

By: Ratliff

S.B. No. 19

A BILL TO BE ENTITLED

AN ACT

relating to audit and other related functions of the State Auditor and of certain other state entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 320.001, Government Code, is amended to read as follows:

Sec. 320.001. DEFINITION [~~DEFINITIONS~~]. In this chapter, "mandate" [~~+~~

~~[(1) "Interagency work group" means the unfunded mandates interagency work group.~~

~~[(2) "Mandate"]~~ means a requirement made by a statute enacted by the legislature on or after January 1, 1997, that requires a political subdivision to establish, expand, or modify an activity in a way that requires the expenditure of revenue by the political subdivision that would not have been required in the absence of the statutory provision.

SECTION 2. Section 321.001, Government Code, is amended to read as follows:

Sec. 321.001. DEFINITIONS. In this chapter:

(1) "Audit plan" means the outline of work hours approved by the committee for expenditure by the State Auditor's Office in a calendar year in the performance of audits and related services, including technical assistance, data analysis, consulting and oversight functions, investigations, and the

1 preparation of audit reports and other types of communications.

2           (2) "Audit working paper" means all documentary and  
3 other information prepared or maintained in conducting an audit or  
4 investigation, including all intra-agency and interagency  
5 communications relating to an audit or investigation and all draft  
6 reports or portions thereof.

7           (3) ~~[(2)]~~ "Committee" means the legislative audit  
8 committee.

9           (4) ~~[(3)]~~ "Department" includes every state  
10 department, agency, board, bureau, institution, or commission.

11           (5) "Risk assessment" means the process by which the  
12 State Auditor analyzes risks to the state on the basis of, at a  
13 minimum, the following:

14                   (A) the identification of problems that can occur  
15 in operational or program areas of departments, including  
16 institutions of higher education, that are subject to audit by the  
17 State Auditor;

18                   (B) a determination of the potential adverse  
19 effects from the problems; and

20                   (C) a ranking of the risks associated with the  
21 problems.

22           SECTION 3. Subsection (a), Section 321.012, Government  
23 Code, is amended to read as follows:

24           (a) The committee directs and controls the expenditure of  
25 any money appropriated to the office of the State Auditor and must  
26 approve the State Auditor's appropriation requests and audit plan.

27           SECTION 4. Section 321.013, Government Code, is amended by

1 amending Subsections (c) and (f) and adding Subsection (j) to read  
2 as follows:

3 (c) The State Auditor shall recommend the audit plan for the  
4 state for each fiscal year to the committee. In devising the plan,  
5 the State Auditor shall consider recommendations concerning  
6 coordination of agency functions made jointly by representatives of  
7 the Legislative Budget Board, Sunset Advisory Commission, and State  
8 Auditor's Office. The State Auditor shall also consider the extent  
9 to which a department has received a significant increase in  
10 appropriations, including a significant increase in federal or  
11 other money passed through to the department, and shall review  
12 procurement activities for compliance with Section 2161.123. The  
13 plan shall provide for auditing of federal programs at least as  
14 often as required under federal law [~~once in each fiscal biennium~~]  
15 and shall ensure that audit requirements of all bond covenants and  
16 other credit or financial agreements are satisfied. The committee  
17 shall review and approve the plan.

18 (f) The State Auditor may conduct financial audits and [~~7~~]  
19 compliance audits and, with specific authority from the committee,  
20 economy and efficiency audits, effectiveness audits, special  
21 audits, and investigations as defined by this chapter and specified  
22 in the audit plan.

23 (j) In devising the audit plan under Subsection (c), the  
24 State Auditor shall perform risk assessments as required by law.  
25 The process of assessing risks to the state is the first stage of  
26 auditing, and all records of risk assessment are part of the working  
27 papers of the State Auditor. Accordingly, all documentation of

1 risk assessments by the State Auditor is exempt from disclosure  
2 under Section 552.116.

3 SECTION 5. Subsections (b) and (g), Section 321.014,  
4 Government Code, are amended to read as follows:

5 (b) The written report must include a management letter with  
6 comments about internal controls, compliance with state or federal  
7 laws, and recommendations for improving financial operations or  
8 program effectiveness, as applicable. The report must also include  
9 an opinion on fair presentation of financial statements if the  
10 State Auditor considers an opinion to be necessary.

11 (g) If a department or entity does not agree with a finding  
12 or a recommendation contained in ~~[implement a change recommended~~  
13 ~~by]~~ the state auditor's report, the department or entity shall file  
14 a report with the persons specified by Subsection (c). The report  
15 must:

16 (1) identify the finding or the recommendation with  
17 which the department or entity did not agree ~~[implement]~~; ~~and]~~

18 (2) state the reason the department or entity did not  
19 agree with the finding or ~~[implement]~~ the recommendation; and

20 (3) state whether the department or entity intends to  
21 disregard the recommendation.

22 SECTION 6. Section 325.008, Government Code, is amended by  
23 adding Subsection (c) to read as follows:

24 (c) In consulting with the commission under this section,  
25 the office of the state auditor may not exceed the number of hours  
26 approved by the legislative audit committee for inclusion in the  
27 audit plan under Section 321.013(c).

SECTION 7. Subsection (b), Section 325.012, Government Code, is amended to read as follows:

(b) On the date the commission presents its report to the legislature under Section 325.010, the commission shall present to the state auditor the commission's recommendations that do not require a statutory change to be put into effect. Based on a risk assessment and subject to the legislative audit committee's approval of including the examination in the audit plan under Section 321.013, the [The] state auditor may ~~[shall]~~ examine the recommendations and include~~[,]~~ as part of the next approved ~~[scheduled]~~ audit of the agency~~[, shall prepare]~~ a report on whether the ~~[manner in which the]~~ agency has implemented the recommendations and, if so, in what manner.

SECTION 8. Subsection (d), Section 326.003, Government Code, is amended to read as follows:

(d) Not later than one month after the date of a meeting, the [The] committee shall submit its recommendations in writing to the head of each agency and the members of the legislative audit committee ~~[not later than one month after the date of a meeting]~~.

