

By: Dunnam, Crownover, Coleman,
Turner of Harris, Gattis, et al.

H.B. No. 2942

A BILL TO BE ENTITLED

1 AN ACT
2 relating to accountability and transparency in government
3 operations, including disclosure, oversight, and enforcement
4 measures; providing penalties.

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

6 ARTICLE 1. SHORT TITLE; FINDINGS; PURPOSE

7 SECTION 1.01. This Act may be cited as the "Texas Government
8 Accountability and Transparency Act of 2009."

9 SECTION 1.02. The legislature finds that the public's
10 confidence in its government is highest when there is adequate
11 oversight of government spending and performance by an independent
12 agency that answers to the people's elected representatives.

13 SECTION 1.03. The purpose of Article 2 of this Act is to
14 ensure that the State Auditor and the State Accountability Office
15 are able to provide the highest level of oversight of government
16 spending and performance to ensure the greatest possible economy
17 and efficiency in government.

18 ARTICLE 2. STATE AUDITOR AND STATE ACCOUNTABILITY OFFICE

19 SECTION 2.01. The heading to Chapter 321, Government Code,
20 is amended to read as follows:

21 CHAPTER 321. STATE ACCOUNTABILITY OFFICE AND STATE AUDITOR

22 SECTION 2.02. Chapter 321, Government Code, is amended by
23 designating Sections 321.001 through 321.012 as Subchapter A and
24 adding a heading for Subchapter A to read as follows:

1 SUBCHAPTER A. GENERAL PROVISIONS

2 SECTION 2.03. Section 321.001, Government Code, is amended
3 by amending Subdivisions (1), (3), and (4) and adding Subdivisions
4 (4-a) and (4-b) to read as follows:

5 (1) "Audit plan" means the outline of the office's work
6 ~~[approved by the committee]~~ for ~~[the State Auditor's Office in]~~ a
7 year for the performance of audits and related services, including
8 technical assistance, data analysis, consulting and oversight
9 functions, investigations, and the preparation of audit reports and
10 other types of communications.

11 (3) "Board" ~~["Committee"]~~ means the legislative audit
12 board ~~[committee]~~.

13 (4) "Department" includes every state department,
14 agency, board, bureau, institution, or commission. The term
15 includes an institution of higher education as defined by Section
16 61.003, Education Code.

17 (4-a) "Office" means the State Accountability Office.

18 (4-b) "Recovery Act" means the American Recovery and
19 Reinvestment Act of 2009 (Pub. L. No. 111-5) and includes any
20 subsequent federal economic stimulus legislation.

21 SECTION 2.04. Subchapter A, Chapter 321, Government Code,
22 as added by this Act, is amended by adding Sections 321.0011,
23 321.0014, and 321.0015 to read as follows:

24 Sec. 321.0011. STATE ACCOUNTABILITY OFFICE. The State
25 Accountability Office is an independent agency of the legislative
26 branch of state government.

27 Sec. 321.0014. APPLICABILITY TO CERTAIN ENTITIES. This

1 chapter applies to the following entities in the same manner as if
2 each entity were a department:

3 (1) an independent organization certified by the
4 Public Utility Commission of Texas under Section 39.151, Utilities
5 Code;

6 (2) a regional mobility authority;

7 (3) the Texas Economic Development Corporation;

8 (4) a nonprofit organization that is established by a
9 state officer or department and that solicits gifts, grants, and
10 other donations for the Texas Enterprise Fund under Section
11 481.078;

12 (5) a nonprofit organization that is established by a
13 state officer or department and that solicits gifts, grants, and
14 other donations for any other purpose; and

15 (6) any public or private person or entity receiving
16 funds through a governmental entity in this state that were made
17 available by or provided under the Recovery Act.

18 Sec. 321.0015. REFERENCES IN LAW. (a) A reference in this
19 chapter or other law to the state auditor's office means the State
20 Accountability Office.

21 (b) A reference in this chapter or other law to the
22 legislative audit committee means the legislative audit board.

23 SECTION 2.05. Section 321.002, Government Code, is amended
24 to read as follows:

25 Sec. 321.002. LEGISLATIVE AUDIT BOARD [~~COMMITTEE~~].

26 (a) The legislative audit board [~~committee~~] consists of:

27 (1) the lieutenant governor;

- 1 (2) the speaker of the house of representatives;
- 2 (3) the chair [~~chairman~~] of the senate finance
3 committee;
- 4 (4) four other members [~~one member~~] of the senate
5 appointed by the lieutenant governor;
- 6 (5) the chair [~~chairman~~] of the house appropriations
7 committee; [~~and~~]
- 8 (6) the chair [~~chairman~~] of the house ways and means
9 committee; and
- 10 (7) three other members of the house appointed by the
11 speaker.

12 (b) In the absence of the chair [~~chairman~~] of a house or
13 senate committee, the vice chair [~~vice-chairman~~] of the respective
14 committee shall act.

15 (c) Members of the board [~~committee~~] serve without
16 compensation but are entitled to actual and necessary expenses
17 incurred in performing official duties.

18 (d) The board [~~committee~~] shall employ necessary clerical
19 assistants as allowed by legislative appropriation.

20 (e) The lieutenant governor and the speaker are joint chairs
21 of the board [~~committee~~]. [~~The committee shall elect one member to~~
22 ~~serve as secretary.~~]

23 SECTION 2.06. Subchapter A, Chapter 321, Government Code,
24 as added by this Act, is amended by adding Section 321.003 to read
25 as follows:

26 Sec. 321.003. SUNSET PROVISION. The office and the board
27 are subject to review under Chapter 325 (Texas Sunset Act) but are

1 not abolished under that chapter. The office and board shall be
2 reviewed during the periods in which state agencies scheduled to be
3 abolished in 2013.

4 SECTION 2.07. Section 321.004, Government Code, is amended
5 to read as follows:

6 Sec. 321.004. MEETINGS RELATED TO RECOVERY ACT [~~PROCEDURE~~
7 ~~FOR TIE VOTE~~]. Beginning July 1, 2009, the board shall meet at
8 least once each month in Austin to take testimony and receive
9 evidence related to funds received by the state from the federal
10 government for economic stabilization, including Recovery Act
11 funds. This section expires January 1, 2011 [~~(a) If the full~~
12 ~~committee is present and is not able to resolve a tie vote within a~~
13 ~~reasonable time on a matter this chapter requires the committee to~~
14 ~~decide, the committee shall select a member of the house or senate~~
15 ~~to meet with the committee and to cast the tie-breaking vote.~~

16 [~~(b) The seventh member's duty to the committee ends when~~
17 ~~the member casts the tie-breaking vote and the matter is resolved~~].

18 SECTION 2.08. Section 321.005, Government Code, is amended
19 to read as follows:

20 Sec. 321.005. [~~APPOINTMENT OF~~] STATE AUDITOR; APPOINTMENT.

21 (a) The State Auditor is the office's chief executive and
22 administrative officer. The State Auditor [~~committee~~] shall:

- 23 (1) administer and enforce this chapter;
24 (2) [appoint a State Auditor to] investigate all
25 custodians of state funds, disbursing agents, and department
26 personnel;
27 (3) investigate fraud or abuse in all departments,

1 including misuse of funds, conflicts of interest, contract abuses,
2 and other violations of law;

3 (4) monitor the compliance of all departments with the
4 applicable laws relating to the powers, duties, and functions of
5 the departments;

6 (5) refer criminal matters as appropriate to the
7 Travis County district attorney or the prosecuting attorney of the
8 county in which an offense is alleged to have occurred;

9 (6) refer civil matters, as appropriate, to the
10 attorney general, the Travis County district attorney, or the
11 district or county attorney, as applicable, for the county in which
12 a civil action regarding the matter would be brought; and

13 (7) perform all other duties and exercise all other
14 powers granted to the office or the State Auditor by this chapter or
15 any other law.

16 (b) The board [~~committee~~] shall appoint the State Auditor.
17 The joint chairs of the board shall execute a written declaration of
18 the person appointed by the board as State Auditor and file the
19 declaration with the secretary of state.

20 (c) The State Auditor serves at the will of the board
21 [~~committee~~]. The State Auditor is ineligible to be a candidate for
22 a public elective office in this state unless the State Auditor has
23 resigned and the board has accepted the resignation.

24 (d) The board [~~committee~~] shall fill any vacancy in the
25 office of State Auditor.

26 (e) A majority vote of the board [~~committee~~] members is
27 sufficient to exercise any action authorized by this section.

1 SECTION 2.09. Section 321.008(b), Government Code, is
2 amended to read as follows:

3 (b) The State Auditor must file the oath with the secretary
4 of state not later than the 10th day after the date on which the
5 board [~~committee~~] appointed the State Auditor, or the board
6 [~~committee~~] or a majority of the board [~~committee~~] members shall
7 appoint another qualified person as State Auditor.

8 SECTION 2.10. Section 321.023, Government Code, is
9 transferred to Subchapter A, Chapter 321, Government Code, as added
10 by this Act, redesignated as Section 321.009, Government Code, and
11 amended to read as follows:

12 Sec. 321.009 [~~321.023~~]. SEAL. The [~~state auditor shall~~
13 ~~obtain a~~] seal of the office is [~~with "State Auditor, State of~~
14 ~~Texas" engraved around the margin and~~] a five-pointed star in the
15 center with the words "State Accountability Office, State of Texas"
16 engraved around the margin. The seal shall [~~to~~] be used to
17 authenticate official documents issued by or on the order of the
18 state auditor.

