



Rep. Jim Sacia

**Filed: 3/7/2011**

09700HB3212ham001

LRB097 08497 JDS 52239 a

1 AMENDMENT TO HOUSE BILL 3212

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3212 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The State Officials and Employees Ethics Act is  
5 amended by changing Sections 30-5 as follows:

6 (5 ILCS 430/30-5)

7 Sec. 30-5. Appointment of Inspector General.

8 (a) The Auditor General shall appoint an Inspector General

9 (i) to investigate allegations of violations of Articles 5 and  
10 10 by State officers and employees under his or her  
11 jurisdiction and (ii) to perform other duties and exercise  
12 other powers assigned to the Inspectors General by this or any  
13 other Act. The Inspector General shall be appointed within 6  
14 months after the effective date of this Act.

15 (b) The Auditor General shall provide by rule for the  
16 operation of his or her Inspector General. It is declared to be

1 in the public interest, safety, and welfare that the Auditor  
2 General adopt emergency rules under the Illinois  
3 Administrative Procedure Act to initially perform his or her  
4 duties under this subsection.

5 (c) The Inspector General appointed by the Auditor General  
6 under subsection (a) of this Section shall have the following  
7 qualifications:

8 (1) has not been convicted of any felony under the laws  
9 of this State, another State, or the United States;

10 (2) has earned a baccalaureate degree from an  
11 institution of higher education;

12 (3) has not, for appointments made on or after the  
13 effective date of this amendatory Act of the 97th General  
14 Assembly, been employed by the Auditor General other than  
15 as an Inspector General or an employee in the Office of the  
16 Inspector General for the Auditor General during the 5  
17 years immediately preceding his or her appointment; and

18 (4) has (A) 5 or more years of service with a federal,  
19 State, or local law enforcement agency, at least 2 years of  
20 which have been in a progressive investigatory capacity;

21 (B) 5 or more years of service as a federal, State, or  
22 local prosecutor; or (C) 5 or more years of service as a  
23 senior manager or executive of a federal, State, or local  
24 agency.

25 The Auditor General may appoint an existing inspector  
26 general as the Inspector General required by this Article,

1 provided that such an inspector general is not prohibited by  
2 law, rule, jurisdiction, qualification, or interest from  
3 serving as the Inspector General required by this Article.

4 The Auditor General may not appoint a relative as the  
5 Inspector General required by this Article.

6 (Source: P.A. 93-617, eff. 12-9-03.)

7 Section 10. The Secretary of State Act is amended by  
8 changing Section 14 as follows:

9 (15 ILCS 305/14)

10 Sec. 14. Inspector General.

11 (a) The Secretary of State must, with the advice and  
12 consent of the Senate, appoint an Inspector General for the  
13 purpose of detection, deterrence, and prevention of fraud,  
14 corruption, mismanagement, gross or aggravated misconduct, or  
15 misconduct that may be criminal in nature in the Office of the  
16 Secretary of State. The Inspector General shall serve a 5-year  
17 term. If no successor is appointed and qualified upon the  
18 expiration of the Inspector General's term, the Office of  
19 Inspector General is deemed vacant and the powers and duties  
20 under this Section may be exercised only by an appointed and  
21 qualified interim Inspector General until a successor  
22 Inspector General is appointed and qualified. If the General  
23 Assembly is not in session when a vacancy in the Office of  
24 Inspector General occurs, the Secretary of State may appoint an

1 interim Inspector General whose term shall expire 2 weeks after  
2 the next regularly scheduled session day of the Senate.

3 (b) The Inspector General appointed under subsection (a) of  
4 this Section shall have the following qualifications:

5 (1) has not been convicted of any felony under the laws  
6 of this State, another State, or the United States;

7 (2) has earned a baccalaureate degree from an  
8 institution of higher education; ~~and~~

9 (2.5) has not, for appointments made on or after the  
10 effective date of this amendatory Act of the 97th General  
11 Assembly, been employed by the Secretary of State other  
12 than as an Inspector General or an employee in the Office  
13 of the Inspector General for the Secretary of State during  
14 the 5 years immediately preceding his or her appointment;  
15 and

16 (3) has either (A) 5 or more years of service with a  
17 federal, State, or local law enforcement agency, at least 2  
18 years of which have been in a progressive investigatory  
19 capacity; (B) 5 or more years of service as a federal,  
20 State, or local prosecutor; or (C) 5 or more years of  
21 service as a senior manager or executive of a federal,  
22 State, or local agency.

23 (c) The Inspector General may review, coordinate, and  
24 recommend methods and procedures to increase the integrity of  
25 the Office of the Secretary of State. The duties of the  
26 Inspector General shall supplement and not supplant the duties

1 of the Chief Auditor for the Secretary of State's Office or any  
2 other Inspector General that may be authorized by law. The  
3 Inspector General must report directly to the Secretary of  
4 State.

5 (d) In addition to the authority otherwise provided by this  
6 Section, but only when investigating the Office of the  
7 Secretary of State, its employees, or their actions for fraud,  
8 corruption, mismanagement, gross or aggravated misconduct, or  
9 misconduct that may be criminal in nature, the Inspector  
10 General is authorized:

11 (1) To have access to all records, reports, audits,  
12 reviews, documents, papers, recommendations, or other  
13 materials available that relate to programs and operations  
14 with respect to which the Inspector General has  
15 responsibilities under this Section.

16 (2) To make any investigations and reports relating to  
17 the administration of the programs and operations of the  
18 Office of the Secretary of State that are, in the judgment  
19 of the Inspector General, necessary or desirable.

20 (3) To request any information or assistance that may  
21 be necessary for carrying out the duties and  
22 responsibilities provided by this Section from any local,  
23 State, or federal governmental agency or unit thereof.

24 (4) To require by subpoena the appearance of witnesses  
25 and the production of all information, documents, reports,  
26 answers, records, accounts, papers, and other data and

1 documentary evidence necessary in the performance of the  
2 functions assigned by this Section, with the exception of  
3 subsection (c) and with the exception of records of a labor  
4 organization authorized and recognized under the Illinois  
5 Public Labor Relations Act to be the exclusive bargaining  
6 representative of employees of the Secretary of State,  
7 including, but not limited to, records of representation of  
8 employees and the negotiation of collective bargaining  
9 agreements. A subpoena may be issued under this paragraph  
10 (4) only by the Inspector General and not by members of the  
11 Inspector General's staff. A person duly subpoenaed for  
12 testimony, documents, or other items who neglects or  
13 refuses to testify or produce documents or other items  
14 under the requirements of the subpoena shall be subject to  
15 punishment as may be determined by a court of competent  
16 jurisdiction, unless (i) the testimony, documents, or  
17 other items are covered by the attorney-client privilege or  
18 any other privilege or right recognized by law or (ii) the  
19 testimony, documents, or other items concern the  
20 representation of employees and the negotiation of  
21 collective bargaining agreements by a labor organization  
22 authorized and recognized under the Illinois Public Labor  
23 Relations Act to be the exclusive bargaining  
24 representative of employees of the Secretary of State.  
25 Nothing in this Section limits a person's right to  
26 protection against self-incrimination under the Fifth

1 Amendment of the United States Constitution or Article I,  
2 Section 10, of the Constitution of the State of Illinois.

3 (5) To have direct and prompt access to the Secretary  
4 of State for any purpose pertaining to the performance of  
5 functions and responsibilities under this Section.

6 (d-5) In addition to the authority otherwise provided by  
7 this Section, the Secretary of State Inspector General shall  
8 have jurisdiction to investigate complaints and allegations of  
9 wrongdoing by any person or entity related to the Lobbyist  
10 Registration Act. When investigating those complaints and  
11 allegations, the Inspector General is authorized:

12 (1) To have access to all records, reports, audits,  
13 reviews, documents, papers, recommendations, or other  
14 materials available that relate to programs and operations  
15 with respect to which the Inspector General has  
16 responsibilities under this Section.

17 (2) To request any information or assistance that may  
18 be necessary for carrying out the duties and  
19 responsibilities provided by this Section from any local,  
20 State, or federal governmental agency or unit thereof.

21 (3) To require by subpoena the appearance of witnesses  
22 and the production of all information, documents, reports,  
23 answers, records, accounts, papers, and other data and  
24 documentary evidence necessary in the performance of the  
25 functions assigned by this Section. A subpoena may be  
26 issued under this paragraph (3) only by the Inspector

1           General and not by members of the Inspector General's  
2           staff. A person duly subpoenaed for testimony, documents,  
3           or other items who neglects or refuses to testify or  
4           produce documents or other items under the requirements of  
5           the subpoena shall be subject to punishment as may be  
6           determined by a court of competent jurisdiction, unless the  
7           testimony, documents, or other items are covered by the  
8           attorney-client privilege or any other privilege or right  
9           recognized by law. Nothing in this Section limits a  
10          person's right to protection against self-incrimination  
11          under the Fifth Amendment of the United States Constitution  
12          or Section 10 of Article I of the Constitution of the State  
13          of Illinois.

14                 (4) To have direct and prompt access to the Secretary  
15                 of State for any purpose pertaining to the performance of  
16                 functions and responsibilities under this Section.

17                 (e) The Inspector General may receive and investigate  
18                 complaints or information concerning the possible existence of  
19                 an activity constituting a violation of law, rules, or  
20                 regulations; mismanagement; abuse of authority; or substantial  
21                 and specific danger to the public health and safety. Any person  
22                 who knowingly files a false complaint or files a complaint with  
23                 reckless disregard for the truth or the falsity of the facts  
24                 underlying the complaint may be subject to discipline as set  
25                 forth in the rules of the Department of Personnel of the  
26                 Secretary of State or the Inspector General may refer the



1 matter to a State's Attorney or the Attorney General.

2 The Inspector General may not, after receipt of a complaint  
3 or information, disclose the identity of the source without the  
4 consent of the source, unless the Inspector General determines  
5 that disclosure of the identity is reasonable and necessary for  
6 the furtherance of the investigation.

7 Any employee who has the authority to recommend or approve  
8 any personnel action or to direct others to recommend or  
9 approve any personnel action may not, with respect to that  
10 authority, take or threaten to take any action against any  
11 employee as a reprisal for making a complaint or disclosing  
12 information to the Inspector General, unless the complaint was  
13 made or the information disclosed with the knowledge that it  
14 was false or with willful disregard for its truth or falsity.

15 (f) The Inspector General must adopt rules, in accordance  
16 with the provisions of the Illinois Administrative Procedure  
17 Act, establishing minimum requirements for initiating,  
18 conducting, and completing investigations. The rules must  
19 establish criteria for determining, based upon the nature of  
20 the allegation, the appropriate method of investigation, which  
21 may include, but is not limited to, site visits, telephone  
22 contacts, personal interviews, or requests for written  
23 responses. The rules must also clarify how the Office of the  
24 Inspector General shall interact with other local, State, and  
25 federal law enforcement investigations.

26 Any employee of the Secretary of State subject to

1 investigation or inquiry by the Inspector General or any agent  
2 or representative of the Inspector General concerning  
3 misconduct that is criminal in nature shall have the right to  
4 be notified of the right to remain silent during the  
5 investigation or inquiry and the right to be represented in the  
6 investigation or inquiry by an attorney or a representative of  
7 a labor organization that is the exclusive collective  
8 bargaining representative of employees of the Secretary of  
9 State. Any investigation or inquiry by the Inspector General or  
10 any agent or representative of the Inspector General must be  
11 conducted with an awareness of the provisions of a collective  
12 bargaining agreement that applies to the employees of the  
13 Secretary of State and with an awareness of the rights of the  
14 employees as set forth in State and federal law and applicable  
15 judicial decisions. Any recommendations for discipline or any  
16 action taken against any employee by the Inspector General or  
17 any representative or agent of the Inspector General must  
18 comply with the provisions of the collective bargaining  
19 agreement that applies to the employee.