SECTION 9. Section 403.028, Government Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) Except as provided by Subsection (f), the [The] comptroller~~[, in consultation with the state auditor's office,]~~ shall conduct a study each biennium to determine:

(1) the number and type of potential fraudulent claims for medical or health care benefits submitted:

1 (A) under the state Medicaid program, including  
2 the Medicaid managed care program implemented under Chapter 533; or

3 (B) by or on behalf of a state employee and  
4 administered by the attorney general under Chapter 501, Labor Code;  
5 and

6 (2) the need for changes to the eligibility system  
7 used under the state Medicaid program.

8 (f) The state auditor, based on a risk assessment and  
9 subject to the legislative audit committee's approval of including  
10 the state auditor's advisory function in the audit plan under  
11 Section 321.013, may advise the comptroller in its conduct of the  
12 study required under Subsection (a).

13 SECTION 10. Subsection (c), Section 403.031, Government  
14 Code, is amended to read as follows:

15 (c) The comptroller, in consultation with the state auditor  
16 and the attorney general, may develop standards and criteria to  
17 account for or to reclassify receivables determined to be  
18 uncollectible. The standards and criteria developed by the  
19 comptroller must comply with generally accepted accounting  
20 principles as prescribed or modified by the Governmental Accounting  
21 Standards Board or its successors and must provide proper  
22 accounting controls to protect state finances. The ~~[state auditor~~  
23 ~~and the]~~ attorney general shall review and approve the standards  
24 and criteria for classification of receivables. Receivables may be  
25 reclassified as collectible or uncollectible ~~[according to the~~  
26 ~~process approved by the state auditor or]~~ on a case-by-case basis as  
27 determined or approved by the attorney general ~~[that office]~~. The

1 classification of receivables as uncollectible under this  
2 subsection does not constitute forgiveness of the debt, and any  
3 person indebted to the state remains subject to Section 403.055.

4 SECTION 11. Section 403.250, Government Code, is amended to  
5 read as follows:

6 Sec. 403.250. DUTIES OF STATE AUDITOR. The state auditor,  
7 based on a risk assessment and subject to the legislative audit  
8 committee's approval of including the audit in the audit plan under  
9 Section 321.013, may ~~[shall routinely]~~ audit state agencies for the  
10 proper use of petty cash accounts and promptly report any  
11 shortages, abuses, or unwarranted uses of petty cash accounts to  
12 the legislature and the comptroller.

13 SECTION 12. Subsection (b), Section 403.272, Government  
14 Code, is amended to read as follows:

15 (b) All personal property owned by the state shall be  
16 accounted for by the agency that possesses the property. The  
17 comptroller shall define personal property by rule for the purposes  
18 of this subchapter. In adopting rules, the comptroller shall  
19 consider the value of the property, its expected useful life, and  
20 the cost of recordkeeping. ~~[The comptroller shall consult with the~~  
21 ~~state auditor in drafting rules. The state auditor shall cooperate~~  
22 ~~with the comptroller by giving technical assistance and advice.]~~

23 SECTION 13. Subsection (h), Section 403.273, Government  
24 Code, is amended to read as follows:

25 (h) The state auditor, based on a risk assessment and  
26 subject to the legislative audit committee's approval of including  
27 the examination in the audit plan under Section 321.013, may

1 ~~[shall]~~ periodically examine property records or inventory as  
2 necessary to determine if controls are adequate to safeguard state  
3 property.

4 SECTION 14. Subsections (c) and (d), Section 441.185,  
5 Government Code, are amended to read as follows:

6 (c) The state records administrator and the state archivist  
7 shall review the schedule and recommend the schedule's approval or  
8 disapproval to the director and librarian and the state auditor.  
9 The state auditor, based on a risk assessment and subject to  
10 the legislative audit committee's approval of including the review  
11 in the audit plan under Section 321.013, may review the schedule.

12 (d) If the director and librarian, and the state auditor, if  
13 the state auditor reviewed the schedule under Subsection (c),  
14 approve the schedule, the schedule may be used as the basis for the  
15 lawful disposition of state records under Section 441.187 for a  
16 period to be determined by the commission.

17 SECTION 15. Section 441.203, Government Code, is amended by  
18 adding Subsection (k) to read as follows:

19 (k) In serving on the council, the office of the state  
20 auditor may not exceed the number of hours for the service that the  
21 legislative audit committee approved for inclusion in the audit  
22 plan under Section 321.013(c).

23 SECTION 16. Subsection (d), Section 445.012, Government  
24 Code, is amended to read as follows:

25 (d) The state auditor, based on a risk assessment and  
26 subject to the legislative audit committee's approval of including  
27 the review in the audit plan under Section 321.013, may ~~[shall]~~



1 ~~annually]~~ review the annual report on the fund, and any information  
2 used in preparing the report as the auditor determines necessary,  
3 and shall report any findings or recommendations to the museum and  
4 the legislative audit committee.

5 SECTION 17. Section 651.007, Government Code, is amended by  
6 amending Subsections (b) through (e), (g), and (h) and adding  
7 Subsection (j) to read as follows:

8 (b) Each state agency shall conduct an exit interview with  
9 an employee who leaves employment with the agency. The state agency  
10 shall conduct the exit interview by having the employee access the  
11 questionnaire posted on the state auditor's Internet site and  
12 electronically submit the completed questionnaire to the state  
13 auditor. The questionnaire must state that the employee has the  
14 option of having the employee's questionnaire furnished to the head  
15 of the agency, the governor's office, or the state auditor.

16 (c) The state agency shall conduct the exit interview in a  
17 manner that allows the employee alone to describe the employee's  
18 reason for leaving employment. The state agency may not alter the  
19 description stated by the employee. The state agency may not have  
20 access to the questionnaire unless it is provided by the employee  
21 under Subsection (b).

22 (d) Subject to Subsection (j), the ~~[The]~~ state auditor shall  
23 develop the exit interview questionnaire. In developing the  
24 questionnaire under this subsection, the state auditor shall  
25 consult with the comptroller and representatives designated by the  
26 comptroller from small, medium, and large state agencies.

27 (e) Not later than the 15th day following the end of the

1 calendar quarter, the state auditor shall submit, subject to  
 2 Subsection (j), a report to each state agency containing the  
 3 responses to the exit interview questionnaire submitted by each  
 4 former employee of the agency during the preceding quarter. The  
 5 state auditor's report may not contain the name of an employee or  
 6 any other information identifying the employee.