19 SECTION 2.11. Section 321.010(a), Government Code, is
20 amended to read as follows:

21 (a) The State Auditor shall [~~may~~] appoint a first assistant
22 state auditor with the approval of the board.

23 SECTION 2.12. Subchapter A, Chapter 321, Government Code,
24 as added by this Act, is amended by adding Sections 321.0101 and
25 321.0102 to read as follows:

26 Sec. 321.0101. COUNSELOR; ADVISORY OPINIONS. (a) The
27 State Auditor shall appoint a counselor.

1 (b) The counselor must be an attorney licensed to practice
2 law in this state.

3 (c) The counselor may issue advisory opinions under
4 procedures approved by the State Auditor relating to the
5 appropriate use of and authority to spend state funds.

6 Sec. 321.0102. CHIEF CLERK. The State Auditor may appoint a
7 chief clerk to receive, file, and carefully preserve all documents
8 and records provided to the State Auditor and the office and to
9 serve as secretary to the board.

10 SECTION 2.13. Sections 321.011(a), (b), and (c), Government
11 Code, are amended to read as follows:

12 (a) Subject to the General Appropriations Act, and as
13 necessary to carry out the powers and duties of the State Auditor
14 and the office under this chapter and other laws granting
15 jurisdiction or applicable to the State Auditor or the office, the
16 [The] State Auditor may:

17 (1) appoint ~~[may employ a professional staff,~~
18 ~~including]~~ assistant state auditors and special agents; and

19 (2) employ other ~~[stenographic and clerical]~~
20 personnel.

21 (b) The State Auditor shall establish the qualifications
22 necessary for appointment or employment, including qualifications
23 regarding necessary legal knowledge, law enforcement experience,
24 honesty, integrity, education, training, and executive ability. A
25 person appointed or employed must have the experience necessary to
26 qualify the person for the position. The State Auditor may conduct
27 professional examinations to determine the qualifications of a

1 person seeking appointment or employment [~~prospective staff~~
2 ~~members~~].

3 (c) The State Auditor may discharge any [~~assistant auditors~~
4 ~~or stenographic or clerical~~] personnel at any time for any reason
5 satisfactory to the State Auditor and without a hearing.

6 SECTION 2.14. Subchapter A, Chapter 321, Government Code,
7 is amended by adding Sections 321.0111, 321.0112, and 321.0113 to
8 read as follows:

9 Sec. 321.0111. SPECIAL AGENTS. (a) The State Auditor may
10 employ and commission special agents to assist the office in
11 carrying out the duties of the office relating to detection,
12 investigation, and prevention of fraud, waste, and abuse.

13 (b) A special agent employed by the office is not:

14 (1) a peace officer but has the powers of search and
15 seizure, as to felony offenses only, under the laws of this state;
16 or

17 (2) entitled to supplemental benefits from the law
18 enforcement and custodial officer supplemental retirement fund
19 unless the officer transfers from a position, without a break in
20 service, that qualifies for supplemental retirement benefits from
21 the fund.

22 (c) The State Auditor may not commission more than 20
23 special agents at any time.

24 Sec. 321.0112. EXPERTS. Subject to the availability of
25 funds, the State Auditor may contract with certified public
26 accountants, qualified management consultants, or other
27 professional experts as necessary to independently perform the

1 functions of the office under this chapter or other law.

2 Sec. 321.0113. PERSONNEL; POLITICAL INFLUENCE. (a) The
3 State Auditor and office personnel are to be free from partisan
4 politics, and the State Auditor is free to select the most efficient
5 personnel available for each position in the office so that the
6 State Auditor may render to the legislature the service the
7 legislature has a right to expect.

8 (b) It is against public policy and a criminal offense for a
9 member of the legislature, an officer or employee of the state, or
10 an officer or employee of a state department to recommend or suggest
11 that the State Auditor appoint a person to a position in the office.
12 An offense under this section is a Class A misdemeanor.

13 SECTION 2.15. Sections 321.012(a) and (c), Government Code,
14 are amended to read as follows:

15 (a) The board [~~committee~~] directs and controls the
16 expenditure of any money appropriated to the office [~~of the State~~
17 ~~Auditor~~] and must approve the State Auditor's appropriation
18 requests [~~and audit plan~~].

19 (c) The salaries of the assistant auditors and other
20 [~~stenographic and clerical~~] personnel may not exceed the amounts
21 paid by other departments for similar services without the approval
22 of the board.

23 SECTION 2.16. Subchapter A, Chapter 321, Government Code,
24 as added by this Act, is amended by adding Sections 321.0121 through
25 321.0124 to read as follows:

26 Sec. 321.0121. PUBLIC INTEREST INFORMATION. (a) The
27 office shall prepare information of public interest describing:

1 (1) the functions of the office, including the
2 functions of the State Auditor;

3 (2) the matters or issues that may be subject to
4 audits, investigations, and other functions performed by the
5 office; and

6 (3) the manner in which a person may report an
7 allegation of fraud or abuse to the office.

8 (b) The office shall make the information described by
9 Subsection (a) available to state officers and employees and to the
10 public.

11 Sec. 321.0122. REQUIRED CONTRACT DISCLOSURE STATEMENT. (a)
12 The office shall develop a standard contract provision requiring a
13 contractor to disclose to the office the amount of a payment made
14 under the contract to any subcontractor, consultant, or person
15 required to register as a lobbyist under Chapter 305 or the Lobbying
16 Disclosure Act of 1995 (2 U.S.C. Section 1601 et seq.).

17 (b) A department shall include the provision in any contract
18 entered into by the department.

19 Sec. 321.0123. CONTRACT REPORTING REQUIREMENTS. A
20 department that is required under other law to report information
21 relating to a contract entered into by the department to the
22 Legislative Budget Board shall also report the information to the
23 office.

24 Sec. 321.0124. POSTING OF CONTRACT INFORMATION ON INTERNET.
25 (a) The office shall post any information received by the office
26 that relates to a contract entered into by a department and that is
27 not confidential by law on an Internet site maintained by or for the

1 office. The office shall post the information in a timely manner
2 after receipt of the information.

3 (b) The Internet site must be accessible to the public.

4 SECTION 2.17. Chapter 321, Government Code, is amended by
5 designating Sections 321.013 through 321.022 as Subchapter B and
6 adding a heading for Subchapter B to read as follows:

7 SUBCHAPTER B. AUDITS AND INVESTIGATIONS

8 SECTION 2.18. The heading for Section 321.013, Government
9 Code, is amended to read as follows:

10 Sec. 321.013. ADDITIONAL POWERS AND DUTIES OF STATE
11 AUDITOR.

12 SECTION 2.19. Sections 321.013(a), (c), and (f), Government
13 Code, are amended to read as follows:

14 (a) The State Auditor shall conduct audits of all
15 departments, including institutions of higher education, as
16 specified in the audit plan. The [~~At the direction of the~~
17 ~~committee, the~~] State Auditor may [~~shall~~] conduct an audit or
18 investigation of any entity receiving funds from the state.

19 (c) The State Auditor shall prepare an [~~recommend the~~] audit
20 plan for the state for each year [~~to the committee~~]. In devising
21 the plan, the State Auditor shall consider recommendations
22 concerning coordination of agency functions made jointly by
23 representatives of the Legislative Budget Board, Sunset Advisory
24 Commission, and the office [~~State Auditor's Office~~]. The State
25 Auditor shall also consider the extent to which a department has
26 received a significant increase in appropriations, including a
27 significant increase in federal or other money passed through to

1 the department, and shall review procurement activities for
2 compliance with Section 2161.123. The plan shall provide for
3 auditing of federal programs at least as often as required under
4 federal law and shall ensure that audit requirements of all bond
5 covenants and other credit or financial agreements are satisfied.
6 The board [~~committee~~] shall review [~~and approve~~] the plan.

7 (f) The State Auditor may conduct financial audits,
8 compliance audits [~~and investigations, and, with specific~~
9 ~~authority from the committee~~], economy and efficiency audits,
10 effectiveness audits, and special audits as defined by this chapter
11 and specified in the audit plan. The State Auditor shall conduct or
12 direct investigations as necessary.

13 SECTION 2.20. Section 321.016, Government Code, is amended
14 to read as follows:

15 Sec. 321.016. IMPROPER PRACTICES AND ILLEGAL TRANSACTIONS.

16 (a) If in the course of an audit the State Auditor finds evidence
17 of improper practices of financial administration, inadequate
18 fiscal records, uneconomical use of resources, or ineffective
19 program performance, the State Auditor, after consulting with the
20 head of the agency, shall immediately report the evidence to the
21 governor, the board [~~committee~~], the chairs of the committees of
22 each house with oversight responsibility for the agency, and the
23 administrative head and the chair [~~chairman~~] of the governing body
24 of the affected department.

25 (b) If in the course of an audit the State Auditor finds
26 evidence of an illegal transaction, the State Auditor, after
27 consulting with the head of the agency, shall immediately report

1 the transaction to the governor, the board [~~committee~~], the chairs
2 of the committees of each house with oversight responsibility for
3 the agency, the Travis County district attorney or the prosecuting
4 attorney of the county in which the offense is alleged to have
5 occurred, and any other [~~the~~] appropriate legal authority.

