

Calendar No. 408

106TH CONGRESS }
1st Session }

SENATE

{ REPORT
106-218

A BILL TO AMEND THE INSPECTOR
GENERAL ACT

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1707

TO AMEND THE INSPECTOR GENERAL ACT OF 1978 (5 U.S.C. APP.)
TO PROVIDE THAT CERTAIN DESIGNATED FEDERAL ENTITIES
SHALL BE ESTABLISHMENTS UNDER SUCH ACT, AND FOR
OTHER PURPOSES



NOVEMBER 8, 1999.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

79-010

WASHINGTON : 1999

COMMITTEE ON GOVERNMENTAL AFFAIRS

FRED THOMPSON, Tennessee, *Chairman*

WILLIAM V. ROTH, JR., Delaware
TED STEVENS, Alaska
SUSAN M. COLLINS, Maine
GEORGE VOINOVICH, Ohio
PETE V. DOMENICI, New Mexico
THAD COCHRAN, Mississippi
ARLEN SPECTER, Pennsylvania
JUDD GREGG, New Hampshire

JOSEPH I. LIEBERMAN, Connecticut
CARL LEVIN, Michigan
DANIEL K. AKAKA, Hawaii
RICHARD J. DURBIN, Illinois
ROBERT G. TORRICELLI, New Jersey
MAX CLELAND, Georgia
JOHN EDWARDS, North Carolina

HANNAH S. SISTARE, *Staff Director and Counsel*
WILLIAM "BILL" M. OUTHIER, *Investigative Counsel*
JOYCE A. RECHTSCHAFFEN, *Minority Staff Director and Counsel*
KENNETH R. BOLEY, *Minority Counsel*
DARLA D. CASSELL, *Administrative Clerk*

Calendar No. 408

106TH CONGRESS }
1st Session }

SENATE

{ REPORT
106-218

A BILL TO AMEND THE INSPECTOR GENERAL ACT

NOVEMBER 8, 1999.—Ordered to be printed

Mr. THOMPSON, from the Committee on Governmental Affairs,
submitted the following

REPORT

[To accompany S. 1707]

The Committee on Governmental Affairs, to which was referred the bill (S. 1707) to amend the Inspector General Act of 1978 (5 U.S.C. App.) to provide that the Tennessee Valley Authority Inspector General be appointed by the President, establish a criminal investigator academy and forensic laboratory for Inspectors General, and for other purposes, having considered the same, reports favorably thereon with amendments and recommendations by voice vote that the bill as amended do pass.

CONTENTS

	Page
I. Purpose and summary	1
II. Background and need for legislation	2
III. Legislative history and committee consideration	3
IV. Section-by-section analysis	3
V. Regulatory impact statement	4
VI. CBO cost estimate	4
VII. Changes in existing law	6

I. PURPOSE AND SUMMARY

The purpose of S. 1707 is twofold: First, the bill is intended to enhance the independence of the Inspector General of the Tennessee Valley Authority (TVA) by making the position presidentially appointed. Second, the bill creates a Criminal Investigator Academy and Forensic Laboratory for the Inspector General community.

II. BACKGROUND AND NEED FOR LEGISLATION

A. THE TENNESSEE VALLEY AUTHORITY AS AN ESTABLISHMENT UNDER THE INSPECTOR GENERAL ACT OF 1978

Currently there are two sets of inspectors general, “establishment agencies” whose inspectors general are appointed by the president, and “designated federal entities,” including TVA, whose inspectors general are appointed (and removed) by the agency head.¹ The duty of an inspector general is to ferret out fraud, waste and abuse within federal agencies. To properly carry out their mission, inspectors general must maintain independence from their agency. Although most inspectors general enjoy a cooperative relationship with their agency head, there have been several examples over the years of problems, including attempts by agency heads to harass or intimidate their inspectors general.

On May 26, 1999, the TVA Inspector General sent a “seven day letter” to the Chairman of the TVA Board alleging that the TVA Board had attempted to “impede the independence” of his office. On June 2, 1999, the Chairman of the TVA Board attached allegations against the TVA Inspector General and forwarded the letter to Congress. That same day, Senator Thompson, Chairman of the Governmental Affairs Committee, requested an independent investigation of all the allegations by the General Accounting Office (GAO). On September 15, 1999, GAO issued a report which stated in part that the Board’s “actions could be viewed as an attempt to undermine the IG’s independence.”² GAO also found that the TVA Inspector General’s actions had been proper under TVA policy.³ While not all parties agree with all of GAO’s specific findings, the legal authority of the Board to remove the inspector general likely contributed to the problems at TVA.