7 (g) The responses to an exit interview questionnaire are  
 8 confidential and not subject to disclosure under Chapter 552,  
 9 including responses to a questionnaire furnished to an entity  
 10 listed under Subsection (b). The responses may be disclosed only to  
 11 a law enforcement agency in a criminal investigation or on order of  
 12 a court.

13 (h) Subject to Subsection (j), the ~~[The]~~ state auditor may  
 14 audit each state agency's records to determine whether the agency  
 15 is complying with the requirements of this section.

16 (j) Work performed under this section by the state auditor  
 17 is subject to approval by the legislative audit committee for  
 18 inclusion in the audit plan under Section 321.013(c).

19 SECTION 18. Section 654.037, Government Code, is amended to  
 20 read as follows:

21 Sec. 654.037. SALARY STUDIES AND RECOMMENDATIONS. The  
 22 classification officer shall:

23 (1) make periodic studies of salary rates in other  
 24 governmental units and in industry for similar work performed in  
 25 state government; and

26 (2) report the classification officer's findings from  
 27 the studies made under Subdivision (1) ~~[and recommendations for~~

1 ~~adjusting state salary ranges~~] to the governor's budget office and  
2 the Legislative Budget Board not later than October 1 preceding  
3 each regular session of the legislature.

4 SECTION 19. Section 654.041, Government Code, is amended to  
5 read as follows:

6 Sec. 654.041. EXAMINATION FOR COMPLIANCE BY STATE AUDITOR;  
7 REPORTS. The state auditor, subject to a risk assessment and to the  
8 Legislative Audit Committee's approval of including the  
9 examination in the audit plan under Section 321.013, may ~~shall~~:

10 (1) examine or cause to be examined, in periodic  
11 postaudits of their expenditures and by methods the auditor  
12 considers appropriate and adequate, whether departments and  
13 agencies are in compliance with this chapter; and

14 (2) report the findings to the governor, the  
15 comptroller, and the Legislative Audit Committee.

16 SECTION 20. Subsections (b) and (c), Section 660.030,  
17 Government Code, are amended to read as follows:

18 (b) The comptroller ~~[and the state auditor]~~ periodically  
19 shall examine the vouchers and other expense reimbursement forms  
20 submitted by a state agency for payment of a travel expense payable  
21 under this chapter to determine compliance with Section 660.003(e)  
22 and:

23 (1) whether the travel expenses were incurred in the  
24 conduct of official state business;

25 (2) whether the state-business-related activities  
26 conducted during the travel were necessary to perform the state  
27 business;

1           (3) whether the travel was necessary to perform the  
2 state business conducted; and

3           (4) in a case in which vouchers or other expense  
4 reimbursement forms have been submitted for more than one  
5 individual for the same or similar travel, whether the number of  
6 individuals traveling was necessary to perform the state business.

7           (c) The comptroller ~~[and the state auditor each]~~ shall  
8 develop procedures for examining travel vouchers and other expense  
9 reimbursement forms. ~~[If the comptroller believes that the~~  
10 ~~criteria prescribed by Subsection (b) have not been satisfied, the~~  
11 ~~comptroller shall provide that information to the state auditor for~~  
12 ~~review.]~~

13           SECTION 21. Section 751.011, Government Code, is amended to  
14 read as follows:

15           Sec. 751.011. BOARD DUTIES. ~~[(a)]~~ The board shall review  
16 the office's priorities and strategies set forth in the annual  
17 report and deliver to the director any suggested modifications.

18           ~~[(b) The board shall review any interagency contract under~~  
19 ~~Section 751.012 and shall approve a contract only if the contract~~  
20 ~~meets the requirements of that section.]~~

21           SECTION 22. Subsection (d), Section 813.506, Government  
22 Code, is amended to read as follows:

23           (d) As part of the audit of the Texas Department of Criminal  
24 Justice by the state auditor in accordance with Chapter 321, the  
25 state auditor may verify the accuracy of reports submitted to the  
26 retirement system under this section. ~~[The state auditor shall~~  
27 ~~review biennially the standards adopted by the department under~~

~~Subsection (a).]~~

SECTION 23. Section 2052.104, Government Code, is amended to read as follows:

Sec. 2052.104. STATE AUDITOR'S POWERS AND DUTIES.

(a) Subject to Subsection (c), the ~~[The]~~ state auditor may audit a state agency to ensure:

(1) the accuracy of information reported under this subchapter; and

(2) compliance with this subchapter.

(b) The state auditor shall:

(1) ~~[adopt rules for the manner in which a report must be made under Section 2052.103;~~

~~[(2)]~~ prepare annual ~~[quarterly]~~ summary reports from ~~[the]~~ information provided in the reports filed under Section 2052.103; and

(2) ~~[(3)]~~ provide copies of the summary reports to:

(A) the Legislative Budget Board;

(B) the governor; and

(C) the comptroller.

(c) The office of the state auditor may not exceed the number of work hours that the legislative audit committee approves for the performance of an audit or other service in the audit plan under Section 321.013(c).

SECTION 24. Subsection (a), Section 2054.060, Government Code, is amended to read as follows:

(a) A digital signature may be used to authenticate a written electronic communication sent to a state agency if it

1 complies with rules adopted by the department. ~~[Before adopting~~  
 2 ~~the rules, the department shall consult with the comptroller, state~~  
 3 ~~auditor, attorney general, secretary of state, and office of court~~  
 4 ~~administration, and with representatives of county and municipal~~  
 5 ~~governments, regarding the content of the rules. When adopting the~~  
 6 ~~rules, the department shall consider factors that may affect the~~  
 7 ~~reliability of a digital signature, including whether a digital~~  
 8 ~~signature is:~~

- 9           ~~[(1) unique to the person using it;~~
- 10           ~~[(2) capable of independent verification;~~
- 11           ~~[(3) under the sole control of the person using it; and~~
- 12           ~~[(4) transmitted in a manner that will make it~~  
 13 ~~infeasible to change the data in the communication or digital~~  
 14 ~~signature without invalidating the digital signature.]~~

15           SECTION 25. Subsections (a) and (b), Section 2054.123,  
 16 Government Code, are amended to read as follows:

17           (a) The department, in consultation with the Texas Building  
 18 and Procurement ~~[General Services]~~ Commission, the state auditor,  
 19 and the comptroller, shall create an interagency panel of  
 20 representatives appointed by those agencies and officers to  
 21 coordinate and maintain ~~[develop and establish]~~ a training program  
 22 to assist state agencies in performing software audits, managing  
 23 software, and purchasing software and software licenses. Each  
 24 state agency shall cooperate with the panel in the evaluation of the  
 25 agency's needs for software management and shall donate agency  
 26 resources to the evaluation of the agency as the panel requires.