20 (g) On or before January 1 of each year, the Inspector  
21 General shall report to the President of the Senate, the  
22 Minority Leader of the Senate, the Speaker of the House of  
23 Representatives, and the Minority Leader of the House of  
24 Representatives on the types of investigations and the  
25 activities undertaken by the Office of the Inspector General  
26 during the previous calendar year.

1 (Source: P.A. 96-555, eff. 1-1-10; 96-1358, eff. 7-28-10.)

2 Section 15. The Children and Family Services Act is amended  
3 by changing Section 35.5 as follows:

4 (20 ILCS 505/35.5)

5 Sec. 35.5. Inspector General.

6 (a) The Governor shall appoint, and the Senate shall  
7 confirm, an Inspector General who shall have the authority to  
8 conduct investigations into allegations of or incidents of  
9 possible misconduct, misfeasance, malfeasance, or violations  
10 of rules, procedures, or laws by any employee, foster parent,  
11 service provider, or contractor of the Department of Children  
12 and Family Services, except for allegations of violations of  
13 the State Officials and Employees Ethics Act which shall be  
14 referred to the Office of the Governor's Executive Inspector  
15 General for investigation. The Inspector General shall make  
16 recommendations to the Director of Children and Family Services  
17 concerning sanctions or disciplinary actions against  
18 Department employees or providers of service under contract to  
19 the Department. The Director of Children and Family Services  
20 shall provide the Inspector General with an implementation  
21 report on the status of any corrective actions taken on  
22 recommendations under review and shall continue sending  
23 updated reports until the corrective action is completed. The  
24 Director shall provide a written response to the Inspector

1 General indicating the status of any sanctions or disciplinary  
2 actions against employees or providers of service involving any  
3 investigation subject to review. In any case, information  
4 included in the reports to the Inspector General and Department  
5 responses shall be subject to the public disclosure  
6 requirements of the Abused and Neglected Child Reporting Act.  
7 Any investigation conducted by the Inspector General shall be  
8 independent and separate from the investigation mandated by the  
9 Abused and Neglected Child Reporting Act. The Inspector General  
10 shall be appointed for a term of 4 years. The Inspector General  
11 shall function independently within the Department of Children  
12 and Family Services with respect to the operations of the  
13 Office of Inspector General, including the performance of  
14 investigations and issuance of findings and recommendations,  
15 and shall report to the Director of Children and Family  
16 Services and the Governor and perform other duties the Director  
17 may designate. The Inspector General shall adopt rules as  
18 necessary to carry out the functions, purposes, and duties of  
19 the office of Inspector General in the Department of Children  
20 and Family Services, in accordance with the Illinois  
21 Administrative Procedure Act and any other applicable law.

22 (a-5) The Inspector General appointed by the Governor under  
23 subsection (a) of this Section shall have the following  
24 qualifications:

25 (1) has not been convicted of any felony under the laws  
26 of this State, another State, or the United States;

1           (2) has earned a baccalaureate degree from an  
2           institution of higher education;

3           (3) has not, for appointments made on or after the  
4           effective date of this amendatory Act of the 97th General  
5           Assembly, been employed by the Department of Children and  
6           Family Services other than as an Inspector General or an  
7           employee in the Office of the Inspector General for the  
8           Department of Children and Family Services during the 5  
9           years immediately preceding his or her appointment; and

10           (4) has (A) 5 or more years of service with a federal,  
11           State, or local law enforcement agency, at least 2 years of  
12           which have been in a progressive investigatory capacity;  
13           (B) 5 or more years of service as a federal, State, or  
14           local prosecutor; or (C) 5 or more years of service as a  
15           senior manager or executive of a federal, State, or local  
16           agency.

17           (b) The Inspector General shall have access to all  
18 information and personnel necessary to perform the duties of  
19 the office. To minimize duplication of efforts, and to assure  
20 consistency and conformance with the requirements and  
21 procedures established in the B.H. v. Suter consent decree and  
22 to share resources when appropriate, the Inspector General  
23 shall coordinate his or her activities with the Bureau of  
24 Quality Assurance within the Department.

25           (c) The Inspector General shall be the primary liaison  
26 between the Department and the Department of State Police with

1 regard to investigations conducted under the Inspector  
2 General's auspices. If the Inspector General determines that a  
3 possible criminal act has been committed, or that special  
4 expertise is required in the investigation, he or she shall  
5 immediately notify the Department of State Police. All  
6 investigations conducted by the Inspector General shall be  
7 conducted in a manner designed to ensure the preservation of  
8 evidence for possible use in a criminal prosecution.

9 (d) The Inspector General may recommend to the Department  
10 of Children and Family Services, the Department of Public  
11 Health, or any other appropriate agency, sanctions to be  
12 imposed against service providers under the jurisdiction of or  
13 under contract with the Department for the protection of  
14 children in the custody or under the guardianship of the  
15 Department who received services from those providers. The  
16 Inspector General may seek the assistance of the Attorney  
17 General or any of the several State's Attorneys in imposing  
18 sanctions.

19 (e) The Inspector General shall at all times be granted  
20 access to any foster home, facility, or program operated for or  
21 licensed or funded by the Department.

22 (f) Nothing in this Section shall limit investigations by  
23 the Department of Children and Family Services that may  
24 otherwise be required by law or that may be necessary in that  
25 Department's capacity as the central administrative authority  
26 for child welfare.

1           (g) The Inspector General shall have the power to subpoena  
2 witnesses and compel the production of books and papers  
3 pertinent to an investigation authorized by this Act. The power  
4 to subpoena or to compel the production of books and papers,  
5 however, shall not extend to the person or documents of a labor  
6 organization or its representatives insofar as the person or  
7 documents of a labor organization relate to the function of  
8 representing an employee subject to investigation under this  
9 Act. Any person who fails to appear in response to a subpoena  
10 or to answer any question or produce any books or papers  
11 pertinent to an investigation under this Act, except as  
12 otherwise provided in this Section, or who knowingly gives  
13 false testimony in relation to an investigation under this Act  
14 is guilty of a Class A misdemeanor.

15           (h) The Inspector General shall provide to the General  
16 Assembly and the Governor, no later than January 1 of each  
17 year, a summary of reports and investigations made under this  
18 Section for the prior fiscal year. The summaries shall detail  
19 the imposition of sanctions and the final disposition of those  
20 recommendations. The summaries shall not contain any  
21 confidential or identifying information concerning the  
22 subjects of the reports and investigations. The summaries also  
23 shall include detailed recommended administrative actions and  
24 matters for consideration by the General Assembly.

25           (Source: P.A. 95-527, eff. 6-1-08; 96-555, eff. 8-18-09.)

1           Section 20. The Department of Human Services Act is amended  
2 by changing Section 1-17 as follows:

3           (20 ILCS 1305/1-17)

4           Sec. 1-17. Inspector General.

5           (a) Nature and purpose. It is the express intent of the  
6 General Assembly to ensure the health, safety, and financial  
7 condition of individuals receiving services in this State due  
8 to mental illness, developmental disability, or both by  
9 protecting those persons from acts of abuse, neglect, or both  
10 by service providers. To that end, the Office of the Inspector  
11 General for the Department of Human Services is created to  
12 investigate and report upon allegations of the abuse, neglect,  
13 or financial exploitation of individuals receiving services  
14 within mental health facilities, developmental disabilities  
15 facilities, and community agencies operated, licensed, funded  
16 or certified by the Department of Human Services, but not  
17 licensed or certified by any other State agency. It is also the  
18 express intent of the General Assembly to authorize the  
19 Inspector General to investigate alleged or suspected cases of  
20 abuse, neglect, or financial exploitation of adults with  
21 disabilities living in domestic settings in the community under  
22 the Abuse of Adults with Disabilities Intervention Act.

23           (b) Definitions. The following definitions apply to this  
24 Section:

25           "Adult student with a disability" means an adult student,



1 age 18 through 21, inclusive, with an Individual Education  
2 Program, other than a resident of a facility licensed by the  
3 Department of Children and Family Services in accordance with  
4 the Child Care Act of 1969. For purposes of this definition,  
5 "through age 21, inclusive", means through the day before the  
6 student's 22nd birthday.

7 "Agency" or "community agency" means (i) a community agency  
8 licensed, funded, or certified by the Department, but not  
9 licensed or certified by any other human services agency of the  
10 State, to provide mental health service or developmental  
11 disabilities service, or (ii) a program licensed, funded, or  
12 certified by the Department, but not licensed or certified by  
13 any other human services agency of the State, to provide mental  
14 health service or developmental disabilities service.

15 "Aggravating circumstance" means a factor that is  
16 attendant to a finding and that tends to compound or increase  
17 the culpability of the accused.

18 "Allegation" means an assertion, complaint, suspicion, or  
19 incident involving any of the following conduct by an employee,  
20 facility, or agency against an individual or individuals:  
21 mental abuse, physical abuse, sexual abuse, neglect, or  
22 financial exploitation.

23 "Day" means working day, unless otherwise specified.

24 "Deflection" means a situation in which an individual is  
25 presented for admission to a facility or agency, and the  
26 facility staff or agency staff do not admit the individual.

1 "Deflection" includes triage, redirection, and denial of  
2 admission.

3 "Department" means the Department of Human Services.

4 "Developmentally disabled" means having a developmental  
5 disability.

6 "Developmental disability" means "developmental  
7 disability" as defined in the Mental Health and Developmental  
8 Disabilities Code.

9 "Egregious neglect" means a finding of neglect as  
10 determined by the Inspector General that (i) represents a gross  
11 failure to adequately provide for, or a callused indifference  
12 to, the health, safety, or medical needs of an individual and  
13 (ii) results in an individual's death or other serious  
14 deterioration of an individual's physical condition or mental  
15 condition.

16 "Employee" means any person who provides services at the  
17 facility or agency on-site or off-site. The service  
18 relationship can be with the individual or with the facility or  
19 agency. Also, "employee" includes any employee or contractual  
20 agent of the Department of Human Services or the community  
21 agency involved in providing or monitoring or administering  
22 mental health or developmental disability services. This  
23 includes but is not limited to: owners, operators, payroll  
24 personnel, contractors, subcontractors, and volunteers.

25 "Facility" or "State-operated facility" means a mental  
26 health facility or developmental disabilities facility

1 operated by the Department.

2 "Financial exploitation" means taking unjust advantage of  
3 an individual's assets, property, or financial resources  
4 through deception, intimidation, or conversion for the  
5 employee's, facility's, or agency's own advantage or benefit.

6 "Finding" means the Office of Inspector General's  
7 determination regarding whether an allegation is  
8 substantiated, unsubstantiated, or unfounded.

9 "Health care worker registry" or "registry" means the  
10 health care worker registry created by the Nursing Home Care  
11 Act.

12 "Individual" means any person receiving mental health  
13 service, developmental disabilities service, or both from a  
14 facility or agency, while either on-site or off-site.

15 "Mental abuse" means the use of demeaning, intimidating, or  
16 threatening words, signs, gestures, or other actions by an  
17 employee about an individual and in the presence of an  
18 individual or individuals that results in emotional distress or  
19 maladaptive behavior, or could have resulted in emotional  
20 distress or maladaptive behavior, for any individual present.