6 (c) Immediately after the board [~~committee~~] receives a
7 report from the State Auditor alleging improper practices of
8 financial administration, uneconomical use of resources, or
9 ineffective program performance, the board [~~committee~~] shall
10 review the report and shall consult with and may hold hearings with
11 the administrative head and the chair [~~chairman~~] of the governing
12 body of the affected department regarding the report.

13 (d) If the administrative head or the governing body of the
14 affected department refuses to make the changes recommended by the
15 board [~~committee~~] at the hearing or provide any additional
16 information or reports requested, the board [~~committee~~] shall
17 report the refusal to the legislature.

18 SECTION 2.21. Section 321.018, Government Code, is amended
19 to read as follows:

20 Sec. 321.018. SUBPOENAS. (a) The [~~At the request of the~~]
21 State Auditor or the board [~~on its own motion, the committee~~] may
22 subpoena witnesses or any books, records, or other documents
23 reasonably necessary to conduct an examination under this chapter.

24 (b) Each subpoena must be signed by either:

25 (1) the State Auditor; or

26 (2) one of the joint chairs of the board [~~committee or~~
27 ~~the secretary of the committee~~].

1 (c) On the request of either the State Auditor or one of the
2 joint chairs of the board, a special agent of the office [~~committee~~
3 ~~or the secretary of the committee~~], the sergeant at arms or an
4 assistant sergeant at arms of either house of the legislature, or
5 any peace officer shall serve the subpoena in the manner prescribed
6 for service of a district court subpoena.

7 (d) If the person to whom a subpoena is directed fails to
8 comply, the State Auditor or the board [~~committee~~] may bring suit in
9 district court to enforce the subpoena. If the court determines
10 that good cause exists for the issuance of the subpoena, the court
11 shall order compliance. The court may modify the requirements of a
12 subpoena that the court determines are unreasonable. Failure to
13 comply with the order of the district court is punishable as
14 contempt.

15 (e) The State Auditor or the board [~~committee~~] may provide
16 for the compensation of subpoenaed witnesses. The amount of
17 compensation may not exceed the amount paid to a witness subpoenaed
18 by a district court in a civil proceeding.

19 SECTION 2.22. The heading to Section 321.019, Government
20 Code, is amended to read as follows:

21 Sec. 321.019. INTERFERENCE WITH AUDIT OR INVESTIGATION;
22 CRIMINAL OFFENSE.

23 SECTION 2.23. Section 321.019, Government Code, is amended
24 by amending Subsection (b) and adding Subsection (c) to read as
25 follows:

26 (b) An offense under this section is a Class A misdemeanor,
27 except that the offense is a felony of the third degree if the audit

1 or investigation is related to funds made available by or provided
2 under the Recovery Act.

3 (c) An offense under this section may be prosecuted in the
4 county in which an element of the offense occurs or in Travis
5 County.

6 SECTION 2.24. Subchapter B, Chapter 321, Government Code,
7 as added by this Act, is amended by adding Section 321.0191 and
8 Sections 321.023 through 321.027 to read as follows:

9 Sec. 321.0191. REQUEST FOR INFORMATION; CIVIL PENALTY. (a)
10 The State Auditor may serve on the officer or employee of a
11 department or an entity subject to audit or investigation under
12 this chapter written requests for information or inspection of
13 property. A request under this section must:

14 (1) identify and describe with reasonable
15 particularity the information sought, documents to be produced, or
16 other property to which access is requested; and

17 (2) set forth the items to be inspected by individual
18 item or by category.

19 (b) An officer or employee who does not, without good cause,
20 produce the documents or grant access to the property before the
21 25th hour after the request is served is personally liable to the
22 state for a civil penalty of \$1,000 for each day the conduct
23 continues, except that the civil penalty is \$5,000 for each day the
24 conduct continues if the audit or investigation is related to funds
25 made available by or provided under the Recovery Act.

26 (c) The attorney general, the Travis County district
27 attorney, or the prosecuting attorney of the county in which a

1 violation is alleged to have occurred may sue to collect the
2 penalty.

3 Sec. 321.023. GOVERNMENT ACCOUNTABILITY RECOMMENDATIONS.

4 The office shall recommend policies for:

5 (1) the detection of fraud and abuse, including state
6 contract violations, conflicts of interest, and the inappropriate
7 use or unauthorized expenditure of state funds;

8 (2) the identification of participants in any detected
9 fraud or abuse;

10 (3) the termination or prosecution of state employees
11 in relation to detected fraud or abuse; and

12 (4) the exclusion of contractors from participation in
13 state contracts for detected fraud or abuse.

14 Sec. 321.024. RECEIPT AND INVESTIGATION OF COMPLAINTS AND

15 INFORMATION. (a) The State Auditor may receive and investigate
16 complaints and information concerning the possible existence of
17 fraud or abuse.

18 (b) The State Auditor shall establish and operate a
19 toll-free telephone line to be known as the Texas Government
20 Accountability Hotline that enables a person to call the hotline
21 number to:

22 (1) obtain information concerning audits or
23 investigations conducted by the office; or

24 (2) report an alleged violation of the laws of this
25 state related to government accountability, including laws related
26 to spending, procurement, and auditing, by any department or any
27 entity subject to audit or investigation under this chapter.

1 (c) The State Auditor shall establish an Internet web page
2 that permits a person to obtain information and report violations
3 as provided by Subsection (b).

4 (d) Each department and each entity subject to audit or
5 investigation under this chapter that maintains one or more
6 Internet web pages shall post on the department's or entity's home
7 page a prominent link to the Internet web page maintained by the
8 State Auditor under this section.

9 Sec. 321.025. LEGAL ASSISTANCE. On request of the State
10 Auditor, the Travis County district attorney or the prosecuting
11 attorney of the county in which an offense is alleged to have
12 occurred shall assist the State Auditor with investigations and
13 provide appropriate legal assistance.

14 Sec. 321.026. REFERRAL OF CERTAIN MATTERS. (a) After an
15 investigation of possible fraud or abuse, if the State Auditor
16 believes that fraud or abuse by a department may have resulted in
17 the inappropriate use or unauthorized expenditure of state funds,
18 the office may refer the matter to the Travis County district
19 attorney or the prosecuting attorney of the county in which an
20 offense or impropriety is alleged to have occurred and recommend
21 that the attorney pursue the recovery of state funds.

22 (b) After receiving a referral from the office under this
23 section, the Travis County district attorney or the prosecuting
24 attorney of the county in which an offense or impropriety is alleged
25 to have occurred shall review the request, make an independent
26 decision, and issue a written public opinion with respect to the
27 existence of fraud or abuse and whether the attorney intends to

1 pursue the recovery of state funds.

2 Sec. 321.027. REFERRAL OF MATTERS RELATED TO RECOVERY ACT.
3 Notwithstanding any other provision of law, a matter referred by
4 the State Auditor concerning fraud or other criminal activity in
5 connection with Recovery Act funds may be prosecuted in a county in
6 which an element of the offense occurs or in Travis County.

7 SECTION 2.25. Sections 322.015, 322.016, 322.0165,
8 322.017, and 322.018, Government Code, are transferred to Chapter
9 321, Government Code, renumbered as Sections 321.051, 321.052,
10 321.053, 321.054, and 321.055, Government Code, respectively,
11 designated as Subchapter C, Chapter 321, Government Code, and
12 amended, and a heading is added for Subchapter C, Chapter 321,
13 Government Code, to read as follows:

14 SUBCHAPTER C. PERFORMANCE REVIEWS

15 Sec. 321.051 [~~322.015~~]. REVIEW OF INTERSCHOLASTIC
16 COMPETITION. The office [~~board~~] may periodically review and
17 analyze the effectiveness and efficiency of the policies,
18 management, fiscal affairs, and operations of an organization that
19 is a component or part of a state agency or institution and that
20 sanctions or conducts interscholastic competition. The office
21 [~~board~~] shall report the findings to the governor and the
22 legislature. The legislature may consider the office's [~~board's~~]
23 reports in connection with the legislative appropriations process.

24 Sec. 321.052 [~~322.016~~]. PERFORMANCE REVIEW OF SCHOOL
25 DISTRICTS. (a) The office [~~board~~] may periodically review the
26 effectiveness and efficiency of the operations of school districts,
27 including the district's expenditures for its officers' and

1 employees' travel services. A review of a school district may be
2 initiated by the office [~~board~~] at the State Auditor's [~~its~~]
3 discretion or on the request of the school district. A review may
4 be initiated by a school district only by resolution adopted by a
5 majority of the members of the board of trustees of the district.

6 (b) If a review is initiated on the request of the school
7 district, the district shall pay 25 percent of the cost incurred in
8 conducting the review.

9 (c) The office [~~board~~] shall:

10 (1) prepare a report showing the results of each
11 review conducted under this section;

12 (2) file the report with the school district, the
13 governor, the lieutenant governor, the speaker of the house of
14 representatives, the chairs of the standing committees of the
15 senate and the house of representatives with jurisdiction over
16 public education, and the commissioner of education; and

17 (3) make the entire report and a summary of the report
18 available to the public on the Internet.