27           (b) The interagency panel initially shall concentrate on

1 the software purchasing and management needs of the 20 state  
2 agencies that have the largest amounts budgeted for expenditures  
3 related to software. The 20 state agencies shall send employees,  
4 appropriately selected, to attend training programs developed  
5 under this section.

6 SECTION 26. Subsection (b), Section 2054.253, Government  
7 Code, as added by Chapter 342, Acts of the 77th Legislature, Regular  
8 Session, 2001, is amended to read as follows:

9 (b) With the approval of the legislative audit committee, a  
10 [A] representative of the state auditor shall advise the authority.

11 SECTION 27. Section 2055.056, Government Code, is amended  
12 to read as follows:

13 Sec. 2055.056. QUALITY ASSURANCE. (a) In coordination  
14 with the ~~[state auditor, the]~~ Legislative Budget Board, ~~[and]~~ the  
15 affected state agency, and, subject to Subsection (b), the state  
16 auditor, the office shall provide quality assurance services to  
17 monitor electronic government projects selected under Section  
18 2055.101.

19 (b) Participation by the state auditor under Subsection (a)  
20 is subject to approval by the legislative audit committee for  
21 inclusion in the audit plan under Section 321.013(c).

22 SECTION 28. Section 2055.057, Government Code, is amended  
23 by amending Subsection (a) and adding Subsection (c) to read as  
24 follows:

25 (a) In coordination with the comptroller, the Governor's  
26 Office of Budget and Planning, the ~~[state auditor, and]~~ Legislative  
27 Budget Board, and, subject to Subsection (c), the state auditor,

1 the office shall develop a model for funding the office from a  
2 portion of the money appropriated for projects selected under  
3 Section 2055.101, including staff necessary for the office.

4 (c) Participation by the state auditor under Subsection (a)  
5 is subject to approval by the legislative audit committee for  
6 inclusion in the audit plan under Section 321.013(c).

7 SECTION 29. Section 2055.101, Government Code, is amended  
8 by amending Subsections (a) and (c) and adding Subsection (d) to  
9 read as follows:

10 (a) The office, in coordination with the governor, the  
11 [state auditor, and] Legislative Budget Board, and, subject to  
12 Subsection (d), the state auditor, shall develop selection criteria  
13 for the type of electronic government projects that require direct  
14 oversight by the office. The criteria must include:

15 (1) issues related to interagency cooperation and  
16 implementation;

17 (2) costs, including reimbursement strategies;

18 (3) requirements for authentication and security  
19 implications; and

20 (4) the state's strategic vision regarding electronic  
21 government projects.

22 (c) Based on any selection criteria adopted under  
23 Subsection (b) and in coordination with the governor, the ~~[state~~  
24 ~~auditor, and]~~ Legislative Budget Board, and, subject to Subsection  
25 (d), the state auditor, the office may select proposed or existing  
26 electronic government projects.

27 (d) Participation by the state auditor under Subsections



1 (a) and (c) is subject to approval by the legislative audit  
2 committee for inclusion in the audit plan under Section 321.013(c).

3 SECTION 30. Section 2055.151, Government Code, is amended  
4 by adding Subsection (e) to read as follows:

5 (e) In serving on the committee, the office of the state  
6 auditor may not exceed the number of hours for the service that the  
7 legislative audit committee approves for inclusion in the audit  
8 plan under Section 321.013(c).

9 SECTION 31. Section 2055.153, Government Code, is amended  
10 by amending Subsection (a) and adding Subsection (c) to read as  
11 follows:

12 (a) In coordination with the quality assurance team of the  
13 Legislative Budget Board and, subject to Subsection (c), the state  
14 auditor, the office shall establish a state agency reporting system  
15 that requires state agencies to report to the office on:

16 (1) electronic government projects selected under  
17 Section 2055.101 so that the office may effectively monitor those  
18 projects; and

19 (2) all other electronic government projects for that  
20 agency.

21 (c) Participation by the state auditor under Subsection (a)  
22 is subject to approval by the legislative audit committee for  
23 inclusion in the audit plan under Section 321.013(c).

24 SECTION 32. Section 2102.012, Government Code, is amended  
25 to read as follows:

26 Sec. 2102.012. PROFESSIONAL DEVELOPMENT. (a) Subject to  
27 approval by the legislative audit committee, the ~~[The]~~ state

1 auditor may ~~[shall]~~ make available and ~~[shall]~~ coordinate a program  
2 of training and technical assistance to ensure that state agency  
3 internal auditors have access to current information about internal  
4 audit techniques, policies, and procedures and to provide general  
5 technical and audit assistance to agency internal auditors on  
6 request.

7 (b) The state auditor is entitled to reimbursement for costs  
8 associated with providing the services under the terms of  
9 interagency cooperation contracts negotiated between the state  
10 auditor and each agency. The costs may not exceed those allowed by  
11 the General Appropriations Act. The quantity of work hours  
12 contracted for under this section is subject to approval by the  
13 legislative audit committee.

14 SECTION 33. Section 2104.0215, Government Code, is amended  
15 by adding Subsection (e) to read as follows:

16 (e) The office of the state auditor may not perform services  
17 under this section without the approval of the legislative audit  
18 committee and, if approval is given, may not exceed the number of  
19 hours for the service approved by the committee for inclusion in the  
20 audit plan under Section 321.013(c).