S. 1707 would convert TVA from a designated federal entity to an establishment agency under the Inspector General Act. As a result, the TVA Inspector General would be presidentially appointed and removable only by the President. This measure would enhance the independence necessary for the TVA Inspector General to properly investigate waste, fraud and abuse within the agency.

B. THE INSPECTORS GENERAL CRIMINAL INVESTIGATOR ACADEMY

In the past, the inspector general community has attempted to maintain a criminal investigator academy for both initial and continuing education after basic training at the Federal Law Enforcement Training Center (FLETC) in Glencoe, GA. However, because the academy has had to rely on funds available on an ad hoc basis in the various inspector general budgets, the community has been unable to maintain sufficient or reliable funding for its academy. According to the Treasury Inspector General for Tax Administration, who has been selected to speak for the IG community on training matters, many IG offices have experienced investigative success because of training in their specialized area. However, many have also been unable to obtain such specialized training.

¹5. U.S.C. App. 3 § 8G(a)(2); 5 U.S.C. App. 3 § 11 (2).

²“Tennessee Valley Authority: Facts Surrounding Allegations Raised Against the Chairman and the IG,” General Accounting Office, GAO/OSI-99-20, September 15, 1999 at p. 16.

³*Id.* at p. 19.

Some inspectors general have even experienced investigative setbacks because of a lack of specialized training.

The inspectors general provide a wide variety of specialized law enforcement functions for the government, often in conjunction with other law enforcement agencies. According to the 1999 Progress Report to the President by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency, inspector general investigations resulted in 14,885 successful criminal prosecutions in 1998 alone.⁴ It is imperative, therefore, that inspectors general receive adequate and continuing criminal investigative training. S. 1707 would establish and authorize such funds as necessary for an Inspectors General Criminal Investigator Training Academy.

C. THE INSPECTORS GENERAL FORENSIC LABORATORY

The inspectors general have a significant need for forensic laboratory capabilities. Currently, they use a variety of different approaches, including sharing other federal facilities and working out arrangements with state or private service providers. Three-quarters of inspectors general surveyed stated that their offices currently utilize such services in support of investigations (for such services as handwriting analysis, fingerprinting, authenticating documents, document chemistry, and digital imaging). If such services were made available to inspectors general, they estimate that the number of cases referred for laboratory work would increase by a third. In other words, a quarter of the cases where such services are appropriate currently do not get them. S. 1707 would establish and authorize such funds as necessary for an Inspectors General Forensic Laboratory.

III. LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

AMENDMENTS AND COMMITTEE ACTION

On November 3, 1999, the Committee on Governmental Affairs considered S. 1707. One amendment was offered, debated and adopted by voice vote. Senators Thompson and Lieberman offered an amendment in the nature of a substitute which (i) converted the TVA from a designated federal entity to an establishment agency under the Inspector General Act and (ii) established the Inspectors General Criminal Investigator Academy and the Inspectors General Forensic Laboratory. Senator Cleland requested to be added as a co-sponsor to the amendment. The Committee subsequently ordered S. 1707 reported by unanimous voice vote.

IV. SECTION-BY-SECTION ANALYSIS

Sec. 1. The Tennessee Valley Authority as an establishment under the Inspector General Act of 1978

Congress finds that (1) inspectors general serve an important function in preventing and eliminating fraud, waste, and abuse in the Federal Government; and (2) independence is vital for an inspector general to function effectively. This section converts TVA

⁴PCIE/ECIE: A progress Report to the President, Fiscal Year 1998, p. 47.

from a designated federal entity to an establishment agency under the Inspector General Act of 1978 and adds the TVA Inspector General to the list of positions at level IV of the Executive Schedule. This section also establishes that the bill takes effect thirty days after the date of its enactment. In addition, this section requires that the TVA Inspector General continue to serve as an inspector general for a designated federal entity until the President makes an appointment under the Inspector General Act of 1978.

Sec. 2. Establishment of Inspectors General Criminal Investigator Academy and Inspectors General Forensic Laboratory

This section establishes the Inspectors General Criminal Investigator Academy within the Department of the Treasury. It is to be administered by an Executive Director who shall report to an establishment inspector general to be designated by the President's Council on Integrity and Efficiency or, if that council is eliminated, by a majority vote of the inspectors general created under the Inspector General Act of 1978. This section also establishes the Inspectors General Forensic Laboratory within the Department of the Treasury. It is to be administered by an Executive Director who shall report to an establishment inspector general to be designated by the President's Council on Integrity and Efficiency or, if that council is eliminated, by a majority vote of the inspectors general created under the Inspector General Act of 1978. In addition, this section authorizes such sums as may be necessary for fiscal year 2001 and each fiscal year thereafter.