21 "Mental illness" means "mental illness" as defined in the  
22 Mental Health and Developmental Disabilities Code.

23 "Mentally ill" means having a mental illness.

24 "Mitigating circumstance" means a condition that (i) is  
25 attendant to a finding, (ii) does not excuse or justify the  
26 conduct in question, but (iii) may be considered in evaluating

1 the severity of the conduct, the culpability of the accused, or  
2 both the severity of the conduct and the culpability of the  
3 accused.

4 "Neglect" means an employee's, agency's, or facility's  
5 failure to provide adequate medical care, personal care, or  
6 maintenance and that, as a consequence, (i) causes an  
7 individual pain, injury, or emotional distress, (ii) results in  
8 either an individual's maladaptive behavior or the  
9 deterioration of an individual's physical condition or mental  
10 condition, or (iii) places the individual's health or safety at  
11 substantial risk.

12 "Physical abuse" means an employee's non-accidental and  
13 inappropriate contact with an individual that causes bodily  
14 harm. "Physical abuse" includes actions that cause bodily harm  
15 as a result of an employee directing an individual or person to  
16 physically abuse another individual.

17 "Recommendation" means an admonition, separate from a  
18 finding, that requires action by the facility, agency, or  
19 Department to correct a systemic issue, problem, or deficiency  
20 identified during an investigation.

21 "Required reporter" means any employee who suspects,  
22 witnesses, or is informed of an allegation of any one or more  
23 of the following: mental abuse, physical abuse, sexual abuse,  
24 neglect, or financial exploitation.

25 "Secretary" means the Chief Administrative Officer of the  
26 Department.

1 "Sexual abuse" means any sexual contact or intimate  
2 physical contact between an employee and an individual,  
3 including an employee's coercion or encouragement of an  
4 individual to engage in sexual behavior that results in sexual  
5 contact, intimate physical contact, sexual behavior, or  
6 intimate physical behavior.

7 "Substantiated" means there is a preponderance of the  
8 evidence to support the allegation.

9 "Unfounded" means there is no credible evidence to support  
10 the allegation.

11 "Unsubstantiated" means there is credible evidence, but  
12 less than a preponderance of evidence to support the  
13 allegation.

14 (c) Appointment. The Governor shall appoint, and the Senate  
15 shall confirm, an Inspector General. The Inspector General  
16 shall be appointed for a term of 4 years and shall function  
17 within the Department of Human Services and report to the  
18 Secretary and the Governor.

19 (c-5) The Inspector General appointed by the Governor under  
20 subsection (c) of this Section shall have the following  
21 qualifications:

22 (1) has not been convicted of any felony under the laws  
23 of this State, another State, or the United States;

24 (2) has earned a baccalaureate degree from an  
25 institution of higher education;

26 (3) has not, for appointments made on or after the

1 effective date of this amendatory Act of the 97th General  
2 Assembly, been employed by the Department of Human Services  
3 other than as an Inspector General or an employee in the  
4 Office of the Inspector General for the Department of Human  
5 Services during the 5 years immediately preceding his or  
6 her appointment; and

7 (4) has (A) 5 or more years of service with a federal,  
8 State, or local law enforcement agency, at least 2 years of  
9 which have been in a progressive investigatory capacity;  
10 (B) 5 or more years of service as a federal, State, or  
11 local prosecutor; or (C) 5 or more years of service as a  
12 senior manager or executive of a federal, State, or local  
13 agency.

14 (d) Operation and appropriation. The Inspector General  
15 shall function independently within the Department with  
16 respect to the operations of the Office, including the  
17 performance of investigations and issuance of findings and  
18 recommendations. The appropriation for the Office of Inspector  
19 General shall be separate from the overall appropriation for  
20 the Department.

21 (e) Powers and duties. The Inspector General shall  
22 investigate reports of suspected mental abuse, physical abuse,  
23 sexual abuse, neglect, or financial exploitation of  
24 individuals in any mental health or developmental disabilities  
25 facility or agency and shall have authority to take immediate  
26 action to prevent any one or more of the following from

1 happening to individuals under its jurisdiction: mental abuse,  
2 physical abuse, sexual abuse, neglect, or financial  
3 exploitation. Upon written request of an agency of this State,  
4 the Inspector General may assist another agency of the State in  
5 investigating reports of the abuse, neglect, or abuse and  
6 neglect of persons with mental illness, persons with  
7 developmental disabilities, or persons with both. To comply  
8 with the requirements of subsection (k) of this Section, the  
9 Inspector General shall also review all reportable deaths for  
10 which there is no allegation of abuse or neglect. Nothing in  
11 this Section shall preempt any duties of the Medical Review  
12 Board set forth in the Mental Health and Developmental  
13 Disabilities Code. The Inspector General shall have no  
14 authority to investigate alleged violations of the State  
15 Officials and Employees Ethics Act. Allegations of misconduct  
16 under the State Officials and Employees Ethics Act shall be  
17 referred to the Office of the Governor's Executive Inspector  
18 General for investigation.

19 (f) Limitations. The Inspector General shall not conduct an  
20 investigation within an agency or facility if that  
21 investigation would be redundant to or interfere with an  
22 investigation conducted by another State agency. The Inspector  
23 General shall have no supervision over, or involvement in, the  
24 routine programmatic, licensing, funding, or certification  
25 operations of the Department. Nothing in this subsection limits  
26 investigations by the Department that may otherwise be required

1 by law or that may be necessary in the Department's capacity as  
2 central administrative authority responsible for the operation  
3 of the State's mental health and developmental disabilities  
4 facilities.

5 (g) Rulemaking authority. The Inspector General shall  
6 promulgate rules establishing minimum requirements for  
7 reporting allegations as well as for initiating, conducting,  
8 and completing investigations based upon the nature of the  
9 allegation or allegations. The rules shall clearly establish  
10 that if 2 or more State agencies could investigate an  
11 allegation, the Inspector General shall not conduct an  
12 investigation that would be redundant to, or interfere with, an  
13 investigation conducted by another State agency. The rules  
14 shall further clarify the method and circumstances under which  
15 the Office of Inspector General may interact with the  
16 licensing, funding, or certification units of the Department in  
17 preventing further occurrences of mental abuse, physical  
18 abuse, sexual abuse, neglect, egregious neglect, and financial  
19 exploitation.

20 (h) Training programs. The Inspector General shall (i)  
21 establish a comprehensive program to ensure that every person  
22 authorized to conduct investigations receives ongoing training  
23 relative to investigation techniques, communication skills,  
24 and the appropriate means of interacting with persons receiving  
25 treatment for mental illness, developmental disability, or  
26 both mental illness and developmental disability, and (ii)



1 establish and conduct periodic training programs for facility  
2 and agency employees concerning the prevention and reporting of  
3 any one or more of the following: mental abuse, physical abuse,  
4 sexual abuse, neglect, egregious neglect, or financial  
5 exploitation. Nothing in this Section shall be deemed to  
6 prevent the Office of Inspector General from conducting any  
7 other training as determined by the Inspector General to be  
8 necessary or helpful.

9 (i) Duty to cooperate.

10 (1) The Inspector General shall at all times be granted  
11 access to any facility or agency for the purpose of  
12 investigating any allegation, conducting unannounced site  
13 visits, monitoring compliance with a written response, or  
14 completing any other statutorily assigned duty. The  
15 Inspector General shall conduct unannounced site visits to  
16 each facility at least annually for the purpose of  
17 reviewing and making recommendations on systemic issues  
18 relative to preventing, reporting, investigating, and  
19 responding to all of the following: mental abuse, physical  
20 abuse, sexual abuse, neglect, egregious neglect, or  
21 financial exploitation.

22 (2) Any employee who fails to cooperate with an Office  
23 of the Inspector General investigation is in violation of  
24 this Act. Failure to cooperate with an investigation  
25 includes, but is not limited to, any one or more of the  
26 following: (i) creating and transmitting a false report to

1 the Office of the Inspector General hotline, (ii) providing  
2 false information to an Office of the Inspector General  
3 Investigator during an investigation, (iii) colluding with  
4 other employees to cover up evidence, (iv) colluding with  
5 other employees to provide false information to an Office  
6 of the Inspector General investigator, (v) destroying  
7 evidence, (vi) withholding evidence, or (vii) otherwise  
8 obstructing an Office of the Inspector General  
9 investigation. Additionally, any employee who, during an  
10 unannounced site visit or written response compliance  
11 check, fails to cooperate with requests from the Office of  
12 the Inspector General is in violation of this Act.

13 (j) Subpoena powers. The Inspector General shall have the  
14 power to subpoena witnesses and compel the production of all  
15 documents and physical evidence relating to his or her  
16 investigations and any hearings authorized by this Act. This  
17 subpoena power shall not extend to persons or documents of a  
18 labor organization or its representatives insofar as the  
19 persons are acting in a representative capacity to an employee  
20 whose conduct is the subject of an investigation or the  
21 documents relate to that representation. Any person who  
22 otherwise fails to respond to a subpoena or who knowingly  
23 provides false information to the Office of the Inspector  
24 General by subpoena during an investigation is guilty of a  
25 Class A misdemeanor.

26 (k) Reporting allegations and deaths.

1           (1) Allegations. If an employee witnesses, is told of,  
2           or has reason to believe an incident of mental abuse,  
3           physical abuse, sexual abuse, neglect, or financial  
4           exploitation has occurred, the employee, agency, or  
5           facility shall report the allegation by phone to the Office  
6           of the Inspector General hotline according to the agency's  
7           or facility's procedures, but in no event later than 4  
8           hours after the initial discovery of the incident,  
9           allegation, or suspicion of any one or more of the  
10          following: mental abuse, physical abuse, sexual abuse,  
11          neglect, or financial exploitation. A required reporter as  
12          defined in subsection (b) of this Section who knowingly or  
13          intentionally fails to comply with these reporting  
14          requirements is guilty of a Class A misdemeanor.

15          (2) Deaths. Absent an allegation, a required reporter  
16          shall, within 24 hours after initial discovery, report by  
17          phone to the Office of the Inspector General hotline each  
18          of the following:

19               (i) Any death of an individual occurring within 14  
20               calendar days after discharge or transfer of the  
21               individual from a residential program or facility.

22               (ii) Any death of an individual occurring within 24  
23               hours after deflection from a residential program or  
24               facility.

25               (iii) Any other death of an individual occurring at  
26               an agency or facility or at any Department-funded site.

1           (3) Retaliation. It is a violation of this Act for any  
2 employee or administrator of an agency or facility to take  
3 retaliatory action against an employee who acts in good  
4 faith in conformance with his or her duties as a required  
5 reporter.

6           (1) Reporting to law enforcement.

7           (1) Reporting criminal acts. Within 24 hours after  
8 determining that there is credible evidence indicating  
9 that a criminal act may have been committed or that special  
10 expertise may be required in an investigation, the  
11 Inspector General shall notify the Department of State  
12 Police or other appropriate law enforcement authority, or  
13 ensure that such notification is made. The Department of  
14 State Police shall investigate any report from a  
15 State-operated facility indicating a possible murder,  
16 sexual assault, or other felony by an employee. All  
17 investigations conducted by the Inspector General shall be  
18 conducted in a manner designed to ensure the preservation  
19 of evidence for possible use in a criminal prosecution.