21 SECTION 34. Section 2156.004, Government Code, is amended  
22 to read as follows:

23 Sec. 2156.004. BID DEPOSIT. (a) The commission, as  
24 considered necessary, may require a bid deposit in an amount  
25 determined by the commission. The amount of the deposit, if any,  
26 must be stated in the public notice and the invitation to bid.

27 (b) ~~[The commission, with the cooperation of the state~~

1 ~~auditor, shall establish and maintain a record of each bid deposit~~  
2 ~~and its disposition.~~

3       ~~[(c)]~~ On the award of a bid or the rejection of all bids, the  
4 commission shall refund the bid deposit of an unsuccessful bidder.

5       (c) ~~[(d)]~~ The commission may accept from a bidder a bid  
6 deposit in the form of a blanket bond.

7       SECTION 35. Subsection (d), Section 2161.123, Government  
8 Code, is amended to read as follows:

9       (d) The commission and the state auditor shall cooperate to  
10 develop procedures providing for random periodic monitoring of ~~to~~  
11 ~~periodically monitor~~ state agency compliance with this section.  
12 The state auditor shall report to the commission a state agency that  
13 is not complying with this section. In determining whether a state  
14 agency is making a good faith effort to comply, the state auditor  
15 shall consider whether the agency:

16               (1) has adopted rules under Section 2161.003;

17               (2) has used the commission's directory under Section  
18 2161.064 and other resources to identify historically  
19 underutilized businesses that are able and available to contract  
20 with the agency;

21               (3) made good faith, timely efforts to contact  
22 identified historically underutilized businesses regarding  
23 contracting opportunities; and

24               (4) conducted its procurement program in accordance  
25 with the good faith effort methodology set out in commission rules.

26       SECTION 36. Subsection (b), Section 2161.124, Government  
27 Code, is amended to read as follows:

1 (b) The commission[~~, in cooperation with the state~~  
2 ~~auditor,~~] shall develop a standard form for the report.

3 SECTION 37. Section 2175.061, Government Code, is amended  
4 by amending Subsection (b) and by adding Subsection (c) to read as  
5 follows:

6 (b) Subject to Subsection (c) [~~the review and comment of the~~  
7 ~~state auditor~~], the commission may prescribe forms and reports  
8 necessary to administer this chapter and may adopt necessary rules,  
9 including rules governing the sale or transfer of surplus or  
10 salvage property to state agencies, political subdivisions, or  
11 assistance organizations.

12 (c) Subject to a risk assessment and to the legislative  
13 audit committee's approval of including the review in the audit  
14 plan under Section 321.013, the state auditor may review and  
15 comment on the forms and reports prescribed and the rules adopted by  
16 the commission under Subsection (b).

17 SECTION 38. Section 2177.003, Government Code, is amended  
18 to read as follows:

19 Sec. 2177.003. CONSULTATION. The commission, at least  
20 quarterly, shall consult with the following entities to ensure that  
21 the electronic procurement system meets the needs of users of the  
22 system:

- 23 (1) the department;
- 24 (2) [~~the state auditor,~~
- 25 ~~(3)]~~ groups, including coordinating councils,  
26 created by the commission to assist with electronic commerce  
27 initiatives;

1           (3) [~~(4)~~] the vendor advisory committee established  
2 under Section 2155.081; and

3           (4) [~~(5)~~] other state agencies and local governments  
4 that use the system.

5           SECTION 39. Subsections (a) and (c), Section 2205.004,  
6 Government Code, are amended to read as follows:

7           (a) The board is composed of:

8                   (1) a member appointed by the governor;

9                   (2) a member appointed by the lieutenant governor;

10                  (3) a member appointed by the speaker of the house of  
11 representatives; and

12                  (4) a representative of the Texas Building and  
13 Procurement [~~General Services~~] Commission, designated from time to  
14 time by the presiding officer of the commission[, ~~and~~

15                  [~~(5) a representative of the state auditor's office,~~  
16 ~~designated from time to time by the state auditor~~].

17           (c) The representative [~~representatives~~] of the Texas  
18 Building and Procurement [~~General Services~~] Commission is an [~~and~~  
19 ~~the state auditor's office are~~] ex officio, nonvoting member  
20 [~~members~~] of the board and serves [~~serve~~] only in an advisory  
21 capacity.

22           SECTION 40. Subsection (n), Section 2256.005, Government  
23 Code, is amended to read as follows:

24           (n) Except as provided by Subsection (o), at least once  
25 every two years a state agency shall arrange for a compliance audit  
26 of management controls on investments and adherence to the agency's  
27 established investment policies. The compliance audit shall be

1 performed by the agency's internal auditor or by a private auditor  
2 employed in the manner provided by Section 321.020. Not later than  
3 January 1 of each even-numbered year~~[7]~~ a state agency shall report  
4 the results of the most recent audit performed under this  
5 subsection to the state auditor. Subject to a risk assessment and  
6 to the legislative audit committee's approval of including a review  
7 by the state auditor in the audit plan under Section 321.013, the  
8 state auditor may review information provided under this section.  
9 If review by the state auditor is approved by the legislative audit  
10 committee, the state auditor may, based on its review, require a [A]  
11 state agency to also [shall] report to the state auditor other  
12 information the state auditor determines necessary to assess  
13 compliance with laws and policies applicable to state agency  
14 investments. A report under this subsection shall be prepared in a  
15 manner the state auditor prescribes.

16 SECTION 41. Section 2256.022, Government Code, is amended  
17 to read as follows:

18 Sec. 2256.022. EXPANSION OF INVESTMENT AUTHORITY.  
19 Expansion of investment authority granted by this chapter shall  
20 require a risk assessment by the state auditor or performed at the  
21 direction of the state auditor, subject to the legislative audit  
22 committee's approval of including the review in the audit plan  
23 under Section 321.013.

24 SECTION 42. Section 2261.203, Government Code, is amended  
25 to read as follows:

26 Sec. 2261.203. COMPARABLE COSTS. [~~a~~] Each state agency  
27 that makes procurements to which this chapter applies shall monitor

1 performance under a contract to verify that comparable costs are  
2 being charged for comparable goods and services.