19 (d) Until the office [~~board~~] has completed a review under
20 this section, all information, documentary or otherwise, prepared
21 or maintained in conducting the review or preparing the review
22 report, including intra-agency and interagency communications and
23 drafts of the review report or portions of those drafts, is excepted
24 from required public disclosure as audit working papers under
25 Section 552.116. This subsection does not affect whether
26 information described by this subsection is confidential or
27 excepted from required public disclosure under a law other than

1 Section 552.116.

2 Sec. 321.053 [~~322.0165~~]. PERFORMANCE REVIEW OF
3 INSTITUTIONS OF HIGHER EDUCATION. (a) In this section, "public
4 junior college" and "general academic teaching institution" have
5 the meanings assigned by Section 61.003, Education Code.

6 (b) The office [~~board~~] may periodically review the
7 effectiveness and efficiency of the budgets and operations of:

- 8 (1) public junior colleges; and
9 (2) general academic teaching institutions.

10 (c) A review under this section may be initiated by the
11 office [~~board~~] or at the request of:

- 12 (1) the governor; or
13 (2) the public junior college or general academic
14 teaching institution.

15 (d) A review may be initiated by a public junior college or
16 general academic teaching institution only at the request of the
17 president of the college or institution or by a resolution adopted
18 by a majority of the governing body of the college or institution.

19 (e) If a review is initiated by a public junior college or
20 general academic teaching institution, the college or institution
21 shall pay 25 percent of the cost incurred in conducting the review.

22 (f) The office [~~board~~] shall:

23 (1) prepare a report showing the results of each
24 review conducted under this section;

25 (2) file the report with:

26 (A) the chief executive officer of the public
27 junior college or general academic teaching institution that is the

1 subject of the report; and

2 (B) the governor, the lieutenant governor, the
3 speaker of the house of representatives, the chairs of the standing
4 committees of the senate and of the house of representatives with
5 primary jurisdiction over higher education, and the commissioner of
6 higher education; and

7 (3) make the entire report and a summary of the report
8 available to the public on the Internet.

9 (g) Until the office [~~board~~] has completed a review under
10 this section, all information, documentary or otherwise, prepared
11 or maintained in conducting the review or preparing the review
12 report, including intra-agency and interagency communications and
13 drafts of the review report or portions of those drafts, is excepted
14 from required public disclosure as audit working papers under
15 Section 552.116. This subsection does not affect whether
16 information described by this subsection is confidential or
17 excepted from required public disclosure under a law other than
18 Section 552.116.

19 Sec. 321.054 [~~322.017~~]. EFFICIENCY REVIEW OF STATE
20 AGENCIES. (a) In this section, "state agency" has the meaning
21 assigned by Section 2056.001.

22 (b) The office [~~board~~] periodically may review and analyze
23 the effectiveness and efficiency of the policies, management,
24 fiscal affairs, and operations of state agencies.

25 (c) The office [~~board~~] shall report the findings of the
26 review and analysis to the governor and the legislature.

27 (d) The legislature may consider the office's [~~board's~~]

1 reports in connection with the legislative appropriations process.

2 (e) Until the office [~~board~~] has completed a review and
3 analysis under this section, all information, documentary or
4 otherwise, prepared or maintained in conducting the review and
5 analysis or preparing the review report, including intra-agency and
6 interagency communications and drafts of the review report or
7 portions of those drafts, is excepted from required public
8 disclosure as audit working papers under Section 552.116. This
9 subsection does not affect whether information described by this
10 subsection is confidential or excepted from required public
11 disclosure under a law other than Section 552.116.

12 Sec. 321.055 [~~322.018~~]. RECORDS MANAGEMENT REVIEW. (a) In
13 this section, "state agency" has the meaning assigned by Section
14 2056.001.

15 (b) The office [~~board~~] may periodically review and analyze
16 the effectiveness and efficiency of the policies and management of
17 a state governmental committee or state agency that is involved in:

18 (1) analyzing and recommending improvements to the
19 state's system of records management; and

20 (2) preserving the essential records of this state,
21 including records relating to financial management information.

22 ARTICLE 3. LEGISLATIVE BUDGET BOARD

23 SECTION 3.01. Section 322.001(a), Government Code, is
24 amended to read as follows:

25 (a) The Legislative Budget Board consists of:

26 (1) the lieutenant governor;

27 (2) the speaker of the house of representatives;

1 (3) the chair [~~chairman~~] of the senate finance
2 committee;

3 (4) the chair [~~chairman~~] of the house appropriations
4 committee;

5 (5) the chair [~~chairman~~] of the house ways and means
6 committee;

7 (6) five [~~three~~] members of the senate appointed by
8 the lieutenant governor; and

9 (7) four [~~two~~] other members of the house appointed by
10 the speaker.

11 SECTION 3.02. Chapter 322, Government Code, is amended by
12 adding Section 322.002 to read as follows:

13 Sec. 322.002. SUNSET PROVISION. The board is subject to
14 review under Chapter 325 (Texas Sunset Act) but is not abolished
15 under that chapter. The board shall be reviewed during the periods
16 in which state agencies scheduled to be abolished in 2013.

17 SECTION 3.03. Chapter 322, Government Code, is amending by
18 adding Section 322.0031 to read as follows:

19 Sec. 322.0031. MEETINGS RELATED TO RECOVERY ACT. Beginning
20 July 1, 2009, the board shall meet at least once every two months in
21 Austin to take testimony and receive evidence related to funds
22 received by the state from the federal government for economic
23 stabilization, including funds received under the American
24 Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5). This
25 section expires January 1, 2011.

26 ARTICLE 4. TEXAS LEGISLATIVE COUNCIL

27 SECTION 4.01. Section 323.001(b), Government Code, is

1 amended to read as follows:

2 (b) The council consists of:

3 (1) the lieutenant governor;

4 (2) the speaker of the house of representatives;

5 (3) the chair [~~chairman~~] of the house administration
6 committee;

7 (4) eight [~~six~~] senators from various areas of the
8 state appointed by the president of the senate; and

9 (5) seven [~~five~~] other members of the house of
10 representatives from various areas of the state appointed by the
11 speaker.

12 SECTION 4.02. Chapter 323, Government Code, is amended by
13 adding Section 323.002 to read as follows:

14 Sec. 323.002. SUNSET PROVISION. The council is subject to
15 review under Chapter 325 (Texas Sunset Act) but is not abolished
16 under that chapter. The council shall be reviewed during the
17 periods in which state agencies scheduled to be abolished in 2013.

18 SECTION 4.03. Section 323.0145(a), Government Code, is
19 amended by amending Subdivision (2) and adding Subdivision (3) to
20 read as follows:

21 (2) "Legislative information" means:

22 (A) a list of all the members of each house of the
23 legislature;

24 (B) a list of the committees of the legislature
25 and their members;

26 (C) the full text of each bill as filed and as
27 subsequently amended, substituted, engrossed, or enrolled in

1 either house of the legislature;

2 (D) the full text of each amendment or substitute
3 adopted by a legislative committee for each bill filed in either
4 house of the legislature;

5 (E) the calendar of each house of the
6 legislature, the schedule of legislative committee hearings, and a
7 list of the matters pending on the floor of each house of the
8 legislature;

9 (F) detailed procedural information about how a
10 bill filed in either house of the legislature becomes law,
11 including detailed timetable information concerning the times
12 under the constitution or the rules of either house when the
13 legislature may take certain actions on a bill;

14 (G) the district boundaries or other identifying
15 information for the following districts in Texas:

- 16 (i) house of representatives;
17 (ii) senate;
18 (iii) State Board of Education; and
19 (iv) United States Congress; ~~and~~

20 (H) information about legislative oversight of
21 Recovery Act funds, including the committees of each house and each
22 legislative agency responsible for providing oversight of or
23 information about Recovery Act funds; and

24 (I) other information related to the legislative
25 process that in the council's opinion should be made available
26 through the Internet.

27 (3) "Recovery Act" means the American Recovery and

1 Reinvestment Act of 2009 (Pub. L. No. 111-5) and includes any
2 subsequent federal economic stimulus legislation.

3 SECTION 4.04. Section 323.0145(b), Government Code, is
4 amended to read as follows:

5 (b) The council, to the extent it considers it to be
6 feasible and appropriate, may make legislative information
7 available to the public through the Internet. The council shall
8 make legislative information related to the Recovery Act available
9 to the public through the Internet.

10 ARTICLE 5. LEGISLATIVE REFERENCE LIBRARY

11 SECTION 5.01. Chapter 324, Government Code, is amended by
12 adding Section 324.003 to read as follows:

13 Sec. 324.003. SUNSET PROVISION. The board and the library
14 are subject to review under Chapter 325 (Texas Sunset Act) but are
15 not abolished under that chapter. The board and the library shall
16 be reviewed during the periods in which state agencies scheduled to
17 be abolished in 2013.

18 SECTION 5.02. Section 324.004, Government Code, is amended
19 by amending Subsection (b) and adding Subsection (b-1) to read as
20 follows:

- 21 (b) The board consists of:
- 22 (1) the lieutenant governor;
 - 23 (2) the speaker of the house of representatives;
 - 24 (3) the chair [~~chairman~~] of the house appropriations
25 committee;
 - 26 (4) four [~~two~~] members of the senate appointed by the
27 lieutenant governor; and

1 (5) three [~~one~~] other members [~~member~~] of the house
2 appointed by the speaker.

