions, and programs to promote efficiency, identify cost savings, and detect and prevent misconduct within the programs and operations of any governmental agency funded by, or disbursing, State funds; and

(4) receive and investigate complaints concerning alleged fraud, waste, abuse, or mismanagement of State funds.

The Inspector General is to have all necessary powers to carry out this task, including the power to conduct investigations, audits, evaluations, inspections, and other reviews in accordance with professional standards relating to such investigations and audits in government environments and the power to issue subpoenas.

The Inspector General is authorized to refer complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority, and refer other matters for further civil, criminal and administrative action to the appropriate authorities. The appropriate officer or authority to which a referral is made would have to report back to the Inspector General as to whether the officer or authority declines to investigate the matter referred, or alternatively, whether the matter is under investigation. In the latter case, the officer or authority is directed, upon completion of the investigation (or prosecution, if appropriate), to report the findings and results to the Inspector General. If the officer or authority declines to investigate a matter referred, the Inspector General is authorized to go forward with an investigation.

The Inspector General could decline to investigate a complaint received if: it is trivial, frivolous, vexatious or not made in good faith; it has been too long delayed to justify a present investigation; the resources available, considering established priorities, are insufficient for an adequate investigation; or the matter complained of is not within the Inspector General's investigatory authority.

The Inspector General is authorized to cooperate with and conduct joint investigations with other oversight or law enforcement authorities and would be entitled to participate in investigations conducted by other oversight or law enforcement authorities in this State.

The Inspector General is required to meet periodically, but at least twice annually, with the Attorney General, the State Treasurer, the State Auditor, and any other public officers or employees deemed necessary who perform audits, investigations, and performance reviews similar or identical to those authorized to be performed by the Inspector General for the purpose of consulting, coordinating, and cooperating with those officers and employees in the conduct of audits, investigations and reviews.

The Inspector General is authorized to obtain the services of certified public accountants, qualified management consultants and other professionals necessary to independently perform the duties and functions of the office.

The Inspector General is to report the findings of audits or

investigations performed by the office, and issue recommendations for corrective or remedial action, to the Governor and to the entity at issue. The Inspector General would monitor the implementation of those recommendations. The Inspector General would be required to provide periodic reports to the Governor and to issue a public annual report to the Governor and the Legislature.

As reported, this bill is identical to Senate Bill Nos. 2195 and 345 SCS (1R) of 2005, as also reported by the committee.

FISCAL IMPACT:

Under Executive Order No. 7, a total of \$1,222,000 has been transferred from other appropriations to fund the office in FY2005. The Governor's FY2006 Budget recommends an appropriation of \$2,500,000 for the office.

Minority Statement

by

Assemblymen Pennachio, Corodemus and Merkt and  
Assemblywoman Myers

This bill merely maintains the status quo despite recent experience showing that the status quo is just not good enough. Codifying the current Office of Inspector General simply perpetuates the weakness, ineffectiveness, and lack of accountability that presently characterize that office. New Jersey does not need an appointed "inspector" who is accountable only to the very Governor whose administration is supposed to be scrutinized by that official. By the very nature of the office, the Inspector General will only review government activities when that review has the blessing of the Governor.

The creation of the Office of Inspector General was an acceptable stopgap measure pending the establishment of a permanent, independent, and accountable office dedicated to government reform. As a long-term response to the recent revelations of government mismanagement in New Jersey, however, it fails the test of adequacy.

This bill is better than nothing, but New Jersey's taxpayers deserve better than merely "better than nothing." State government clearly needs new and aggressive measures to counter corruption, waste, and fraud, and the status quo is simply not sufficient to the task. In order to be genuinely independent of the Governor and accountable to the taxpayers, the office must be elective. In order to be truly permanent and potent, it must be constitutionally founded.

Several proposals exist that would create an independent, elected officer who would be directly accountable to the voters and taxpayers. This committee should reject the status quo and instead review those proposals and develop a constitutionally established, permanent, elective, unfettered and independent office to do the work required to restore confidence in government. This committee should not settle for anything less, because the public will not be mollified by anything less.

STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 3676**

with Assembly Floor Amendments  
(Proposed By Assemblyman SIRES)

ADOPTED: JUNE 20, 2005

This Assembly floor amendment requires that, in addition to the Governor and the public entity at issue, the President of the Senate and the Speaker of the General Assembly will receive the findings and recommendations of audits, investigations, and reviews performed by the Inspector General.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3676

STATE OF NEW JERSEY

211th LEGISLATURE

DATED: JUNE 23, 2005

## SUMMARY

**Synopsis:** Establishes Office of the Inspector General.  
**Type of Impact:** State Expenditure Increase: General Fund.  
**Agencies Affected:** Office of the Inspector General, Department of the Treasury.

### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>FY 2006</u></b>	<b><u>FY 2007</u></b>	<b><u>FY 2008</u></b>
<b>State Cost</b>	Indeterminate - See Comments Below		

- ! Provides for the establishment of the Office of the Inspector General.
- ! The Office of Legislative Services (OLS) cannot determine the fiscal impact of this legislation because the legislation permits the Inspector General to establish the internal organizational structure of the office and does not specify the number or scope of audits and performance reviews the Office may conduct.
- ! The OLS notes that the Governor's FY 2006 Budget recommends a \$2.5 million appropriation for the Office of the Inspector General and provides supplemental budget authority as needed.
- ! The OLS further notes that \$1.2 million was transferred in FY 2005 from other appropriations to fund the Office of the Inspector General, pursuant to Executive Order No. 7, issued by the Governor on November 29, 2004.

## BILL DESCRIPTION

Assembly Bill No. 3676 (1R) of 2005 creates the Office of the Inspector General. The bill allocated the office in, but not of, the Department of the Treasury, but the Inspector General will report directly to the Governor and submit budget requests for the office directly to the Director of the Division of Budget and Accounting.

As amended, a specific appropriation of \$3 million was replaced with language providing for

transfer to the Office of the Inspector General from existing appropriations, subject to the approval of the Director of the Division of Budget and Accounting and any other approval required by the annual appropriations act, of such sums as may be required for the costs of the Office.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS cannot determine the fiscal impact of this legislation because the bill is permissive in that it allows the Inspector General to establish the internal organization and structure of the office. The Inspector General is given the authority to appoint and promote personnel as deemed necessary to carry out the duties and functions of the office. Also, the bill does not specify the number or scope of audits and performance reviews the Inspector General is to undertake each year.

The Office of the Inspector General was established under the provisions of Executive Order No. 7, issued by the Governor on November 29, 2004. This bill establishes that Office in statute. The bill provides for transfer to the Office of the Inspector General from existing appropriations, subject to the approval of the Director of the Division of Budget and Accounting and any other approval required by the annual appropriations act, of such sums as may be required for the costs of the Office.

The OLS notes that the FY 2006 Budget recommends a \$2.5 million General Fund appropriation to finance costs associated with the Office of the Inspector General and provides supplemental budget authority through proposed budget language. The FY 2006 budget anticipates 18 positions, eight of which are filled including three on loan from other agencies. OLS also notes that \$1.2 million was transferred in FY 2005 from other appropriations to fund the Office.

Based on the information provided in the FY 2006 Budget, OLS believes that a \$2.5 million annual appropriation is reasonable to fund the Office of the Inspector General. However, OLS cautions that these costs could increase due to the provisions of this bill that authorize supplemental budget authority from existing appropriations.

Section: *State Government*

Analyst: *James F. Vari*  
*Senior Fiscal Analyst*

Approved: *David J. Rosen*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

PO BOX 004  
TRENTON, NJ 08625

Contact: Kelley Heck  
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RELEASE: July 01, 2005

## **Codey: with Signing of Inspector General Bill, Accountability, Integrity and Confidence Become the Standard for State Government**

(TRENTON) – Acting Governor Richard J. Codey today signed S2195 / A3676, legislation that will codify the Office of the Inspector General into law.

“Today accountability, integrity and confidence become the standard for state government,” Codey said. “By making the Inspector General a permanent institution, we take a bold step to restore the public’s confidence and ensure an honest government that uses tax dollars efficiently and appropriately. The people of New Jersey deserve no less.

“Mary Jane Cooper, our first Inspector General, has already proven how vital this role is for New Jersey,” Codey said. “Her swift, thorough investigation of the School Construction Corporation led to reforms that are making the SCC efficient and accountable.”

Codey created the Office of the Inspector General in November, by executive order. He later named Mary Jane Cooper, a veteran investigator of complex fraud cases, as New Jersey’s first Inspector General. The new legislation makes the office a permanent creation.

The Inspector General’s mandate is to root out waste, mismanagement and fraud in government spending. The Inspector General has the authority to review procurements and public contracts; receive complaints and perform investigations into state programs; conduct performance reviews to determine whether programs can be run more efficiently; and look into technology and better business practices that would save taxpayer dollars.

The bill’s primary sponsors are Senator Bernard F. Kenny (D-Hudson), Senator Nicholas Asselta (R-Atlantic, Cape May, Cumberland), Senator William L. Gormley (R-Atlantic), Assembly Speaker Albio Sires (D-Hudson), Assembly Majority Leader Joseph J. Roberts (D-Camden, Gloucester), Assemblywoman Linda R. Greenstein (D-Mercer, Middlesex), Assemblyman Michael J. Panter (D-Mercer, Monmouth), Assemblywoman Bonnie Watson Coleman (D-Mercer) and Assemblyman Jeff Van Drew (D-Atlantic, Cape May, Cumberland).

The passage and signing of this legislation is another step in Codey’s continuing commitment to eliminating waste and mismanagement of taxpayer funds, and restoring the public trust in the integrity of government.