V. REGULATORY IMPACT STATEMENT

S. 1707 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

VI. CBO COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 5, 1999.

Hon. FRED THOMPSON,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1707, a bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to provide that certain designated federal entities shall be establishments under such act, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 1707—A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to provide that certain designated federal entities shall be establishments under such act, and for other purposes

Summary: S. 1707 would require the President to appoint the inspector general (IG) for the Tennessee Valley Authority (TVA). Currently, that authority rests with the board of the directors of TVA. In addition, the bill would establish both the Criminal Investigator Academy and the Inspectors General Forensic Laboratory within the Department of the Treasury. The new entities would provide centralized training and forensic lab services for the 59 offices of inspector general. Beginning in fiscal year 2001, the bill would authorize the appropriation of such sums as may be necessary to fund the two facilities.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1707 would cost the federal government about \$22 million over the 2001–2004 period. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. S. 1707 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1707 is shown in the following table. For the purposes of this estimate, CBO assumes that the estimated authorization level will be appropriated by the start of each fiscal year. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—				
	2000	2001	2002	2003	2004
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	0	6	5	5	6
Estimated Outlays	0	5	6	5	6

Basis of estimate: S. 1707 would establish two entities—the Criminal Investigator Academy and the Inspectors General Forensic Laboratory—to provide centralized support to federal IG offices. To some extent, the IG offices currently fund such services separately. Based on information from the Department of the Treasury, CBO estimates that operating the two centers would cost about \$6 million in fiscal year 2001 and about \$29 million over the 2001–2004 period, assuming appropriation of the necessary amounts. That estimate includes about \$1 million for certain one-time expenses in 2001 and assumes that, in total, the academy and laboratory would require between 45 and 50 employees. The estimated costs for fiscal years 2002 through 2004 have been adjusted to reflect the impact of inflation on the costs of operation.

Because the IG offices would no longer fund such services separately, we estimate that implementing S. 1707 would reduce their costs by about one-quarter of the additional costs estimated for the academy and laboratory. Thus, in total, CBO estimates that implementing the bill would cost the federal government about \$5 million in fiscal year 2001 and about \$22 million over the 2001–2004 period.

Pay-as-you-go considerations: None.

Intergovernmental and private sector impact: S. 1707 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: John R. Righter.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1707, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no changes are proposed is shown in roman):

[From United States Code, Title 2—The Congress, Chapter 17—Congressional Budget Office]

INSPECTOR GENERAL ACT OF 1978

* * * * *

**TITLE V—GOVERNMENT ORGANIZATION AND EMPLOYEES
APPENDIXES**

* * * * *

**SEC. 8G. REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED
FEDERAL ENTITIES**

(a)(1) * * *

(2) the term “designated Federal entity” means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Election Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, [the Tennessee Valley Authority,] the United States International Trade Commission, and the United States Postal Service;

(3) * * *

SEC. 11. DEFINITIONS

As used in this Act—

(1) the term “head of the establishment” means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans’ Affairs; the Director of the Federal Emergency Management Agency, or the Office of Personnel Management; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; and the chief executive officer of the Resolution Trust Corporation; and the Chairperson of the Federal Deposit Insurance Corporation; [or the Commissioner of Social Security, Social Security Administration;] *the Commissioner of Social Security, Social Security Administration; or the Board of Directors of the Tennessee Valley Authority*; as the case may be;

(2) the term “establishment” means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, or the Treasury; the Agency for International Development, the Community Development Financial Institutions Fund, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the Corporation for National and Community Service, or the Veterans’ Administration, [or the Social Security Administration;] *the Social Security Administration, or the Tennessee Valley Authority*; as the case may be;

(3) * * *

(4) * * *

(5) * * *

* * * * *

TITLE V—GOVERNMENT ORGANIZATION AND EMPLOYEES

SEC. 5315. POSITIONS AT LEVELIV

* * * * *

Inspector General, Tennessee Valley Authority.

* * * * *

TITLE XXXI—MONEY AND FINANCE ANNOTATED

SEC. 1105(a). BUDGET CONTENTS AND SUBMISSION TO CONGRESS

* * * * *

(32) * * *

(33) *a separate appropriation account for appropriations for the Inspectors General Criminal Investigator Academy and the Inspectors General Forensic Laboratory of the Department of the Treasury.*