3 (b-1) The lieutenant governor and the speaker are joint
4 chairs of the board.

5 SECTION 5.03. Chapter 324, Government Code, is amended by
6 adding Section 324.0081 to read as follows:

7 Sec. 324.0081. RECOVERY ACT DEPOSITORY. (a) The library
8 shall serve as the central depository for all Recovery Act
9 publications.

10 (b) Each state or local governmental entity and each private
11 entity receiving, disbursing, investigating, auditing, or
12 reporting the use of Recovery Act funds received by or through a
13 governmental entity in this state shall provide the library with a
14 copy of each Recovery Act publication produced, assembled, or
15 maintained by the entity.

16 (c) To the extent feasible, the library shall make Recovery
17 Act publications available for public viewing on the Internet.

18 (d) In this section:

19 (1) "Recovery Act" means the American Recovery and
20 Reinvestment Act of 2009 (Pub. L. No. 111-5) and includes any
21 subsequent federal economic stimulus legislation.

22 (2) "Recovery Act publication":

23 (A) means information in any format, including
24 materials in a physical format or in an electronic format, related
25 in any way to the receipt, disbursement, expenditure, or audit of
26 Recovery Act funds, including a report regarding Recovery Act
27 funds, that:

1 (i) is produced, assembled, or maintained
2 by or for a state or local governmental entity receiving Recovery
3 Act funds or an entity receiving Recovery Act funds through a
4 governmental entity in this state; and

5 (ii) is distributed to persons outside the
6 entity or distributed to persons within the entity; and

7 (B) does not include information the
8 distribution of which is limited to members of the public under a
9 request made under Chapter 552.

10 ARTICLE 6. SUNSET ADVISORY COMMISSION

11 SECTION 6.01. Chapter 325, Government Code, is amended by
12 adding Section 325.0115 to read as follows:

13 Sec. 325.0115. CRITERIA FOR REVIEW OF CERTAIN LEGISLATIVE
14 AGENCIES. (a) Notwithstanding Section 325.011, for the initial
15 review of a legislative agency, board, or council subject to review
16 under this chapter in 2013, the commission and its staff may only
17 consider the extent to which the agency, board, or council
18 discharged its responsibilities related to Recovery Act funds under
19 this subtitle and any other applicable law.

20 (b) In this section, "Recovery Act" means the American
21 Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) and
22 includes any subsequent federal economic stimulus legislation.

23 (c) This section expires January 1, 2014.

24 ARTICLE 7. RECOVERY ACT ACCOUNTABILITY BOARD

25 SECTION 7.01. Subtitle C, Title 3, Government Code, is
26 amended by adding Chapter 331 to read as follows:

27 CHAPTER 331. RECOVERY ACT ACCOUNTABILITY BOARD

1 Sec. 331.001. DEFINITIONS. In this chapter:

2 (1) "Recovery Act" means the American Recovery and
3 Reinvestment Act of 2009 (Pub. L. No. 111-5) and includes any
4 subsequent federal economic stimulus legislation.

5 (2) "Board" means the Recovery Act Accountability
6 Board.

7 (3) "Legislative agency" means:

8 (A) the Texas Legislative Council;

9 (B) the Legislative Budget Board;

10 (C) the Legislative Reference Library;

11 (D) the State Accountability Office; or

12 (E) any other agency in the legislative branch of
13 state government.

14 Sec. 331.002. RECOVERY ACT ACCOUNTABILITY BOARD. (a) The
15 Recovery Act Accountability Board consists of:

16 (1) the following voting members:

17 (A) the lieutenant governor;

18 (B) the speaker of the house of representatives;

19 (C) one senate member, designated by the
20 lieutenant governor, and one house member, designated by the
21 speaker, of the Legislative Audit Board;

22 (D) one senate member, designated by the
23 lieutenant governor, and one house member, designated by the
24 speaker, of the Legislative Budget Board;

25 (E) one senate member, designated by the
26 lieutenant governor, and one house member, designated by the
27 speaker, of the Texas Legislative Council;

1 (F) one senate member, designated by the
2 lieutenant governor, and one house member, designated by the
3 speaker, of the Sunset Advisory Commission;

4 (G) one senate member, designated by the
5 lieutenant governor, and one house member, designated by the
6 speaker, of the Legislative Library Board;

7 (H) the chair and vice chair of the House Select
8 Committee on Federal Economic Stabilization Funding;

9 (I) four other members of the senate, designated
10 by the lieutenant governor;

11 (J) four other members of the house, designated
12 by the speaker;

13 (K) two public members appointed by the
14 lieutenant governor; and

15 (L) two public members appointed by the speaker;
16 and

17 (2) the following nonvoting members:

18 (A) four members of the United States Congress
19 from this state, with two members selected by the members of each
20 political party required by law to hold a primary; and

21 (B) the chief administrative officer of each
22 legislative agency, except the State Accountability Office.

23 (b) One of the members appointed under Subsection (a)(1)
24 must be the chair of the Senate Finance Committee. One other member
25 appointed under Subsection (a)(1) must be the chair of the House
26 Appropriations Committee.

27 (c) The lieutenant governor and the speaker are joint chairs

1 of the board.

2 (d) A legislative member serving on the board because of the
3 member's service on another board, commission, or committee serves
4 a term coinciding with the member's service on the other board,
5 commission, or committee. Other legislative members and public
6 members serve for the term of the board.

7 (e) If a vacancy occurs in the appointed membership, the
8 appropriate appointing authority shall appoint a person to serve
9 for the remainder of the unexpired term.

10 (f) Each member of the board is entitled to reimbursement
11 for actual and necessary expenses incurred in performing board
12 duties. Each legislative member is entitled to reimbursement from
13 the appropriate fund of the member's respective house. Each public
14 member is entitled to reimbursement from the appropriate fund of
15 the house of the appointing authority.

16 Sec. 331.003. TERM OF BOARD; EXPIRATION. The board is
17 abolished and this chapter expires December 31, 2013.

18 Sec. 331.004. ADMINISTRATIVE OFFICER. The board shall
19 select a chief administrative officer of the board. An officer or
20 employee of a legislative agency, other than the State
21 Accountability Office, is eligible for appointment under this
22 section.

23 Sec. 331.005. MEETINGS. Beginning July 1, 2009, the board
24 shall meet at least once each month in Austin to take testimony and
25 receive evidence related to funds received by governmental entities
26 in this state from the federal government for economic
27 stabilization, including funds received under the Recovery Act.

1 Sec. 331.006. POWERS AND DUTIES. The board:

2 (1) shall coordinate reviews of spending of Recovery
3 Act funds conducted by a legislative agency to ensure that
4 duplication and overlap of legislative agency work is avoided;

5 (2) may hold hearings and conduct investigations and
6 surveys as provided by Section 331.008;

7 (3) shall ensure the public has access to vital
8 information related to the expenditure of Recovery Act funds;

9 (4) may prescribe performance measures in addition to
10 those prescribed by Section 331.007;

11 (5) may make recommendations regarding interagency
12 coordination, opportunities that concern multiple units of
13 government, and opportunities for public-private partnerships
14 using Recovery Act funds; and

15 (6) may appoint advisory committees as necessary to
16 assist the board.

17 Sec. 331.007. RECIPIENT AGENCY REPORTS; PERFORMANCE
18 MEASURES. Not later than the 10th day after the date a state fiscal
19 quarter ends, each governmental entity that receives Recovery Act
20 funds shall submit a report to the board that contains:

21 (1) the amount of Recovery Act funding received by a
22 public or private entity by or through the governmental entity
23 under the Act;

24 (2) the citation to the specific provision of the
25 Recovery Act under which the funding is provided;

26 (3) any outstanding requirements or unmet deadlines
27 for applying for Recovery Act funds;

1 (4) any changes in any requirements associated with
2 Recovery Act funding, including spending limitations, state match
3 or cost share requirements, percentage limitations, and
4 timeframes;

5 (5) the date on which each type of Recovery Act funding
6 discussed in the report is anticipated to end;

7 (6) whether any additional authority is necessary to
8 spend the Recovery Act funds;

9 (7) the number of additional state employees actually
10 employed or projected to be needed to oversee or administer
11 Recovery Act funds;

12 (8) current plans for addressing how each agency will
13 conduct its operations when Recovery Act funds end;

14 (9) a detailed list of all projects or activities for
15 which Recovery Act funds were expended or obligated, including:

16 (A) the name of the project or activity;

17 (B) a description of the project or activity; and

18 (C) an evaluation of the completion status of the
19 project or activity;

20 (10) an assessment of the performance of all Recovery
21 Act funds expended or obligated relating to specific performance
22 measures, including:

23 (A) the number of new jobs created in this state;

24 (B) the number of new jobs created in small and
25 medium-sized businesses;

26 (C) the estimated economic benefit for small and
27 medium-sized businesses;

1 (D) the number of new jobs created in women-owned
2 and minority-owned businesses;

3 (E) the estimated economic benefit for
4 women-owned and minority-owned businesses;

5 (F) the number of new jobs created in distressed
6 areas;

7 (G) the estimated economic benefit in distressed
8 areas;

9 (H) the number of new jobs created at or above the
10 median hourly wage in this state;

11 (I) the increase in jobs providing access to
12 employer-sponsored health insurance; and

13 (J) any other performance measures prescribed by
14 the board; and

15 (11) an impact statement detailing the impact, if any,
16 of Recovery Act funds on:

17 (A) the extent to which electric utility
18 customers in this state have increased access to renewable energy;

19 (B) carbon emissions in this state resulting from
20 energy and transportation projects, including any emissions
21 reductions; and

22 (C) the extent to which per capita electric usage
23 in this state is reduced as a result of energy efficiency
24 initiatives.