20           (2) Reporting allegations of adult students with  
21 disabilities. Upon receipt of a reportable allegation  
22 regarding an adult student with a disability, the  
23 Department's Office of the Inspector General shall  
24 determine whether the allegation meets the criteria for the  
25 Domestic Abuse Program under the Abuse of Adults with  
26 Disabilities Intervention Act. If the allegation is

1 reportable to that program, the Office of the Inspector  
2 General shall initiate an investigation. If the allegation  
3 is not reportable to the Domestic Abuse Program, the Office  
4 of the Inspector General shall make an expeditious referral  
5 to the respective law enforcement entity. If the alleged  
6 victim is already receiving services from the Department,  
7 the Office of the Inspector General shall also make a  
8 referral to the respective Department of Human Services'  
9 Division or Bureau.

10 (m) Investigative reports. Upon completion of an  
11 investigation, the Office of Inspector General shall issue an  
12 investigative report identifying whether the allegations are  
13 substantiated, unsubstantiated, or unfounded. Within 10  
14 business days after the transmittal of a completed  
15 investigative report substantiating an allegation, or if a  
16 recommendation is made, the Inspector General shall provide the  
17 investigative report on the case to the Secretary and to the  
18 director of the facility or agency where any one or more of the  
19 following occurred: mental abuse, physical abuse, sexual  
20 abuse, neglect, egregious neglect, or financial exploitation.  
21 In a substantiated case, the investigative report shall include  
22 any mitigating or aggravating circumstances that were  
23 identified during the investigation. If the case involves  
24 substantiated neglect, the investigative report shall also  
25 state whether egregious neglect was found. An investigative  
26 report may also set forth recommendations. All investigative

1 reports prepared by the Office of the Inspector General shall  
2 be considered confidential and shall not be released except as  
3 provided by the law of this State or as required under  
4 applicable federal law. Unsubstantiated and unfounded reports  
5 shall not be disclosed except as allowed under Section 6 of the  
6 Abused and Neglected Long Term Care Facility Residents  
7 Reporting Act. Raw data used to compile the investigative  
8 report shall not be subject to release unless required by law  
9 or a court order. "Raw data used to compile the investigative  
10 report" includes, but is not limited to, any one or more of the  
11 following: the initial complaint, witness statements,  
12 photographs, investigator's notes, police reports, or incident  
13 reports. If the allegations are substantiated, the accused  
14 shall be provided with a redacted copy of the investigative  
15 report. Death reports where there was no allegation of abuse or  
16 neglect shall only be released pursuant to applicable State or  
17 federal law or a valid court order.

18 (n) Written responses and reconsideration requests.

19 (1) Written responses. Within 30 calendar days from  
20 receipt of a substantiated investigative report or an  
21 investigative report which contains recommendations,  
22 absent a reconsideration request, the facility or agency  
23 shall file a written response that addresses, in a concise  
24 and reasoned manner, the actions taken to: (i) protect the  
25 individual; (ii) prevent recurrences; and (iii) eliminate  
26 the problems identified. The response shall include the

1 implementation and completion dates of such actions. If the  
2 written response is not filed within the allotted 30  
3 calendar day period, the Secretary shall determine the  
4 appropriate corrective action to be taken.

5 (2) Reconsideration requests. The facility, agency,  
6 victim or guardian, or the subject employee may request  
7 that the Office of Inspector General reconsider or clarify  
8 its finding based upon additional information.

9 (o) Disclosure of the finding by the Inspector General. The  
10 Inspector General shall disclose the finding of an  
11 investigation to the following persons: (i) the Governor, (ii)  
12 the Secretary, (iii) the director of the facility or agency,  
13 (iv) the alleged victims and their guardians, (v) the  
14 complainant, and (vi) the accused. This information shall  
15 include whether the allegations were deemed substantiated,  
16 unsubstantiated, or unfounded.

17 (p) Secretary review. Upon review of the Inspector  
18 General's investigative report and any agency's or facility's  
19 written response, the Secretary shall accept or reject the  
20 written response and notify the Inspector General of that  
21 determination. The Secretary may further direct that other  
22 administrative action be taken, including, but not limited to,  
23 any one or more of the following: (i) additional site visits,  
24 (ii) training, (iii) provision of technical assistance  
25 relative to administrative needs, licensure or certification,  
26 or (iv) the imposition of appropriate sanctions.

1           (q) Action by facility or agency. Within 30 days of the  
2 date the Secretary approves the written response or directs  
3 that further administrative action be taken, the facility or  
4 agency shall provide an implementation report to the Inspector  
5 General that provides the status of the action taken. The  
6 facility or agency shall be allowed an additional 30 days to  
7 send notice of completion of the action or to send an updated  
8 implementation report. If the action has not been completed  
9 within the additional 30 day period, the facility or agency  
10 shall send updated implementation reports every 60 days until  
11 completion. The Inspector General shall conduct a review of any  
12 implementation plan that takes more than 120 days after  
13 approval to complete, and shall monitor compliance through a  
14 random review of approved written responses, which may include,  
15 but are not limited to: (i) site visits, (ii) telephone  
16 contact, and (iii) requests for additional documentation  
17 evidencing compliance.

18           (r) Sanctions. Sanctions, if imposed by the Secretary under  
19 Subdivision (p)(iv) of this Section, shall be designed to  
20 prevent further acts of mental abuse, physical abuse, sexual  
21 abuse, neglect, egregious neglect, or financial exploitation  
22 or some combination of one or more of those acts at a facility  
23 or agency, and may include any one or more of the following:

24                 (1) Appointment of on-site monitors.

25                 (2) Transfer or relocation of an individual or  
26 individuals.



1 (3) Closure of units.

2 (4) Termination of any one or more of the following:

3 (i) Department licensing, (ii) funding, or (iii)  
4 certification.

5 The Inspector General may seek the assistance of the  
6 Illinois Attorney General or the office of any State's Attorney  
7 in implementing sanctions.

8 (s) Health care worker registry.

9 (1) Reporting to the registry. The Inspector General  
10 shall report to the Department of Public Health's health  
11 care worker registry, a public registry, the identity and  
12 finding of each employee of a facility or agency against  
13 whom there is a final investigative report containing a  
14 substantiated allegation of physical or sexual abuse or  
15 egregious neglect of an individual.

16 (2) Notice to employee. Prior to reporting the name of  
17 an employee, the employee shall be notified of the  
18 Department's obligation to report and shall be granted an  
19 opportunity to request an administrative hearing, the sole  
20 purpose of which is to determine if the substantiated  
21 finding warrants reporting to the registry. Notice to the  
22 employee shall contain a clear and concise statement of the  
23 grounds on which the report to the registry is based, offer  
24 the employee an opportunity for a hearing, and identify the  
25 process for requesting such a hearing. Notice is sufficient  
26 if provided by certified mail to the employee's last known

1 address. If the employee fails to request a hearing within  
2 30 days from the date of the notice, the Inspector General  
3 shall report the name of the employee to the registry.  
4 Nothing in this subdivision (s) (2) shall diminish or impair  
5 the rights of a person who is a member of a collective  
6 bargaining unit under the Illinois Public Labor Relations  
7 Act or under any other federal labor statute.

8 (3) Registry hearings. If the employee requests an  
9 administrative hearing, the employee shall be granted an  
10 opportunity to appear before an administrative law judge to  
11 present reasons why the employee's name should not be  
12 reported to the registry. The Department shall bear the  
13 burden of presenting evidence that establishes, by a  
14 preponderance of the evidence, that the substantiated  
15 finding warrants reporting to the registry. After  
16 considering all the evidence presented, the administrative  
17 law judge shall make a recommendation to the Secretary as  
18 to whether the substantiated finding warrants reporting  
19 the name of the employee to the registry. The Secretary  
20 shall render the final decision. The Department and the  
21 employee shall have the right to request that the  
22 administrative law judge consider a stipulated disposition  
23 of these proceedings.

24 (4) Testimony at registry hearings. A person who makes  
25 a report or who investigates a report under this Act shall  
26 testify fully in any judicial proceeding resulting from

1 such a report, as to any evidence of abuse or neglect, or  
2 the cause thereof. No evidence shall be excluded by reason  
3 of any common law or statutory privilege relating to  
4 communications between the alleged perpetrator of abuse or  
5 neglect, or the individual alleged as the victim in the  
6 report, and the person making or investigating the report.  
7 Testimony at hearings is exempt from the confidentiality  
8 requirements of subsection (f) of Section 10 of the Mental  
9 Health and Developmental Disabilities Confidentiality Act.

10 (5) Employee's rights to collateral action. No  
11 reporting to the registry shall occur and no hearing shall  
12 be set or proceed if an employee notifies the Inspector  
13 General in writing, including any supporting  
14 documentation, that he or she is formally contesting an  
15 adverse employment action resulting from a substantiated  
16 finding by complaint filed with the Illinois Civil Service  
17 Commission, or which otherwise seeks to enforce the  
18 employee's rights pursuant to any applicable collective  
19 bargaining agreement. If an action taken by an employer  
20 against an employee as a result of a finding of physical  
21 abuse, sexual abuse, or egregious neglect is overturned  
22 through an action filed with the Illinois Civil Service  
23 Commission or under any applicable collective bargaining  
24 agreement and if that employee's name has already been sent  
25 to the registry, the employee's name shall be removed from  
26 the registry.

1           (6) Removal from registry. At any time after the report  
2           to the registry, but no more than once in any 12-month  
3           period, an employee may petition the Department in writing  
4           to remove his or her name from the registry. Upon receiving  
5           notice of such request, the Inspector General shall conduct  
6           an investigation into the petition. Upon receipt of such  
7           request, an administrative hearing will be set by the  
8           Department. At the hearing, the employee shall bear the  
9           burden of presenting evidence that establishes, by a  
10          preponderance of the evidence, that removal of the name  
11          from the registry is in the public interest. The parties  
12          may jointly request that the administrative law judge  
13          consider a stipulated disposition of these proceedings.

14          (t) Review of Administrative Decisions. The Department  
15          shall preserve a record of all proceedings at any formal  
16          hearing conducted by the Department involving health care  
17          worker registry hearings. Final administrative decisions of  
18          the Department are subject to judicial review pursuant to  
19          provisions of the Administrative Review Law.

20          (u) Quality Care Board. There is created, within the Office  
21          of the Inspector General, a Quality Care Board to be composed  
22          of 7 members appointed by the Governor with the advice and  
23          consent of the Senate. One of the members shall be designated  
24          as chairman by the Governor. Of the initial appointments made  
25          by the Governor, 4 Board members shall each be appointed for a  
26          term of 4 years and 3 members shall each be appointed for a

1 term of 2 years. Upon the expiration of each member's term, a  
2 successor shall be appointed for a term of 4 years. In the case  
3 of a vacancy in the office of any member, the Governor shall  
4 appoint a successor for the remainder of the unexpired term.

5 Members appointed by the Governor shall be qualified by  
6 professional knowledge or experience in the area of law,  
7 investigatory techniques, or in the area of care of the  
8 mentally ill or developmentally disabled. Two members  
9 appointed by the Governor shall be persons with a disability or  
10 a parent of a person with a disability. Members shall serve  
11 without compensation, but shall be reimbursed for expenses  
12 incurred in connection with the performance of their duties as  
13 members.

14 The Board shall meet quarterly, and may hold other meetings  
15 on the call of the chairman. Four members shall constitute a  
16 quorum allowing the Board to conduct its business. The Board  
17 may adopt rules and regulations it deems necessary to govern  
18 its own procedures.