3 ~~[(b) The state auditor on request shall assist a state~~  
4 ~~agency's monitoring efforts under this section.]~~

5 SECTION 43. Subsection (a), Section 2262.051, Government  
6 Code, is amended to read as follows:

7 (a) In consultation with the Texas Building and Procurement  
8 Commission, the Department of Information Resources, the  
9 comptroller, and the state auditor, the attorney general shall  
10 develop and periodically update a contract management guide for use  
11 by state agencies. The office of the state auditor may not exceed  
12 the number of work hours approved by the legislative audit  
13 committee for the state auditor's participation under this chapter.

14 SECTION 44. Subsection (b), Section 2262.052, Government  
15 Code, is amended to read as follows:

16 (b) Subject to the legislative audit committee's approval  
17 of including the work described by this subsection in the audit plan  
18 under Section 321.013(c), the [The] state auditor may [shall]:

19 (1) periodically monitor compliance with this  
20 section;

21 (2) report any noncompliance to:

22 (A) the governor;

23 (B) the lieutenant governor;

24 (C) the speaker of the house of representatives;

25 and

26 (D) the team; and

27 (3) assist, in coordination with the attorney general

1 and the comptroller, a noncomplying state agency to comply with  
2 this section.

3 SECTION 45. Section 2262.053, Government Code, is amended  
4 by adding Subsection (d) to read as follows:

5 (d) The Texas Building and Procurement Commission shall  
6 administer the training program under this section.

7 SECTION 46. Subsection (a), Section 2306.074, Government  
8 Code, is amended to read as follows:

9 (a) The [~~state auditor or a certified public accountant~~  
10 ~~shall audit the~~] department's books and accounts must be audited  
11 each fiscal year by a certified public accountant or, if requested  
12 by the department and if the legislative audit committee approves  
13 including the audit in the audit plan under Section 321.013(c), by  
14 the state auditor. A [~~and file a~~] copy of the audit must be filed  
15 with the governor, the comptroller, and the legislature not later  
16 than the 30th day after the submission date for the annual financial  
17 report as required by the General Appropriations Act. If the state  
18 auditor is conducting the audit and it is not available by the 30th  
19 day after the submission date as required by the General  
20 Appropriations Act for annual financial reporting, it must be filed  
21 as soon as it is available.

22 SECTION 47. Subsection (b), Section 16.142, Water Code, is  
23 amended to read as follows:

24 (b) The board by rule shall set the fee at an amount it  
25 considers necessary to recover the costs incurred or to be incurred  
26 by the board in administering the project over its life, including  
27 the costs of processing an application, monitoring construction,



1 and auditing and monitoring the project. The state auditor may  
 2 ~~[shall]~~ review fees charged by the board to determine whether the  
 3 fees are set consistent with this subsection, based on a risk  
 4 assessment performed by the state auditor and subject to the  
 5 legislative audit committee's approval of including the review in  
 6 the audit plan under Section 321.013, Government Code.

7 SECTION 48. Subsection (b), Section 20.020, Water Code, is  
 8 amended to read as follows:

9 (b) The ~~[board shall have an audit made by the]~~ state  
 10 auditor may audit ~~[or by a certified public accountant of]~~ the  
 11 authority's books and accounts, based on a risk assessment  
 12 performed by the state auditor and subject to the legislative audit  
 13 committee's approval of including the audit in the audit plan under  
 14 Section 321.013, Government Code ~~[for each fiscal year]~~. The cost  
 15 of an ~~[the]~~ audit shall be paid by the authority.

16 SECTION 49. Subsection (b), Section 36.061, Water Code, is  
 17 amended to read as follows:

18 (b) The state auditor may audit the records ~~[financial~~  
 19 ~~transactions]~~ of any district if the state auditor determines that  
 20 the audit is necessary.

21 SECTION 50. Section 36.153, Water Code, is amended by  
 22 amending Subsection (a) and adding Subsections (c) and (d) to read  
 23 as follows:

24 (a) Annually and subject to Subsection (c), the board shall  
 25 have an audit made of the financial condition of the district.

26 (c) The district is exempt from the requirement under  
 27 Subsection (a) if it had:

1           (1) not more than \$500 in receipts from operations,  
2 tax assessments, loans, contributions, or any other sources during  
3 the calendar year;

4           (2) not more than \$500 in disbursements of funds  
5 during the calendar year;

6           (3) no bonds or other liabilities with terms of more  
7 than one year outstanding during the calendar year; and

8           (4) no cash or investments amounting to more than  
9 \$5,000 at any time during the calendar year.

10          (d) A financially dormant district may elect to submit to  
11 the executive director a financial dormancy affidavit instead of  
12 complying with the audit requirements of Section 49.191.

13          SECTION 51. Subsections (b), (c), and (d), Section 36.302,  
14 Water Code, are amended to read as follows:

15          (b) The commission, the Texas Water Development Board, and  
16 the Parks and Wildlife Department shall provide technical  
17 assistance to the state auditor's office for a ~~[the]~~ review  
18 performed under Subsection (a).

19          (c) In a review performed under Subsection (a), the ~~[The]~~  
20 state auditor shall make a determination of whether a district is  
21 actively engaged in achieving the objectives of the district's  
22 management plan based on an analysis ~~[audit]~~ of the district's  
23 activities ~~[performance under the plan]~~.

24          (d) The state auditor may perform the review under  
25 Subsection (a) ~~[shall conduct such audits]~~ following the first  
26 anniversary of the initial certification of the plan by the Texas  
27 Water Development Board under Section 36.1072 and at least as often

1 as once every seven years after that date, subject to a risk  
2 assessment and to the legislative audit committee's approval of  
3 including the review in the audit plan under Section 321.013,  
4 Government Code [~~following the end of every five-year period~~  
5 ~~thereafter~~].

6 SECTION 52. Section 49.195, Water Code, is amended by  
7 amending Subsection (b) and adding Subsection (f) to read as  
8 follows:

9 (b) Subject to Subsection (f), the [~~The~~] commission may  
10 request that the state auditor assist in the establishment of  
11 standards and procedures for review of district audits by the  
12 executive director.

13 (f) The state auditor may not provide assistance under  
14 Subsection (b) unless the legislative audit committee approves  
15 including the assistance in the audit plan under Section  
16 321.013(c), Government Code.