25 Sec. 331.008. HEARINGS; INVESTIGATIONS AND SURVEYS. (a)
26 The board may make investigations and surveys regarding funds
27 received by governmental entities in this state from the federal

1 government for economic stabilization, including Recovery Act
2 funds, and may hold public or executive hearings in connection with
3 those investigations and surveys.

4 (b) A hearing shall be held at a time and place in the state
5 determined by the board.

6 (c) The board may:

7 (1) inspect and copy any book, record, file, or other
8 instrument or document of a governmental entity in this state that
9 is pertinent to a matter under investigation by the board; and

10 (2) examine and audit the books of a person, firm, or
11 corporation having dealings with a governmental entity under
12 investigation by the board.

13 (d) Any member of the board may administer oaths to
14 witnesses appearing at the hearing.

15 Sec. 331.009. SUBPOENAS. (a) The board may issue subpoenas
16 to compel the attendance of witnesses and the production of books,
17 records, or other documents in their custody.

18 (b) A subpoena must be signed by either of the joint chairs
19 of the board.

20 (c) The sergeant at arms of either house of the legislature
21 or any peace officer shall serve the subpoena in the manner
22 prescribed for service of a district court subpoena.

23 (d) If a person to whom a subpoena is directed refuses to
24 appear, refuses to answer inquiries, or fails or refuses to produce
25 books, records, or other documents that were under the person's
26 control when the demand was made, the board shall report the fact to
27 a Travis County district court.

1 (e) The district court shall enforce a board subpoena by
2 attachment proceedings for contempt in the same manner the court
3 enforces a subpoena issued by that court.

4 (f) A subpoenaed witness who attends a board hearing or
5 meeting is entitled to the same mileage and per diem as a witness
6 who appears before a grand jury of this state.

7 Sec. 331.010. ASSISTANCE FROM OTHER AGENCIES; CONTRACTS.

8 (a) The board may request assistance and advice from a legislative
9 agency or any other state officer, department, board, commission,
10 or agency, including the governor and the attorney general.

11 (b) Either of the joint chairs may request legal opinions or
12 other advice or assistance from:

13 (1) the counselor of the State Accountability Office;

14 or

15 (2) the director of the legal division of the Texas
16 Legislative Council.

17 ARTICLE 8. PROVISIONS APPLICABLE TO ALL LEGISLATIVE AGENCIES

18 SECTION 8.01. The heading to Chapter 326, Government Code,
19 is amended to read as follows:

20 CHAPTER 326. PROVISIONS GENERALLY APPLICABLE TO [COOPERATION
21 ~~BETWEEN~~ LEGISLATIVE AGENCIES AND OVERSIGHT COMMITTEES

22 SECTION 8.02. Chapter 326, Government Code, is amended by
23 designating Sections 326.001 through 326.003 as Subchapter A and
24 adding a heading for Subchapter A to read as follows:

25 SUBCHAPTER A. COOPERATION BETWEEN LEGISLATIVE AGENCIES

26 SECTION 8.03. Section 326.001, Government Code, is amended
27 to read as follows:

1 Sec. 326.001. DEFINITION. In this subchapter [~~chapter~~],

2 "legislative agency" means:

3 (1) the senate;

4 (2) the house of representatives;

5 (3) a committee, division, department, or office of
6 the senate or house;

7 (4) the Texas Legislative Council;

8 (5) the Legislative Budget Board;

9 (6) the Legislative Reference Library;

10 (7) the [~~office of the~~] State Accountability Office
11 [~~Auditor~~];

12 (7-a) the Recovery Act Accountability Board; or

13 (8) any other agency in the legislative branch of
14 state government.

15 SECTION 8.04. The heading to Section 326.003, Government
16 Code, is amended to read as follows:

17 Sec. 326.003. COMMITTEE OF STATE ACCOUNTABILITY
18 [~~AUDITOR'S~~] OFFICE, LEGISLATIVE BUDGET BOARD, AND SUNSET ADVISORY
19 COMMISSION.

20 SECTION 8.05. Sections 326.003(a) and (d), Government Code,
21 are amended to read as follows:

22 (a) The State Accountability [~~Auditor's~~] Office,
23 Legislative Budget Board, and Sunset Advisory Commission shall form
24 a committee to make recommendations relating to the coordination of
25 the agencies' functions.

26 (d) Not later than one month after the date of a meeting, the
27 committee shall submit its recommendations in writing to the head

1 of each agency and the members of the legislative audit board
2 [~~committee~~].

3 SECTION 8.06. Chapter 326, Government Code, is amended by
4 adding Subchapter B to read as follows:

5 SUBCHAPTER B. QUORUM AND MEETINGS

6 Sec. 326.021. DEFINITION. In this subchapter, "legislative
7 entity" means:

- 8 (1) the Legislative Audit Board;
9 (2) the Legislative Budget Board;
10 (3) the Legislative Library Board;
11 (4) the Texas Legislative Council;
12 (5) the Recovery Act Accountability Board; and
13 (6) any other oversight committee created under this
14 subtitle.

15 Sec. 326.022. CONFLICT WITH OTHER LAW. To the extent of a
16 conflict between this subchapter and any other provision of this
17 subtitle, the other provision of this subtitle prevails.

18 Sec. 326.023. QUORUM. (a) Except as provided by Subsection
19 (b), a majority of the members of a legislative entity from each
20 house constitutes a quorum to transact business. If a quorum is
21 present, the legislative entity may act on any matter that is within
22 its jurisdiction by a majority vote.

23 (b) Two members of a legislative entity from each house
24 constitutes a quorum for the taking of testimony and receiving
25 evidence.

26 Sec. 326.024. MEETINGS. (a) A legislative entity shall
27 meet as often as necessary to perform its duties. A legislative

1 entity shall meet at least once every six months. Meetings may be
2 held at any time at the request of either of the joint chairs of a
3 legislative entity or on written petition of two of the members of a
4 legislative entity from each house.

5 (b) Each member of the legislature is entitled to attend and
6 present the member's views in any meeting of the legislative
7 entity. A legislator who is not a member of the legislative entity
8 may not vote.

9 (c) As an exception to Chapter 551 and other law, if a
10 meeting is located in Austin and the joint chairs of a legislative
11 entity are physically present at the meeting, then any number of the
12 other members of the legislative entity may attend the meeting by
13 use of telephone conference call, videoconference call, or other
14 similar telecommunication device. This subsection applies for
15 purposes of constituting a quorum, for purposes of voting, and for
16 any other purpose allowing a member of the legislative entity to
17 otherwise fully participate in any meeting of the legislative
18 entity. This subsection applies without exception with regard to
19 the subject of the meeting or topics considered by the members.

20 (d) A meeting held by use of telephone conference call,
21 videoconference call, or other similar telecommunication device:

22 (1) is subject to the notice requirements applicable
23 to other meetings;

24 (2) must specify in the notice of the meeting the
25 location in Austin of the meeting at which the joint chairs will be
26 physically present;

27 (3) must be open to the public and shall be audible to

1 the public at the location in Austin specified in the notice of the
2 meeting as the location of the meeting at which the joint chairs
3 will be physically present; and

4 (4) must provide two-way audio communication between
5 all members of the legislative entity attending the meeting during
6 the entire meeting, and if the two-way audio communication link
7 with any member attending the meeting is disrupted at any time, the
8 meeting may not continue until the two-way audio communication link
9 is reestablished.

10 SECTION 8.07. Section 783.003(4), Government Code, is
11 amended to read as follows:

12 (4) "State agency" means a state board, commission, or
13 department, or office having statewide jurisdiction, but does not
14 include a state college or university or an agency of the
15 legislative branch of state government.

16 ARTICLE 9. PROVISIONS APPLICABLE TO CERTAIN COUNTIES

17 SECTION 9.01. Subchapter A, Chapter 112, Local Government
18 Code, is amended by adding Section 112.011 to read as follows:

19 Sec. 112.011. ELECTRONIC CHECKING ACCOUNT TRANSACTION
20 REGISTER. (a) This section applies only to a county with a
21 population of 250,000 or more that has received funds under the
22 American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5)
23 and is subject to audit by the office of the state auditor.

24 (b) The county treasurer shall maintain the transaction
25 register for the county's checking account as a list in a searchable
26 electronic spreadsheet format, such as a portable document format
27 (PDF) or similar file type, in which the transaction register is

1 readily available for purposes of Subsection (d). Except as
2 provided by Subsection (c), the electronic checking account
3 transaction register must include for each check written from a
4 county checking account:

- 5 (1) the transaction amount;
6 (2) the name of the payee; and
7 (3) a statement of the purpose of the expenditure for
8 which the check was written.

9 (b-1) Notwithstanding Subsection (b), beginning September
10 1, 2010, a county's electronic checking account transaction
11 register must contain the information required by Subsections
12 (b)(1) and (2) for each check dated on or after August 1, 2010.
13 Beginning September 1, 2011, a county's electronic checking account
14 transaction register must contain the information required by
15 Subsections (b)(1) through (3) for each check dated on or after
16 August 1, 2011. This subsection expires October 1, 2011.