19 The Board shall monitor and oversee the operations,  
20 policies, and procedures of the Inspector General to ensure the  
21 prompt and thorough investigation of allegations of neglect and  
22 abuse. In fulfilling these responsibilities, the Board may do  
23 the following:

- 24 (1) Provide independent, expert consultation to the  
25 Inspector General on policies and protocols for  
26 investigations of alleged abuse, neglect, or both abuse and

1 neglect.

2 (2) Review existing regulations relating to the  
3 operation of facilities.

4 (3) Advise the Inspector General as to the content of  
5 training activities authorized under this Section.

6 (4) Recommend policies concerning methods for  
7 improving the intergovernmental relationships between the  
8 Office of the Inspector General and other State or federal  
9 offices.

10 (v) Annual report. The Inspector General shall provide to  
11 the General Assembly and the Governor, no later than January 1  
12 of each year, a summary of reports and investigations made  
13 under this Act for the prior fiscal year with respect to  
14 individuals receiving mental health or developmental  
15 disabilities services. The report shall detail the imposition  
16 of sanctions, if any, and the final disposition of any  
17 corrective or administrative action directed by the Secretary.  
18 The summaries shall not contain any confidential or identifying  
19 information of any individual, but shall include objective data  
20 identifying any trends in the number of reported allegations,  
21 the timeliness of the Office of the Inspector General's  
22 investigations, and their disposition, for each facility and  
23 Department-wide, for the most recent 3-year time period. The  
24 report shall also identify, by facility, the staff-to-patient  
25 ratios taking account of direct care staff only. The report  
26 shall also include detailed recommended administrative actions

1 and matters for consideration by the General Assembly.

2 (w) Program audit. The Auditor General shall conduct a  
3 program audit of the Office of the Inspector General on an  
4 as-needed basis, as determined by the Auditor General. The  
5 audit shall specifically include the Inspector General's  
6 compliance with the Act and effectiveness in investigating  
7 reports of allegations occurring in any facility or agency. The  
8 Auditor General shall conduct the program audit according to  
9 the provisions of the Illinois State Auditing Act and shall  
10 report its findings to the General Assembly no later than  
11 January 1 following the audit period.

12 (x) Nothing in this Section shall be construed to mean that  
13 a patient is a victim of abuse or neglect because of health  
14 care services appropriately provided or not provided by health  
15 care professionals.

16 (y) Nothing in this Section shall require a facility,  
17 including its employees, agents, medical staff members, and  
18 health care professionals, to provide a service to a patient in  
19 contravention of that patient's stated or implied objection to  
20 the provision of that service on the ground that that service  
21 conflicts with the patient's religious beliefs or practices,  
22 nor shall the failure to provide a service to a patient be  
23 considered abuse under this Section if the patient has objected  
24 to the provision of that service based on his or her religious  
25 beliefs or practices.

26 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10;

1 96-407, eff. 8-13-09; 96-555, eff. 8-18-09; 96-1000, eff.  
2 7-2-10; 96-1446, eff. 8-20-10.)

3 Section 25. The School Code is amended by changing Sections  
4 1B-22 and 34-13.1 as follows:

5 (105 ILCS 5/1B-22)

6 Sec. 1B-22. Additional Powers of the Panel. For Panels  
7 established under Section 1B-4 for a district which had its  
8 financial plan rescinded by the State Board for violating that  
9 plan as provided in Section 1A-8, the Panel shall have the  
10 following additional powers:

11 (a) As necessary to carry out its purposes when district  
12 resources are not readily available or appropriate for use by  
13 the Panel, the Panel may make and execute contracts, leases,  
14 subleases and all other instruments or agreements necessary or  
15 convenient for the exercise of the powers and functions granted  
16 by this Article.

17 (b) As necessary to carry out its purposes when district  
18 resources are not readily available or appropriate for use by  
19 the Panel, the Panel may purchase personal property necessary  
20 or convenient for its purposes; mortgage, pledge or otherwise  
21 grant security interests in such properties; and convey to the  
22 district such of its property as, in the judgment of the Panel,  
23 is no longer necessary for its purposes.

24 (c) As necessary to carry out its purposes when district



1 resources are not readily available or appropriate for use by  
2 the Panel, the Panel may appoint officers, agents, and  
3 employees of the Panel, define their duties and qualifications,  
4 and fix their compensation and employee benefits.

5 (d) In order to investigate allegations of or incidents of  
6 waste, fraud, or financial mismanagement which the Board is  
7 unable or unwilling to properly investigate as requested by the  
8 Panel, the Panel may appoint an Inspector General who shall  
9 have the authority to conduct investigations into such  
10 allegations or incidents. The Inspector General shall make  
11 recommendations to the Panel about its investigations. The  
12 Inspector General shall be independent of the operations of the  
13 Panel and the Board and perform other duties requested by the  
14 Panel. The Inspector General shall have access to all  
15 information and personnel necessary to perform the duties of  
16 the office. If the Inspector General determines that a possible  
17 criminal act has been committed or that special expertise is  
18 required in the investigation, he shall immediately notify the  
19 State's Attorney in the county in which the district is  
20 located. All investigations conducted by the Inspector General  
21 shall be conducted in a manner that ensures the preservation of  
22 evidence for use in criminal prosecutions. At all times the  
23 Inspector General shall be granted access to any building or  
24 facility that is owned, operated, or leased by the Panel or the  
25 Board. The Inspector General shall have the power to subpoena  
26 witnesses and compel the production of books and papers

1 pertinent to an investigation authorized by this Code. Any  
2 person who (1) fails to appear in response to a subpoena; (2)  
3 fails to answer any question; (3) fails to produce any books or  
4 papers pertinent to an investigation under this Code; or (4)  
5 knowingly gives false testimony during an investigation under  
6 this Code is guilty of a Class A misdemeanor. The Inspector  
7 General shall provide to the Panel and the State Board of  
8 Education a summary of reports and investigations made under  
9 this Section for the previous fiscal year no later than January  
10 1 of each year. The summaries shall detail the final  
11 disposition of those recommendations. The summaries shall not  
12 contain any confidential or identifying information concerning  
13 the subjects of the reports and investigations. The summaries  
14 shall also include detailed recommended administrative actions  
15 and matters for consideration by the State Board of Education  
16 or the General Assembly.

17 (d-5) The Inspector General appointed by the Panel under  
18 subsection (d) shall have the following qualifications:

19 (1) has not been convicted of any felony under the laws  
20 of this State, another State, or the United States;

21 (2) has earned a baccalaureate degree from an  
22 institution of higher education;

23 (3) has not, for appointments made on or after the  
24 effective date of this amendatory Act of the 97th General  
25 Assembly, been employed by the district other than as an  
26 Inspector General or an employee in the Office of the

1       Inspector General for the district during the 5 years  
2       immediately preceding his or her appointment; and

3           (4) has (A) 5 or more years of service with a federal,  
4           State, or local law enforcement agency, at least 2 years of  
5           which have been in a progressive investigatory capacity;  
6           (B) 5 or more years of service as a federal, State, or  
7           local prosecutor; or (C) 5 or more years of service as a  
8           senior manager or executive of a federal, State, or local  
9           agency.

10       (e) No hiring or appointment of any person in any position  
11       by the Board, the superintendent, or any other officer or  
12       employee of the Board shall be made or entered into unless it  
13       is consistent with the Financial Plan and Budget in effect and  
14       the staffing plan approved by the Panel under this Section. The  
15       hiring or appointment of any person shall not be binding on the  
16       Board unless and until it is in compliance with this Section.  
17       The Board shall submit to the Panel for approval by the Panel a  
18       staffing plan for the upcoming school year at the same time as  
19       the submission of the Budget, except that the staffing plan for  
20       the fiscal year ending in 1997 shall be submitted to the Panel  
21       within 90 days after the effective date of this amendatory Act  
22       of 1996. The staffing plan shall be accompanied by a cost  
23       analysis and such other information as the Panel may require.  
24       The Panel may prescribe standards, procedures, and forms for  
25       submission of the staffing plan. The Panel shall approve the  
26       staffing plan if the information required to be submitted is

1 complete and the staffing plan is consistent with the Budget  
2 and Financial Plan in effect. Otherwise, the Panel shall reject  
3 the staffing plan. In the event of rejection, the Panel shall  
4 prescribe a procedure and standards for revision of the  
5 staffing plan. The Panel shall act on the staffing plan at the  
6 same time as the approval of the Budget, except that the  
7 staffing plan for the fiscal year ending in 1997 shall be acted  
8 upon within 60 days of the submission of the staffing plan by  
9 the Board. The Board shall report to the Panel, at such times  
10 and in such manner as the Panel may direct, concerning the  
11 Board's compliance with each staffing plan. The Panel may  
12 review the Board's operations, obtaining budgetary data and  
13 financial statements, may require the Board to produce reports,  
14 and shall have access to any other information in the  
15 possession of the Board that it deems relevant. The Panel may  
16 issue directives to the Board to assure compliance with the  
17 staffing plan, including the issuance of reduction in force  
18 notices, non-renewal of employment contracts, or any other  
19 notices or actions required by contract or law. The Board shall  
20 produce such budgetary data, financial statements, reports,  
21 and other information and shall comply with such directives.  
22 After approval of each staffing plan, the Board shall regularly  
23 reexamine the estimates on which it was based and revise them  
24 as necessary. The Board shall promptly notify the Panel of any  
25 material change in the estimates in the staffing plan. The  
26 Board may submit to the Panel, or the Panel may require the

1 Board to submit, modifications to the staffing plan based upon  
2 revised revenue or expenditure estimates or for any other good  
3 reason. The Panel shall approve or reject each modified  
4 staffing plan within 60 days of its submission in a manner  
5 similar to the provisions of this subsection for the approval  
6 or rejection of the initial staffing plan.

7 (f) The Panel shall examine the business records and audit  
8 the accounts of the Board or require that the Board examine its  
9 business records and audit its accounts at such time and in  
10 such manner as the Panel may prescribe. The Board shall appoint  
11 a certified public accountant annually, approved by the Panel,  
12 to audit its financial statements. The audit conducted pursuant  
13 to this paragraph shall be in lieu of the audit that the Board  
14 is required to undertake pursuant to Section 3-7.

15 (g) The Panel shall initiate and direct financial  
16 management assessments and similar analyses of the operations  
17 of the Board as may, in the judgment of the Panel, assure sound  
18 and efficient financial management of the Board. Upon the  
19 completion of these assessments, the Panel shall give  
20 directives to the Board regarding improvements and changes that  
21 derive from these assessments, which the Board shall implement.  
22 In conjunction with its budgetary submission to the Panel for  
23 each fiscal year, the Board shall demonstrate to the  
24 satisfaction of the Panel that the directives of the Panel have  
25 been implemented in whole or in part or, in the alternative,  
26 are not capable of being implemented. In consideration of

1 whether to approve or reject the budget for a fiscal year, the  
2 Panel shall adjudge whether the Board has fully considered and  
3 responsibly proposed implementation of the Panel's directives.

4 (h) The Panel shall initiate and direct a management audit  
5 of the Board at least once every 2 years. The audit shall  
6 review the personnel, organization, contracts, leases, and  
7 physical properties of the Board to determine whether the Board  
8 is managing and utilizing its resources in an economical and  
9 efficient manner. The audit shall determine the causes of any  
10 inefficiencies or uneconomical practices, including  
11 inadequacies in internal and administrative procedures,  
12 organizational structure, uses of resources, utilization of  
13 real property, allocation of personnel, purchasing policies,  
14 and equipment.