17 SECTION 53. Subsection (b), Section 152.203, Water Code, is  
18 amended to read as follows:

19 (b) The river authority shall:

20 (1) maintain the appraisal on file as a public record;  
21 and

22 (2) file a copy of the appraisal with the Texas  
23 Commission on Environmental Quality [~~state auditor~~].

24 SECTION 54. Subsection (h), Section 22.004, Education Code,  
25 is amended to read as follows:

26 (h) An audited financial statement provided under this  
27 section must be made in accordance with rules adopted by the

1 commissioner of insurance or with generally accepted accounting  
2 principles [~~state auditor~~], as applicable.

3 SECTION 55. Subsection (q), Section 42.152, Education Code,  
4 is amended to read as follows:

5 (q) The State Board of Education, with the assistance of the  
6 [~~state auditor and the~~] comptroller, shall develop and implement by  
7 rule a reporting and auditing system for district and campus  
8 expenditures of compensatory education funds to ensure that  
9 compensatory education funds, other than the indirect cost  
10 allotment, are spent only to supplement the regular program. The  
11 commissioner, in the year following an audit of compensatory  
12 education expenditures, shall withhold from a district's  
13 foundation school fund payment an amount equal to the amount of  
14 compensatory education funds the agency determines were not used in  
15 compliance with Subsection (c). The commissioner shall release to  
16 a district funds withheld under this subsection when the district  
17 provides to the commissioner a detailed plan to spend those funds in  
18 compliance with Subsection (c).

19 SECTION 56. Subsection (e), Section 43.006, Education Code,  
20 is amended to read as follows:

21 (e) If an investment contract entered into under Subsection  
22 (b) includes the permanent school fund within the scope of funds  
23 under the control and management of the State Board of Education to  
24 be invested by the corporation, the board shall provide for an  
25 annual financial audit of the permanent school fund. Subject to the  
26 legislative audit committee's approval of including the audit in  
27 the audit plan under Section 321.013(c), Government Code, the [~~The~~]

1 audit shall be performed by the state auditor.

2 SECTION 57. Section 102.52, Education Code, is amended to  
3 read as follows:

4 Sec. 102.52. TRANSFER OF MONEY; DISBURSEMENTS. All money  
5 so received shall be transferred as soon as available to the West  
6 Texas State University Foundation or to any other fund or  
7 foundation chosen by agreement between the donors and the  
8 administration of the university. The disbursement of all this  
9 money is under the supervision of the business manager of the  
10 university[, ~~subject to accounting procedures approved by the state~~  
11 ~~auditor~~].

12 SECTION 58. Subsection (c), Section 130.0035, Education  
13 Code, is amended to read as follows:

14 (c) The Legislative Budget Board shall be responsible for  
15 recommending [~~develop recommended~~] standards for reports under  
16 this section, in consultation with junior college districts, the  
17 Texas Higher Education Coordinating Board, and the governor's  
18 office of budget and planning[, ~~and the state auditor~~].

19 SECTION 59. Subsection (a), Section 21.455, Labor Code, is  
20 amended to read as follows:

21 (a) A state agency shall reimburse the commission through  
22 interagency contract for the reasonable and necessary expenses  
23 incurred by the commission in conducting a review under Section  
24 21.453. [~~The actual expenses incurred by the commission shall be~~  
25 ~~determined by the state auditor's office.~~]

26 SECTION 60. Subsection (e), Section 21.556, Labor Code, is  
27 amended to read as follows:

1           (e) An agency required to participate in a program under  
2 this section shall pay the cost of attending the program or shall  
3 reimburse the commission or state agency providing the program  
4 through interagency contract. The cost of providing the program  
5 shall be determined and approved by the commission or state agency  
6 ~~[in cooperation with the state auditor's office]~~. The state  
7 auditor may audit the commission's expenditure of fees collected  
8 under this section based on a risk assessment performed by the state  
9 auditor and subject to the approval by the legislative audit  
10 committee of including the audit in the audit plan under Section  
11 321.013, Government Code.

12           SECTION 61. Subsection (d), Section 205.019, Labor Code, is  
13 amended to read as follows:

14           (d) The state auditor may ~~[shall]~~ review the reimbursement  
15 of funds ~~[affected entities]~~ for compliance by the affected  
16 entities with this section, subject to a risk assessment performed  
17 by the state auditor and to the legislative audit committee's  
18 approval of including the review in the audit plan under Section  
19 321.013, Government Code.

20           SECTION 62. Subsection (d), Section 506.002, Labor Code, is  
21 amended to read as follows:

22           (d) The state auditor may ~~[shall]~~ review affected entities  
23 for compliance with this section, subject to a risk assessment  
24 performed by the state auditor and to the legislative audit  
25 committee's approval of including the review in the audit plan  
26 under Section 321.013, Government Code.

27           SECTION 63. Subsection (a), Section 140.007, Local

1 Government Code, is amended to read as follows:

2 (a) To assist counties, ~~[the state auditor in consultation~~  
3 ~~with]~~ the comptroller of public accounts may develop, promulgate,  
4 and widely distribute forms, with instruction, for cost accounting  
5 for public improvements. The ~~[auditor and the]~~ comptroller shall  
6 consult with large and small governmental entities and the  
7 construction industry prior to the promulgation of the forms and  
8 instructions.

9 SECTION 64. Subsection (e), Section 391.0095, Local  
10 Government Code, is amended to read as follows:

11 (e) A commission shall send to the state auditor, the  
12 comptroller, and the Legislative Budget Board a copy of each report  
13 and audit required under this section or under Section 391.009. The  
14 state auditor may ~~[shall]~~ review each audit and report, subject to a  
15 risk assessment performed by the state auditor and to the  
16 legislative audit committee's approval of including the review in  
17 the audit plan under Section 321.013, Government Code. If the state  
18 auditor reviews the audit report, the state auditor ~~[and]~~ must be  
19 given access to working papers and other supporting documentation  
20 that the state auditor determines is necessary to perform the  
21 review. If the state auditor finds significant issues involving  
22 the administration or operation of a commission or its programs,  
23 the state auditor shall report its findings and related  
24 recommendations to the legislative audit committee, the governor,  
25 and the commission. The governor and the legislative audit  
26 committee may direct the commission to prepare a corrective action  
27 plan or other response to the state auditor's findings or

1 recommendations. The legislative audit committee may direct the  
2 state auditor to perform any additional audit or investigative work  
3 that the committee determines is necessary.