17 (c) A county may not include in the county's electronic
18 checking account transaction register a check issued to:

- 19 (1) a county employee in payment of:
20 (A) salary, wages, or an employment stipend; or
21 (B) a workers' compensation income benefit,
22 medical benefit, death benefit, or burial benefit that is issued by
23 a county operating as a self-insurer under Chapter 504, Labor Code;
24 or
25 (2) a court-appointed attorney, including an attorney
26 in a juvenile justice court.

27 (d) A county shall post the electronic checking account

1 transaction register at all times on the county's Internet website
2 for viewing and downloading by interested persons. The county may
3 not charge a fee to a person who views or downloads the electronic
4 checking account transaction register under this subsection.

5 (e) A county shall:

6 (1) update the electronic checking account
7 transaction register at least once each month, not later than the
8 30th day after the closing date of the most recent monthly statement
9 for the checking account; and

10 (2) maintain each transaction or listing in the
11 electronic checking account transaction register on the county's
12 Internet website until the first anniversary of the date of the
13 transaction or listing.

14 (f) The county treasurer may consult with the comptroller in
15 developing an electronic checking account transaction register
16 under this section.

17 (g) This section does not apply to a county that maintains a
18 check registry or a similar comprehensive monthly financial report
19 that was posted on the county's Internet website for public viewing
20 and downloading on or before August 1, 2010.

21 (h) Nothing in this section shall be construed as requiring
22 a county to provide access to the county's bank account statement or
23 to post additional information, including check numbers, not
24 required under Subsection (b).

25 ARTICLE 10. INSPECTOR GENERAL

26 SECTION 10.01. Subtitle B, Title 4, Government Code, is
27 amended by adding Chapter 422 to read as follows:

1 CHAPTER 422. OFFICE OF INSPECTOR GENERAL

2 SUBCHAPTER A. GENERAL PROVISIONS

3 Sec. 422.001. SHORT TITLE. This chapter may be cited as the
4 Office of Inspector General Act.

5 Sec. 422.002. DEFINITIONS. In this chapter:

6 (1) "Agency" means a board, commission, committee,
7 department, office, division, or other agency of the executive
8 branch of state government. The term does not include an
9 institution of higher education as defined by Section 61.003,
10 Education Code.

11 (2) "Commission" means the Health and Human Services
12 Commission.

13 (3) "Fraud" means an intentional deception or
14 misrepresentation made by a person with the knowledge that the
15 deception could result in some unauthorized benefit to that person
16 or some other person. The term includes any act that constitutes
17 fraud under applicable federal or state law.

18 (4) "Furnished," in reference to items or services:

19 (A) means items or services provided directly by,
20 provided under the direct supervision of, or ordered by:

21 (i) a physician or other individual
22 licensed under state law to practice the individual's profession,
23 either as an employee or in the individual's own capacity;

24 (ii) a provider; or

25 (iii) another supplier of services; and

26 (B) does not include services ordered by one
27 party but billed for and provided by or under the supervision of

1 another.

2 (5) "Hold on payment" means the temporary denial of
3 reimbursement under a federal program for items or services
4 furnished by a specified provider.

5 (6) "Inspector general" means the inspector general
6 appointed under Section 422.101.

7 (7) "Office" means the office of inspector general
8 established under this chapter.

9 (8) "Program exclusion" means the suspension of a
10 provider's authorization under a federal program to request
11 reimbursement for items or services furnished by that provider.

12 (9) "Provider" means a person, firm, partnership,
13 corporation, agency, association, institution, or other entity
14 that was or is approved by the commission to provide:

15 (A) medical assistance under contract or
16 provider agreement with the commission; or

17 (B) third-party billing vendor services under a
18 contract or provider agreement with the commission.

19 (10) "Review" includes an audit, inspection,
20 investigation, evaluation, or similar activity.

21 (11) "State funds" or "state money" includes federal
22 funds or money received and appropriated by the state or for which
23 the state has oversight responsibility.

24 Sec. 422.003. APPLICATION OF SUNSET ACT. The office of
25 inspector general is subject to Chapter 325 (Texas Sunset Act).
26 Unless continued in existence as provided by that chapter, the
27 office is abolished and this chapter expires September 1, 2021.

1 Sec. 422.004. AGENCY ESTABLISHMENT OF INSPECTOR GENERAL
2 OFFICE. An agency may not establish an office of inspector general
3 without specific legislative authorization.

4 Sec. 422.005. REFERENCE IN OTHER LAW. (a) Notwithstanding
5 any other provision of law, a reference in law or rule to an
6 agency's office of inspector general means the office of inspector
7 general established under this chapter.

8 (b) Notwithstanding any other provision of law, a reference
9 in law or rule to the commission's office of investigations and
10 enforcement or the commission's office of inspector general means
11 the office of inspector general established under this chapter.

12 [Sections 422.006-422.050 reserved for expansion]

13 SUBCHAPTER B. ADMINISTRATION

14 Sec. 422.051. OFFICE OF INSPECTOR GENERAL. (a) The office
15 of inspector general is an agency of this state.

16 (b) The office is governed by the inspector general.

17 (c) The office shall have its principal office and
18 headquarters in Austin.

19 (d) The office consists of the inspector general, deputy
20 inspectors general, and other personnel necessary to carry out the
21 duties of the inspector general.

22 Sec. 422.052. INDEPENDENCE OF OFFICE. (a) Except as
23 otherwise provided by this chapter, the office and inspector
24 general operate independently of any other agency.

25 (b) The inspector general, a deputy inspector general, and
26 the office staff are not employees of any other agency.

27 Sec. 422.053. ADMINISTRATIVE ATTACHMENT. A person

1 designated by the inspector general to serve as the deputy
2 inspector general for an agency, together with office staff
3 assigned to the deputy inspector general, are administratively
4 attached to the assigned agency. The assigned agency shall provide
5 to office personnel administrative support services.

6 Sec. 422.054. SERVICE LEVEL AGREEMENT. (a) The office and
7 each agency to which a deputy inspector general is appointed shall
8 enter into a service level agreement that establishes the
9 performance standards and deliverables with regard to
10 administrative support provided to the office by the agency.

11 (b) The service level agreement must be reviewed at least
12 annually to ensure that services and deliverables are provided in
13 accordance with the agreement.

14 (c) The commission shall provide to the deputy inspector
15 general designated for the commission and that person's staff, for
16 the state fiscal biennium beginning September 1, 2009, the same
17 level of administrative support the commission provided to the
18 office established under former Section 531.102 for the state
19 fiscal biennium beginning September 1, 2007. This subsection
20 expires January 1, 2012.

21 [Sections 422.055-422.100 reserved for expansion]

22 SUBCHAPTER C. INSPECTOR GENERAL AND PERSONNEL

23 Sec. 422.101. APPOINTMENT. (a) From a list of three or
24 more names submitted to the governor by the Legislative Budget
25 Board, the governor, with the advice and consent of the senate,
26 shall appoint an inspector general to serve as director of the
27 office.

1 (b) The appointment shall be made without regard to race,
2 color, disability, sex, religion, age, or national origin.

3 (c) In preparing the list and in making the appointment, the
4 Legislative Budget Board and the governor, respectively, shall
5 consider the person's knowledge of laws, experience in the
6 enforcement of law, honesty, integrity, education, training,
7 executive ability, capability for strong leadership, and
8 demonstrated ability in accounting, auditing, financial analysis,
9 law, management analysis, public administration, investigation,
10 criminal justice administration, or other closely related fields.

11 Sec. 422.102. TERM; VACANCY. (a) The inspector general
12 serves a two-year term that expires on February 1 of each
13 odd-numbered year. The inspector general may be reappointed to one
14 or more subsequent terms.

15 (b) The governor shall fill a vacancy in the office of
16 inspector general for the unexpired term in the same manner as the
17 inspector general is appointed under Section 422.101(a).

18 Sec. 422.103. ELIGIBILITY. (a) A person is not eligible
19 for appointment as inspector general or designation as a deputy
20 inspector general if the person or the person's spouse:

21 (1) is an officer or paid consultant of a business
22 entity or other organization that holds a license, certificate of
23 authority, or other authorization from an agency for which a deputy
24 inspector general is appointed or that receives funds from an
25 agency for which a deputy inspector general is appointed;

26 (2) owns or controls, directly or indirectly, more
27 than a 10 percent interest in a business entity or other

1 organization receiving funds from an agency for which a deputy
2 inspector general is appointed; or

3 (3) uses or receives a substantial amount of tangible
4 goods or funds from an agency for which a deputy inspector general
5 is appointed, other than compensation or reimbursement authorized
6 by law.

7 (b) A person is not eligible to serve as inspector general
8 or deputy inspector general if the person or the person's spouse is
9 required to register as a lobbyist under Chapter 305 because of the
10 person's or spouse's activities for compensation related to the
11 operation of an agency for which a deputy inspector general is
12 appointed.

13 (c) A person who is a former or current executive or manager
14 of an agency may not be appointed as the inspector general or a
15 deputy inspector general for that agency before the fifth
16 anniversary of the person's last day of service with the agency.