15 (i) In the event that the Board refuses or fails to follow  
16 a directive of the Panel to issue notices of non-renewal of  
17 contracts, to issue notices of reduction in force to employees,  
18 to issue requests for bids or proposals, or to obtain financial  
19 or other information that the Panel finds necessary for the  
20 implementation of its responsibilities under this Article, the  
21 Panel may take such action in the name of the district, and  
22 such action shall be binding the same as if the action had been  
23 taken by the Board. The powers established by this paragraph do  
24 not authorize the Panel to enter into contracts in the name of  
25 the Board.

26 (j) The Panel shall meet with the Board or its designees in

1 closed session prior to the Board commencing any collective  
2 bargaining negotiations to discuss the financial issues  
3 relevant to the bargaining and for the purpose of the Panel  
4 approving the budget limitations for the potential collective  
5 bargaining agreement. The Board shall not make or consider any  
6 proposal which does not comply with the collective bargaining  
7 budget approved by the Panel. The Board shall keep the Panel  
8 apprised as to the status of the bargaining. The Board shall  
9 present any proposed change in the approved collective  
10 bargaining budget to the Panel in closed session for approval.  
11 Prior to the Board taking a final vote on any tentative  
12 agreement approved by the employee organization, the Board  
13 shall discuss the tentative agreement with the Panel in closed  
14 session. Upon final approval of a collective bargaining  
15 agreement by both the Board and the employee organization, the  
16 Board shall submit the final collective bargaining agreement to  
17 the Panel for approval. At the same time that the Board submits  
18 the final agreement to the Panel, the Board shall notify the  
19 employee organization that the final agreement has been  
20 submitted and the date of the Panel meeting at which the final  
21 agreement will be considered. The employee organization shall  
22 be provided an opportunity to discuss the final agreement with  
23 the Panel prior to the Panel taking action on the agreement. No  
24 collective bargaining agreement shall be binding upon the  
25 district unless the Board has followed the requirements of this  
26 paragraph and the final agreement has been approved by the

1 Panel.

2 (k) The budget of the Panel or any revisions to the budget,  
3 including any costs to the Panel associated with the  
4 appointment of an Inspector General, shall be approved by the  
5 State Superintendent upon request of the Panel and after  
6 opportunity for response by the Board.

7 (Source: P.A. 89-572, eff. 7-30-96.)

8 (105 ILCS 5/34-13.1)

9 Sec. 34-13.1. Inspector General.

10 (a) The Inspector General and his office in existence on  
11 the effective date of this amendatory Act of 1995 shall be  
12 transferred to the jurisdiction of the board upon appointment  
13 of the Chicago School Reform Board of Trustees. The Inspector  
14 General shall have the authority to conduct investigations into  
15 allegations of or incidents of waste, fraud, and financial  
16 mismanagement in public education within the jurisdiction of  
17 the board by a local school council member or an employee,  
18 contractor, or member of the board or involving school projects  
19 managed or handled by the Public Building Commission. The  
20 Inspector General shall make recommendations to the board about  
21 the investigations. The Inspector General in office on the  
22 effective date of this amendatory Act of 1996 shall serve for a  
23 term expiring on June 30, 1998. His or her successors in office  
24 shall each be appointed by the Mayor, without the consent or  
25 approval of the City Council, for 4 year terms expiring on June



1 30th of an even numbered year. If the Inspector General leaves  
2 office or if a vacancy in that office otherwise occurs, the  
3 Mayor shall appoint, without the consent or approval of the  
4 City Council, a successor to serve under this Section for the  
5 remainder of the unexpired term. The Inspector General shall be  
6 independent of the operations of the board and the School  
7 Finance Authority, and shall perform other duties requested by  
8 the board.

9 (a-5) The Inspector General appointed by the Mayor under  
10 subsection (a) shall have the following qualifications:

11 (1) has not been convicted of any felony under the laws  
12 of this State, another State, or the United States;

13 (2) has earned a baccalaureate degree from an  
14 institution of higher education;

15 (3) has not, for appointments made on or after the  
16 effective date of this amendatory Act of the 97th General  
17 Assembly, been employed by the Chicago Public Schools other  
18 than as an Inspector General or an employee in the Office  
19 of the Inspector General for the Chicago Public Schools  
20 during the 5 years immediately preceding his or her  
21 appointment; and

22 (4) has (A) 5 or more years of service with a federal,  
23 State, or local law enforcement agency, at least 2 years of  
24 which have been in a progressive investigatory capacity;

25 (B) 5 or more years of service as a federal, State, or  
26 local prosecutor; or (C) 5 or more years of service as a

1       senior manager or executive of a federal, State, or local  
2       agency.

3       (b) The Inspector General shall have access to all  
4 information and personnel necessary to perform the duties of  
5 the office. If the Inspector General determines that a possible  
6 criminal act has been committed or that special expertise is  
7 required in the investigation, he or she shall immediately  
8 notify the Chicago Police Department and the Cook County  
9 State's Attorney. All investigations conducted by the  
10 Inspector General shall be conducted in a manner that ensures  
11 the preservation of evidence for use in criminal prosecutions.

12       (c) At all times the Inspector General shall be granted  
13 access to any building or facility that is owned, operated, or  
14 leased by the board, the Public Building Commission, or the  
15 city in trust and for the use and benefit of the schools of the  
16 district.

17       (d) The Inspector General shall have the power to subpoena  
18 witnesses and compel the production of books and papers  
19 pertinent to an investigation authorized by this Code. Any  
20 person who (1) fails to appear in response to a subpoena; (2)  
21 fails to answer any question; (3) fails to produce any books or  
22 papers pertinent to an investigation under this Code; or (4)  
23 knowingly gives false testimony during an investigation under  
24 this Code, is guilty of a Class A misdemeanor.

25       (e) The Inspector General shall provide to the board and  
26 the Illinois General Assembly a summary of reports and

1 investigations made under this Section for the previous fiscal  
2 year no later than January 1 of each year, except that the  
3 Inspector General shall provide the summary of reports and  
4 investigations made under this Section for the period  
5 commencing July 1, 1998 and ending April 30, 1999 no later than  
6 May 1, 1999. The summaries shall detail the final disposition  
7 of those recommendations. The summaries shall not contain any  
8 confidential or identifying information concerning the  
9 subjects of the reports and investigations. The summaries shall  
10 also include detailed recommended administrative actions and  
11 matters for consideration by the General Assembly.

12 (f) (Blank).

13 (g) (Blank).

14 (Source: P.A. 89-15, eff. 5-30-95; 89-698, eff. 1-14-97.)

15 Section 30. The Illinois Public Aid Code is amended by  
16 changing Section 12-13.1 as follows:

17 (305 ILCS 5/12-13.1)

18 Sec. 12-13.1. Inspector General.

19 (a) The Governor shall appoint, and the Senate shall  
20 confirm, an Inspector General who shall function within the  
21 Illinois Department of Public Aid (now Healthcare and Family  
22 Services) and report to the Governor. The term of the Inspector  
23 General shall expire on the third Monday of January, 1997 and  
24 every 4 years thereafter.

1       (a-5) The Inspector General appointed by the Governor under  
2 subsection (a) shall have the following qualifications:

3           (1) has not been convicted of any felony under the laws  
4 of this State, another State, or the United States;

5           (2) has earned a baccalaureate degree from an  
6 institution of higher education;

7           (3) has not, for appointments made on or after the  
8 effective date of this amendatory Act of the 97th General  
9 Assembly, been employed by the Department of Healthcare and  
10 Family Services other than as an Inspector General or an  
11 employee in the Office of the Inspector General for the  
12 Department of Healthcare and Family Services during the 5  
13 years immediately preceding his or her appointment; and

14           (4) has (A) 5 or more years of service with a federal,  
15 State, or local law enforcement agency, at least 2 years of  
16 which have been in a progressive investigatory capacity;  
17 (B) 5 or more years of service as a federal, State, or  
18 local prosecutor; or (C) 5 or more years of service as a  
19 senior manager or executive of a federal, State, or local  
20 agency.

21       (b) In order to prevent, detect, and eliminate fraud,  
22 waste, abuse, mismanagement, and misconduct, the Inspector  
23 General shall oversee the Department of Healthcare and Family  
24 Services' integrity functions, which include, but are not  
25 limited to, the following:

26           (1) Investigation of misconduct by employees, vendors,

1 contractors and medical providers, except for allegations  
2 of violations of the State Officials and Employees Ethics  
3 Act which shall be referred to the Office of the Governor's  
4 Executive Inspector General for investigation.

5 (2) Audits of medical providers related to ensuring  
6 that appropriate payments are made for services rendered  
7 and to the recovery of overpayments.

8 (3) Monitoring of quality assurance programs generally  
9 related to the medical assistance program and specifically  
10 related to any managed care program.

11 (4) Quality control measurements of the programs  
12 administered by the Department of Healthcare and Family  
13 Services.

14 (5) Investigations of fraud or intentional program  
15 violations committed by clients of the Department of  
16 Healthcare and Family Services.

17 (6) Actions initiated against contractors or medical  
18 providers for any of the following reasons:

19 (A) Violations of the medical assistance program.

20 (B) Sanctions against providers brought in  
21 conjunction with the Department of Public Health or the  
22 Department of Human Services (as successor to the  
23 Department of Mental Health and Developmental  
24 Disabilities).

25 (C) Recoveries of assessments against hospitals  
26 and long-term care facilities.

1           (D) Sanctions mandated by the United States  
2           Department of Health and Human Services against  
3           medical providers.

4           (E) Violations of contracts related to any managed  
5           care programs.

6           (7) Representation of the Department of Healthcare and  
7           Family Services at hearings with the Illinois Department of  
8           Professional Regulation in actions taken against  
9           professional licenses held by persons who are in violation  
10          of orders for child support payments.

11          (b-5) At the request of the Secretary of Human Services,  
12          the Inspector General shall, in relation to any function  
13          performed by the Department of Human Services as successor to  
14          the Department of Public Aid, exercise one or more of the  
15          powers provided under this Section as if those powers related  
16          to the Department of Human Services; in such matters, the  
17          Inspector General shall report his or her findings to the  
18          Secretary of Human Services.

19          (c) The Inspector General shall have access to all  
20          information, personnel and facilities of the Department of  
21          Healthcare and Family Services and the Department of Human  
22          Services (as successor to the Department of Public Aid), their  
23          employees, vendors, contractors and medical providers and any  
24          federal, State or local governmental agency that are necessary  
25          to perform the duties of the Office as directly related to  
26          public assistance programs administered by those departments.

1 No medical provider shall be compelled, however, to provide  
2 individual medical records of patients who are not clients of  
3 the Medical Assistance Program. State and local governmental  
4 agencies are authorized and directed to provide the requested  
5 information, assistance or cooperation.

6 (d) The Inspector General shall serve as the Department of  
7 Healthcare and Family Services' primary liaison with law  
8 enforcement, investigatory and prosecutorial agencies,  
9 including but not limited to the following:

10 (1) The Department of State Police.

11 (2) The Federal Bureau of Investigation and other  
12 federal law enforcement agencies.

13 (3) The various Inspectors General of federal agencies  
14 overseeing the programs administered by the Department of  
15 Healthcare and Family Services.

16 (4) The various Inspectors General of any other State  
17 agencies with responsibilities for portions of programs  
18 primarily administered by the Department of Healthcare and  
19 Family Services.

20 (5) The Offices of the several United States Attorneys  
21 in Illinois.

22 (6) The several State's Attorneys.