4 SECTION 65. Subsection (a), Section 11.0031, Health and  
5 Safety Code, is amended to read as follows:

6 (a) During the period in which the Sunset Advisory  
7 Commission performs its duties under Chapter 325, Government Code,  
8 in preparing for a report to the 78th Legislature, the commission  
9 shall perform a special purpose review of the department. For that  
10 purpose, the commission shall review:

11 (1) the extent to which the department has implemented  
12 laws enacted by the 76th Legislature in continuing the department  
13 under Chapter 325, Government Code;

14 (2) the extent to which the department has implemented  
15 the recommendations made by the commission to the 76th Legislature  
16 regarding the department that did not require statutory change;

17 (3) the extent to which the department has responded  
18 to ~~[implemented]~~ the recommendations made by the state auditor in  
19 each audit report relating to the department issued after January  
20 1, 1999, and before September 1, 2002; and

21 (4) the extent to which the department implements the  
22 recommendations of consultants employed by the department after  
23 January 1, 2001.

24 SECTION 66. Subsection (b), Section 11.017, Health and  
25 Safety Code, is amended to read as follows:

26 (b) The state auditor may ~~[shall]~~ audit the financial  
27 transactions of the board in accordance with Chapter 321,



1 Government Code, subject to a risk assessment performed by the  
2 state auditor and to the legislative audit committee's approval of  
3 including the audit in the audit plan under Section 321.013,  
4 Government Code.

5 SECTION 67. Subsection (b), Section 242.005, Health and  
6 Safety Code, is amended to read as follows:

7 (b) The Legislative Budget Board and the state auditor shall  
8 jointly prescribe the form and content of reports required under  
9 this section, provided, however, that the state auditor's  
10 participation under this section is subject to approval by the  
11 legislative audit committee for inclusion in the audit plan under  
12 Section 321.013(c).

13 SECTION 68. Subsection (b), Section 451.452,  
14 Transportation Code, is amended to read as follows:

15 (b) The state auditor may elect to ~~[shall]~~ file any comments  
16 about the audit with the legislative audit committee and the board,  
17 subject to a risk assessment performed by the state auditor and to  
18 the legislative audit committee's approval of including the  
19 preparation of the comments in the audit plan under Section  
20 321.013, Government Code.

21 SECTION 69. Subsection (b), Section 452.452,  
22 Transportation Code, is amended to read as follows:

23 (b) The state auditor may elect to ~~[shall]~~ file any comments  
24 about the audit with the legislative audit committee and the  
25 subregional board, subject to a risk assessment performed by the  
26 state auditor and to the legislative audit committee's approval of  
27 including the preparation of the comments in the audit plan under

1 Section 321.013, Government Code.

2 SECTION 70. Section 58.017, Agriculture Code, is amended to  
3 read as follows:

4 Sec. 58.017. PERFORMANCE MEASURES. The Board, in  
5 conjunction with the Legislative Budget Board~~[, the state auditor,]~~  
6 and the Office of the Governor, shall develop a minimum of two  
7 performance measures that provide information on the benefits of  
8 the authority's loan programs. The performance measures shall be  
9 included in the report required under Section 58.016(d) of this  
10 code or as a component of the measures incorporated into the General  
11 Appropriations Act.

12 SECTION 71. Article 60.02, Code of Criminal Procedure, is  
13 amended by adding Subsection (m) to read as follows:

14 (m) Notwithstanding Subsection (j), the state auditor may  
15 not perform an examination under that subsection without the  
16 legislative audit committee's approval of including the  
17 examination in the audit plan under Section 321.013(c), Government  
18 Code.

19 SECTION 72. Subsection (d), Section 231.011, Family Code,  
20 as added by Chapter 556, Acts of the 76th Legislature, Regular  
21 Session, 1999, is amended to read as follows:

22 (d) Each agency represented on the work group shall identify  
23 specific child support services that are related to the agency's  
24 areas of core competence and may be provided by the agency under a  
25 contract. The ~~[state auditor and the State Council on Competitive~~  
26 ~~Government shall assist.~~

27 ~~[(1) the agencies in identifying the child support~~

1 ~~services that are within the agency's core competency, and~~

2           ~~[(2) the]~~ work group shall develop ~~[in developing]~~  
3 strategies to obtain child support services from the agencies.

4           SECTION 73. Subsection (d), Section 11.0182, Parks and  
5 Wildlife Code, is amended to read as follows:

6           (d) The ~~[At least once each biennium the]~~ state auditor may  
7 ~~[shall]~~ audit the fund-raising activities performed under this  
8 section, subject to a risk assessment performed by the state  
9 auditor and to the legislative audit committee's approval of  
10 including the audit in the audit plan under Section 321.013(c),  
11 Government Code. If the state auditor performs an audit, the ~~[The]~~  
12 audit shall disclose who has engaged in fund-raising activities for  
13 the department and the value of gifts each person has received or  
14 solicited. The state auditor shall report the results of the audit  
15 to the presiding officer of each house of the legislature and of  
16 each committee having primary jurisdiction over the department.  
17 Each member of the legislature may access the report.

18           SECTION 74. The following laws are repealed:

19           (1) Sections 320.002, 481.123, 552.010, 659.2552,  
20 751.012, 772.0031, 2155.071, 2170.006, and 2176.108, Government  
21 Code;

22           (2) Subsection (g), Section 2155.067, Subsection (l),  
23 Section 2155.083, and Subsection (e), Section 2155.144, Government  
24 Code;

25           (3) Article 24.21, Insurance Code;

26           (4) Subsection (d), Section 302.057, Occupations  
27 Code; and

1                   (5) Section 4, Chapter 314, Acts of the 45th  
2   Legislature, Regular Session, 1937 (Article 6144cc, Vernon's Texas  
3   Civil Statutes).

4           SECTION 75. This Act takes effect September 1, 2003.