23 The Inspector General shall meet on a regular basis with  
24 these entities to share information regarding possible  
25 misconduct by any persons or entities involved with the public  
26 aid programs administered by the Department of Healthcare and

1 Family Services.

2 (e) All investigations conducted by the Inspector General  
3 shall be conducted in a manner that ensures the preservation of  
4 evidence for use in criminal prosecutions. If the Inspector  
5 General determines that a possible criminal act relating to  
6 fraud in the provision or administration of the medical  
7 assistance program has been committed, the Inspector General  
8 shall immediately notify the Medicaid Fraud Control Unit. If  
9 the Inspector General determines that a possible criminal act  
10 has been committed within the jurisdiction of the Office, the  
11 Inspector General may request the special expertise of the  
12 Department of State Police. The Inspector General may present  
13 for prosecution the findings of any criminal investigation to  
14 the Office of the Attorney General, the Offices of the several  
15 United States Attorneys in Illinois or the several State's  
16 Attorneys.

17 (f) To carry out his or her duties as described in this  
18 Section, the Inspector General and his or her designees shall  
19 have the power to compel by subpoena the attendance and  
20 testimony of witnesses and the production of books, electronic  
21 records and papers as directly related to public assistance  
22 programs administered by the Department of Healthcare and  
23 Family Services or the Department of Human Services (as  
24 successor to the Department of Public Aid). No medical provider  
25 shall be compelled, however, to provide individual medical  
26 records of patients who are not clients of the Medical



1 Assistance Program.

2 (g) The Inspector General shall report all convictions,  
3 terminations, and suspensions taken against vendors,  
4 contractors and medical providers to the Department of  
5 Healthcare and Family Services and to any agency responsible  
6 for licensing or regulating those persons or entities.

7 (h) The Inspector General shall make annual reports,  
8 findings, and recommendations regarding the Office's  
9 investigations into reports of fraud, waste, abuse,  
10 mismanagement, or misconduct relating to any public aid  
11 programs administered by the Department of Healthcare and  
12 Family Services or the Department of Human Services (as  
13 successor to the Department of Public Aid) to the General  
14 Assembly and the Governor. These reports shall include, but not  
15 be limited to, the following information:

16 (1) Aggregate provider billing and payment  
17 information, including the number of providers at various  
18 Medicaid earning levels.

19 (2) The number of audits of the medical assistance  
20 program and the dollar savings resulting from those audits.

21 (3) The number of prescriptions rejected annually  
22 under the Department of Healthcare and Family Services'  
23 Refill Too Soon program and the dollar savings resulting  
24 from that program.

25 (4) Provider sanctions, in the aggregate, including  
26 terminations and suspensions.

1           (5) A detailed summary of the investigations  
2           undertaken in the previous fiscal year. These summaries  
3           shall comply with all laws and rules regarding maintaining  
4           confidentiality in the public aid programs.

5           (i) Nothing in this Section shall limit investigations by  
6           the Department of Healthcare and Family Services or the  
7           Department of Human Services that may otherwise be required by  
8           law or that may be necessary in their capacity as the central  
9           administrative authorities responsible for administration of  
10          public aid programs in this State.

11          (j) The Inspector General may issue shields or other  
12          distinctive identification to his or her employees not  
13          exercising the powers of a peace officer if the Inspector  
14          General determines that a shield or distinctive identification  
15          is needed by an employee to carry out his or her  
16          responsibilities.

17          (Source: P.A. 95-331, eff. 8-21-07; 96-555, eff. 8-18-09;  
18          96-1316, eff. 1-1-11.)

19          Section 35. The Toll Highway Act is amended by changing  
20          Section 8.5 as follows:

21               (605 ILCS 10/8.5)

22               Sec. 8.5. Toll Highway Inspector General.

23               (a) The Governor shall, with the advice and consent of the  
24          Senate by three-fifths of the elected members concurring by

1 record vote, appoint a Toll Highway Inspector General for the  
2 purpose of detection, deterrence, and prevention of fraud,  
3 corruption, and mismanagement in the Authority. The Toll  
4 Highway Inspector General shall serve a 5-year term. If, during  
5 a recess of the Senate, there is a vacancy in the office of the  
6 Toll Highway Inspector General, the Governor shall make a  
7 temporary appointment until the next meeting of the Senate when  
8 the Governor shall make a nomination to fill that office. No  
9 person rejected for the office of the Toll Highway Inspector  
10 General shall, except by the Senate's request, be nominated  
11 again for that office at the same session of the Senate or be  
12 appointed to that office during a recess of that Senate. The  
13 Governor may not appoint a relative, as defined by item (6) of  
14 Section 10-15 of the State Officials and Employees Ethics Act,  
15 as the Toll Highway Inspector General. The Toll Highway  
16 Inspector General may be removed only for cause and may be  
17 removed only by the Governor.

18 (b) The Toll Highway Inspector General shall have the  
19 following qualifications:

20 (1) has not been convicted of any felony under the laws  
21 of this State, another state, or the United States;

22 (2) has earned a baccalaureate degree from an  
23 institution of higher education; ~~and~~

24 (2.5) has not, for appointments made on or after the  
25 effective date of this amendatory Act of the 97th General  
26 Assembly, been employed by the Authority other than as an

1       Inspector General or an employee in the Office of the  
2       Inspector General for the Authority during the 5 years  
3       immediately preceding his or her appointment; and

4           (3) has 5 or more years of cumulative service (i) with  
5       a federal, state, or local law enforcement agency, at least  
6       2 years of which have been in a progressive investigatory  
7       capacity; (ii) as a federal, state, or local prosecutor;  
8       (iii) as a federal or state judge with a criminal docket;  
9       (iv) as a senior manager or executive of a federal, state,  
10      or local agency; or (v) representing any combination of (i)  
11      through (iv).

12       (c) The term of the initial Toll Highway Inspector General  
13      shall commence upon qualification and shall run through June  
14      30, 2015. The initial appointments shall be made within 60 days  
15      after the effective date of this amendatory Act of the 96th  
16      General Assembly. After the initial term, each Toll Highway  
17      Inspector General shall serve for 5-year terms commencing on  
18      July 1 of the year of appointment and running through June 30  
19      of the fifth following year. A Toll Highway Inspector General  
20      may be reappointed to one or more subsequent terms. A vacancy  
21      occurring other than at the end of a term shall be filled by  
22      the Governor only for the balance of the term of the Toll  
23      Highway Inspector General whose office is vacant. Terms shall  
24      run regardless of whether the position is filled.

25       (d) The Toll Highway Inspector General shall have  
26      jurisdiction over the Authority and all board members,

1 officers, and employees of, and vendors, subcontractors, and  
2 others doing business with the Authority. The jurisdiction of  
3 the Toll Highway Inspector General is to investigate  
4 allegations of fraud, waste, abuse, mismanagement, misconduct,  
5 nonfeasance, misfeasance, or malfeasance. Investigations may  
6 be based on complaints from any source, including anonymous  
7 sources, and may be self-initiated, without a complaint. An  
8 investigation may not be initiated more than five years after  
9 the most recent act of the alleged violation or of a series of  
10 alleged violations except where there is reasonable cause to  
11 believe that fraudulent concealment has occurred. To  
12 constitute fraudulent concealment sufficient to toll this  
13 limitations period, there must be an affirmative act or  
14 representation calculated to prevent discovery of the fact that  
15 a violation has occurred. The authority to investigate alleged  
16 violations of the State Officials and Employees Ethics Act by  
17 officers, employees, vendors, subcontractors, and others doing  
18 business with the Authority shall remain with the Office of the  
19 Governor's Executive Inspector General. The Toll Highway  
20 Inspector General shall refer allegations of misconduct under  
21 the State Officials and Employees Ethics Act to the Office of  
22 the Governor's Executive Inspector General for investigation.  
23 Upon completion of its investigation into such allegations, the  
24 Office of the Governor's Executive Inspector General shall  
25 report the results to the Toll Highway Inspector General, and  
26 the results of the investigation shall remain subject to any

1 applicable confidentiality provisions in the State Officials  
2 and Employees Ethics Act. Where an investigation into a target  
3 or targets is split between allegations of misconduct under the  
4 State Officials and Employees Ethics Act, investigated by the  
5 Office of the Governor's Executive Inspector General, and  
6 allegations that are not of misconduct under the State  
7 Officials and Employees Ethics Act, investigated by the Toll  
8 Highway Inspector General, the Toll Highway Inspector General  
9 shall take reasonable steps, including continued consultation  
10 with the Office of the Governor's Executive Inspector General,  
11 to ensure that its investigation will not interfere with or  
12 disrupt any investigation by the Office of the Governor's  
13 Executive Inspector General or law enforcement authorities. In  
14 instances in which the Toll Highway Inspector General continues  
15 to investigate other allegations associated with allegations  
16 that have been referred to the Office of the Governor's  
17 Executive Inspector General pursuant to this subsection, the  
18 Toll Highway Inspector General shall report the results of its  
19 investigation to the Office of the Governor's Executive  
20 Inspector General.

21 (e)(1) If the Toll Highway Inspector General, upon the  
22 conclusion of an investigation, determines that reasonable  
23 cause exists to believe that fraud, waste, abuse,  
24 mismanagement, misconduct, nonfeasance, misfeasance, or  
25 malfeasance has occurred, then the Toll Highway Inspector  
26 General shall issue a summary report of the investigation. The

1 report shall be delivered to the appropriate authority pursuant  
2 to paragraph (3) of subsection (f) of this Section, which shall  
3 have 20 days to respond to the report.

4 (2) The summary report of the investigation shall  
5 include the following:

6 (A) a description of any allegations or other  
7 information received by the Toll Highway Inspector  
8 General pertinent to the investigation.

9 (B) a description of any alleged misconduct  
10 discovered in the course of the investigation.

11 (C) recommendations for any corrective or  
12 disciplinary action to be taken in response to any  
13 alleged misconduct described in the report, including  
14 but not limited to discharge.

15 (D) other information the Toll Highway Inspector  
16 General deems relevant to the investigation or  
17 resulting recommendations.

18 (3) Within 60 days after issuance of a final summary  
19 report that resulted in a suspension of at least 3 days or  
20 termination of employment, the Toll Highway Inspector  
21 General shall make the report available to the public by  
22 presenting the report to the Board of the Authority and by  
23 posting to the Authority's public website. The Toll Highway  
24 Inspector General shall redact information in the summary  
25 report that may reveal the identity of witnesses,  
26 complainants, or informants or if the Toll Highway

1 Inspector General determines it is appropriate to protect  
2 the identity of a person before the report is made public.  
3 The Toll Highway Inspector General may also redact any  
4 information that he or she believes should not be made  
5 public, taking into consideration the factors set forth in  
6 this subsection and paragraph (1) of subsection (k) of this  
7 Section and other factors deemed relevant by the Toll  
8 Highway Inspector General to protect the Authority and any  
9 investigations by the Toll Highway Inspector General,  
10 other inspector general offices or law enforcement  
11 agencies. Prior to publication, the Toll Highway Inspector  
12 General shall permit the respondents and the appropriate  
13 authority pursuant to paragraph (3) of subsection (f) of  
14 this Section to review the report and the documents to be  
15 made public and offer suggestions for redaction or provide  
16 a response that shall be made public with the summary  
17 report, provided, however, that the Toll Highway Inspector  
18 General shall have the sole and final authority to decide  
19 what redactions should be made. The Toll Highway Inspector  
20 General may make available to the public any other summary  
21 report and any such responses or a redacted version of the  
22 report and responses.

23 (4) When the Toll Highway Inspector General concludes  
24 that there is insufficient evidence that a violation has  
25 occurred, the Toll Highway Inspector General shall close  
26 the investigation. The Toll Highway Inspector General



1 shall provide the appropriate authority pursuant to  
2 paragraph (3) of subsection (f) of this Section with a  
3 written statement of the Toll Highway Inspector General's  
4 decision to close the investigation. At the request of the  
5 subject of the investigation, the Toll Highway Inspector  
6 General shall provide a written statement to the subject of  
7 the investigation of the Toll Highway Inspector General's  
8 decision to close the investigation. Closure by the Toll  
9 Highway Inspector General does not bar the Toll Highway  
10 Inspector General from resuming the investigation if  
11 circumstances warrant.

12 (f) The Toll Highway Inspector General shall:

13 (1) have access to all information and personnel  
14 necessary to perform the duties of the office.

15 (2) have the power to subpoena witnesses and compel the  
16 production of books and papers pertinent to an  
17 investigation authorized by this Section. A subpoena may be  
18 issued under this subparagraph (2) only by the Toll Highway  
19 Inspector General and not by members of the Toll Highway  
20 Inspector General's staff. Any person subpoenaed by the  
21 Toll Highway Inspector General has the same rights, under  
22 Illinois law, as a person subpoenaed by a grand jury. The  
23 power to subpoena or to compel the production of books and  
24 papers, however, shall not extend to the person or  
25 documents of a labor organization or its representatives  
26 insofar as the person or documents of a labor organization

1 relate to the function of representing an employee subject  
2 to investigation under this Section. Subject to a person's  
3 privilege against self-incrimination, any person who fails  
4 to appear in response to a subpoena, answer any question,  
5 or produce any books or papers pertinent to an  
6 investigation under this Section, except as otherwise  
7 provided in this Section, or who knowingly gives false  
8 testimony in relation to an investigation under this  
9 Section is guilty of a Class A misdemeanor.

10 (3) submit reports as required by this Section and  
11 applicable administrative rules. Final reports and  
12 recommendations shall be submitted to the Authority's  
13 Executive Director and the Board of Directors for  
14 investigations not involving the Board. Final reports and  
15 recommendations shall be submitted to the Chair of the  
16 Board and to the Governor for investigations of any Board  
17 member other than the Chair of the Board. Final reports and  
18 recommendations for investigations of the Chair of the  
19 Board shall be submitted to the Governor.

20 (4) assist and coordinate with the ethics officer for  
21 the Authority.

22 (5) participate in or conduct, when appropriate,  
23 multi-jurisdictional investigations provided the  
24 investigation involves the Authority in some way,  
25 including, but not limited to, joint investigations with  
26 the Office of the Governor's Executive Inspector General,

1 or with State, local, or federal law enforcement  
2 authorities.

3 (6) serve as the Authority's primary liaison with law  
4 enforcement, investigatory, and prosecutorial agencies  
5 and, in that capacity, the Toll Highway Inspector General  
6 may request any information or assistance that may be  
7 necessary for carrying out the duties and responsibilities  
8 provided by this Section from any local, state, or federal  
9 governmental agency or unit thereof.

10 (7) review hiring and employment files of the Authority  
11 to ensure compliance with *Rutan v. Republican Party of*  
12 *Illinois*, 497 U.S. 62 (1990), and with all applicable  
13 employment laws.

14 (8) establish a policy that ensures the appropriate  
15 handling and correct recording of all investigations  
16 conducted by the Office, and ensures that the policy is  
17 accessible via the Internet in order that those seeking to  
18 report suspected wrongdoing are familiar with the process  
19 and that the subjects of those allegations are treated  
20 fairly.

21 (9) receive and investigate complaints or information  
22 from an employee of the Authority concerning the possible  
23 existence of an activity constituting a violation of law,  
24 rules or regulations, mismanagement, abuse of authority,  
25 or substantial and specific danger to the public health and  
26 safety. Any employee of the Authority who knowingly files a

1 false complaint or files a complaint with reckless  
2 disregard for the truth or falsity of the facts underlying  
3 the complaint may be subject to discipline.

4 (10) review, coordinate, and recommend methods and  
5 procedures to increase the integrity of the Authority.

6 (g) Within six months of appointment, the initial Toll  
7 Highway Inspector General shall propose rules, in accordance  
8 with the provisions of the Illinois Administrative Procedure  
9 Act, establishing minimum requirements for initiating,  
10 conducting, and completing investigations. The rules must  
11 establish criteria for determining, based upon the nature of  
12 the allegation, the appropriate method of investigation, which  
13 may include, but is not limited to, site visits, telephone  
14 contacts, personal interviews, or requests for written  
15 responses. The rules must establish the process, contents, and  
16 timing for final reports and recommendations by the Toll  
17 Highway Inspector General and for a response and any remedial,  
18 disciplinary, or both action by an individual or individuals  
19 receiving the final reports and recommendations. The rules must  
20 also clarify how the Office of the Toll Highway Inspector  
21 General shall interact with other local, state, and federal law  
22 enforcement authorities and investigations. Such rules shall  
23 provide that investigations and inquiries by the Office of the  
24 Toll Highway Inspector General must be conducted in compliance  
25 with the provisions of any collective bargaining agreement that  
26 applies to the affected employees of the Authority and that any

1 recommendation for discipline or other action against any  
2 employee by the Office of the Toll Highway Inspector General  
3 must comply with the provisions of any applicable collective  
4 bargaining agreement.

5 (h) The Office of the Toll Highway Inspector General shall  
6 be an independent office of the Authority. Within its annual  
7 budget, the Authority shall provide a clearly delineated budget  
8 for the Office of the Toll Highway Inspector General. The  
9 budget of the Office of the Toll Highway Inspector General  
10 shall be adequate to support an independent and effective  
11 office. Except with the consent of the Toll Highway Inspector  
12 General, the Authority shall not reduce the budget of the  
13 Office of the Toll Highway Inspector General by more than 10  
14 percent (i) within any fiscal year or (ii) over the five-year  
15 term of each Toll Highway Inspector General. To the extent  
16 allowed by law and the Authority's policies, the Toll Highway  
17 Inspector General shall have sole responsibility for  
18 organizing the Office of the Toll Highway Inspector General  
19 within the budget established by the Toll Highway Board,  
20 including the recruitment, supervision, and discipline of the  
21 employees of that office. The Toll Highway Inspector General  
22 shall report directly to the Board of Directors of the  
23 Authority with respect to the prompt and efficient operation of  
24 the Office of the Tollway Highway Inspector General.

25 (i) (1) No Toll Highway Inspector General or employee of the  
26 Office of the Toll Highway Inspector General may, during his or

1 her term of appointment or employment:

2 (A) become a candidate for any elective office;

3 (B) hold any other elected or appointed public office  
4 except for appointments on governmental advisory boards or  
5 study commissions or as otherwise expressly authorized by  
6 law;

7 (C) be actively involved in the affairs of any  
8 political party or political organization; or

9 (D) advocate for the appointment of another person to  
10 an appointed public office or elected office or position or  
11 actively participate in any campaign for any elective  
12 office. As used in this paragraph (1), "appointed public  
13 office" means a position authorized by law that is filled  
14 by an appointing authority as provided by law and does not  
15 include employment by hiring in the ordinary course of  
16 business.

17 (2) No Toll Inspector General or employee of the Office of  
18 the Toll Highway Inspector General may, for one year after the  
19 termination of his or her appointment or employment:

20 (A) become a candidate for any elective office;

21 (B) hold any elected public office; or

22 (C) hold any appointed State, county, or local judicial  
23 office.

24 (3) The requirements of subparagraph (C) of paragraph (2)  
25 of this subsection may be waived by the Executive Ethics  
26 Commission.

1           (j) All Board members, officers and employees of the  
2 Authority have a duty to cooperate with the Toll Highway  
3 Inspector General and employees of the Office of the Toll  
4 Highway Inspector General in any investigation undertaken  
5 pursuant to this Section. Failure to cooperate includes, but is  
6 not limited to, intentional omissions and knowing false  
7 statements. Failure to cooperate with an investigation  
8 pursuant to this Section is grounds for disciplinary action,  
9 including termination of employment. Nothing in this Section  
10 limits or alters a person's existing rights or protections  
11 under State or federal law.

12           (k)(1) The identity of any individual providing  
13 information or reporting any possible or alleged misconduct to  
14 the Toll Highway Inspector General shall be kept confidential  
15 and may not be disclosed without the consent of that  
16 individual, unless the individual consents to disclosure of his  
17 or her name or disclosure of the individual's identity is  
18 otherwise required by law. The confidentiality granted by this  
19 subsection does not preclude the disclosure of the identity of  
20 a person in any capacity other than as the source of an  
21 allegation.

22           (2) Subject to the provisions of subsection (e) of this  
23 Section, the Toll Highway Inspector General, and employees and  
24 agents of the Office of the Toll Highway Inspector General,  
25 shall keep confidential and shall not disclose information  
26 exempted from disclosure under the Freedom of Information Act

1 or by this Act.

2 (1) If the Toll Highway Inspector General determines that  
3 any alleged misconduct involves any person not subject to the  
4 jurisdiction of the Toll Highway Inspector General, the Toll  
5 Highway Inspector General shall refer the reported allegations  
6 to the appropriate Inspector General, appropriate ethics  
7 commission or other appropriate body. If the Toll Highway  
8 Inspector General determines that any alleged misconduct may  
9 give rise to criminal penalties, the Toll Highway Inspector  
10 General may refer the allegations regarding that misconduct to  
11 the appropriate law enforcement authority. If a Toll Highway  
12 Inspector General determines that any alleged misconduct  
13 resulted in the loss of public funds in an amount of \$5,000 or  
14 greater, the Toll Highway Inspector General shall refer the  
15 allegations regarding that misconduct to the Attorney General  
16 and any other appropriate law enforcement authority.

17 (m) The Toll Highway Inspector General shall provide to the  
18 Governor, the Board of the Authority, and the General Assembly  
19 a summary of reports and investigations made under this Section  
20 no later than March 31 and September 30 of each year. The  
21 summaries shall detail the final disposition of the Inspector  
22 General's recommendations. The summaries shall not contain any  
23 confidential or identifying information concerning the  
24 subjects of the reports and investigations. The summaries shall  
25 also include detailed, recommended administrative actions and  
26 matters for consideration by the Governor, the Board of the



1 Authority, and the General Assembly.

2 (n) Any employee of the Authority subject to investigation  
3 or inquiry by the Toll Highway Inspector General or any agent  
4 or representative of the Toll Highway Inspector General  
5 concerning misconduct that is criminal in nature shall have the  
6 right to be notified of the right to remain silent during the  
7 investigation or inquiry and the right to be represented in the  
8 investigation or inquiry by an attorney or a representative of  
9 a labor organization that is the exclusive collective  
10 bargaining representative of employees of the Authority. Any  
11 investigation or inquiry by the Toll Highway Inspector General  
12 or any agent or representative of the Toll Highway Inspector  
13 General must be conducted in accordance with the rights of the  
14 employees as set forth in State and federal law and applicable  
15 judicial decisions. Any recommendations for discipline or any  
16 action taken against any employee by the Toll Highway Inspector  
17 General or any representative or agent of the Toll Highway  
18 Inspector General must comply with the provisions of the  
19 collective bargaining agreement that applies to the employee.

20 (o) Nothing in this Section shall diminish the rights,  
21 privileges, or remedies of a State employee under any other  
22 federal or State law, rule, or regulation or under any  
23 collective bargaining agreement.

24 (Source: P.A. 96-1347, eff. 1-1-11.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".