17 (d) The inspector general, a deputy inspector general, or an
18 employee of the office may not during the person's term of
19 appointment or employment:

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

21 (2) hold another elected or appointed public office
22 except for an appointment on a governmental advisory board or study
23 commission or as otherwise expressly authorized by law;

24 (3) be actively involved in the affairs of any
25 political party or political organization; or

26 (4) actively participate in any campaign for any
27 elective office.

1 Sec. 422.104. CONFLICT OF INTEREST. (a) The inspector
2 general may not serve as an ex officio member on the governing body
3 of a governmental entity.

4 (b) The inspector general may not have a financial interest
5 in the transactions of the office or an agency.

6 (c) The inspector general and the deputy inspector general
7 designated for the commission may not have a financial interest in
8 the transactions of a provider.

9 Sec. 422.105. REMOVAL. The governor, with the advice and
10 consent of the senate, may remove the inspector general from office
11 as provided by Section 9, Article XV, Texas Constitution.

12 Sec. 422.106. DEPUTY INSPECTORS GENERAL. (a) Subject to
13 available appropriations and as necessary to carry out the powers
14 and duties of the inspector general under this chapter and other
15 laws granting jurisdiction to or applicable to the inspector
16 general, the inspector general may designate a person to serve as
17 the deputy inspector general for any agency or serve as a deputy
18 inspector general for more than one agency.

19 (b) The inspector general shall designate persons to serve
20 as the deputy inspectors general for each of the following
21 agencies:

22 (1) the Health and Human Services Commission;

23 (2) the Texas Youth Commission;

24 (3) the Texas Department of Criminal Justice;

25 (4) the Texas Education Agency; and

26 (5) the Texas Department of Transportation.

27 (c) A deputy inspector general is an at-will employee and

1 may be discharged by the inspector general without a hearing.

2 (d) A deputy inspector general shall report to and perform
3 duties as directed by the inspector general.

4 (e) Each agency to which a deputy inspector general is
5 appointed shall provide to the agency's designated deputy inspector
6 general facilities and support services, including suitable office
7 space, furniture, computer and communications equipment,
8 administrative support, and salary and benefits as provided by the
9 General Appropriations Act.

10 Sec. 422.107. PEACE OFFICERS. (a) The office may employ
11 and commission peace officers to assist the inspector general in
12 carrying out the duties of the office relating to detection,
13 investigation, and prevention of criminal wrongdoing, malfeasance,
14 misfeasance, or fraud, waste, and abuse in programs at an agency or
15 in programs receiving state or federal funds that are implemented,
16 administered, or overseen by or for an agency.

17 (b) A commissioned peace officer or otherwise designated
18 law enforcement officer employed by the office is not entitled to
19 supplemental benefits from the law enforcement and custodial
20 officer supplemental retirement fund unless the officer transfers
21 from a position, without a break in service, that qualifies for
22 supplemental retirement benefits from the fund.

23 Sec. 422.108. IN-HOUSE GENERAL COUNSEL. The inspector
24 general shall employ an in-house general counsel. The general
25 counsel must:

26 (1) be an attorney licensed to practice law in this
27 state;

1 (2) be in good standing with the State Bar of Texas;
2 and
3 (3) have at least five years of continuing experience
4 in advising senior executive management in the public or private
5 sector on contracts and contract management.

6 Sec. 422.109. EXPERTS. Subject to the availability of
7 funds, the inspector general and deputy inspectors general may
8 contract with certified public accountants, qualified management
9 consultants, or other professional experts as necessary to
10 independently perform the functions of the office.

11 Sec. 422.110. EMPLOYEES; TRAINING. (a) The inspector
12 general may appoint, employ, promote, and remove personnel as the
13 inspector general considers necessary for the efficient and
14 effective administration of the office.

15 (b) The inspector general shall train office personnel to
16 pursue, efficiently and as necessary, fraud, waste, and abuse cases
17 in programs at an agency or in other state or federally funded
18 programs implemented, administered, or overseen by or for the
19 agency.

20 Sec. 422.111. ASSISTANCE BY AGENCY EMPLOYEES. (a) The
21 inspector general may require employees of an agency to provide
22 information, resources, or other assistance to the office as the
23 inspector general considers necessary to fulfill the duties and
24 responsibilities imposed on the office under this chapter and other
25 law in connection with the investigation of fraud, waste, and abuse
26 in the provision of services for programs at an agency or in state
27 or federally funded programs implemented, administered, or

1 overseen by or for the agency.

2 (b) The inspector general or the deputy inspector general
3 for the commission may also require employees of any health and
4 human services agency to provide assistance under Subsection (a).

5 Sec. 422.112. MERIT SYSTEM. (a) The office may establish a
6 merit system for its employees.

7 (b) The merit system may be maintained in conjunction with
8 other agencies that are required by federal law to operate under a
9 merit system.

10 [Sections 422.113-422.150 reserved for expansion]

11 SUBCHAPTER D. GENERAL POWERS AND DUTIES

12 Sec. 422.151. GENERAL RESPONSIBILITIES. (a) The office is
13 responsible for:

14 (1) the investigation of any matter pertaining to or
15 involving an agency that receives state or federal funds; and

16 (2) the investigation, prevention, and detection of
17 criminal misconduct and wrongdoing and of fraud, waste, and abuse,
18 as defined in applicable state and federal law, in the provision or
19 funding of services by or for an agency or under a program
20 implemented, administered, or overseen by or for the agency.

21 (b) The inspector general shall set clear objectives,
22 priorities, and performance standards for the office that
23 emphasize:

24 (1) coordinating investigative efforts to
25 aggressively recover money;

26 (2) allocating resources to cases that have the
27 strongest supportive evidence and the greatest potential for

1 recovery of money; and

2 (3) maximizing opportunities for referral of cases to
3 the appropriate authorities.

4 (c) The inspector general shall investigate allegations of
5 fraud, waste, abuse, misconduct, nonfeasance, misfeasance, and
6 malfeasance, and violations of this chapter or other law.

7 (d) The office may:

8 (1) conduct criminal, civil, and administrative
9 investigations and initiate reviews of an agency as considered
10 appropriate by the inspector general; and

11 (2) receive and investigate complaints from any source
12 on its own initiative.

13 (e) The inspector general shall perform all other duties and
14 exercise all other powers granted to the inspector general's office
15 by this chapter or another law.

16 Sec. 422.152. GENERAL POWERS. The office has all the powers
17 necessary or appropriate to carry out its responsibilities and
18 functions under this chapter and other law. In addition to
19 performing functions and duties otherwise provided by law, the
20 office may:

21 (1) audit the use and effectiveness of state or
22 federal funds, including contract and grant funds, administered by
23 a person or an agency;

24 (2) conduct reviews, investigations, and inspections
25 relating to the funds described by Subdivision (1);

26 (3) recommend policies promoting economical and
27 efficient administration of the funds described by Subdivision (1)

1 and the prevention and detection of fraud, waste, and abuse in
2 administration of those funds; and

3 (4) conduct internal affairs investigations in
4 instances of fraud, waste, and abuse and in instances of misconduct
5 by employees, contractors, subcontractors, and vendors.

6 Sec. 422.153. RULEMAKING BY INSPECTOR GENERAL. (a)
7 Notwithstanding Section 531.0055(e) and any other law, the
8 inspector general shall adopt the rules necessary to administer the
9 functions of the office, including rules to address the imposition
10 of sanctions and penalties for violations and due process
11 requirements for imposing sanctions and penalties.

12 (b) A rule, standard, or form adopted by an agency that is
13 necessary to accomplish the duties of the office is considered to
14 also be a rule, standard, or form of the office and remains in
15 effect as a rule, standard, or form of the office until changed by
16 the inspector general.

17 (c) The rules must include standards for the office that
18 emphasize:

19 (1) coordinating investigative efforts to
20 aggressively recover money;

21 (2) allocating resources to cases that have the
22 strongest supportive evidence and the greatest potential for
23 recovery of money; and

24 (3) maximizing opportunities for referral of cases to
25 the appropriate authorities.

26 Sec. 422.154. STATE AUDITOR AUDITS, INVESTIGATIONS, AND
27 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law

1 related to the operation of the inspector general does not:

2 (1) take precedence over the authority of the state
3 auditor to conduct audits under Chapter 321 or other law; or

4 (2) prohibit the state auditor from conducting an
5 audit, investigation, or other review or from having full and
6 complete access to all records and other information, including
7 witnesses and electronic data, that the state auditor considers
8 necessary for the audit, investigation, or other review.

9 Sec. 422.155. PUBLIC PAMPHLET. (a) The office shall
10 provide information of public interest in the form of a pamphlet
11 that describes:

12 (1) the functions of the office, including the
13 functions of the inspector general;

14 (2) the matters or issues that may be subject to an
15 investigation or review performed by the office; and

16 (3) the manner in which a person may report an
17 allegation of fraud, abuse, or criminal wrongdoing to the office.

18 (b) The office shall make the information described by
19 Subsection (a) available to state officers and employees and to the
20 public.

21 Sec. 422.156. INTERNET WEBSITE. (a) The office shall
22 maintain an Internet website accessible to the public.

23 (b) The office shall post in a conspicuous place on the
24 office's Internet website the public interest pamphlet prepared
25 under Section 422.155.

26 (c) The office shall ensure that the office's Internet
27 website allows a person to report to the office an allegation of

1 fraud, abuse, or criminal wrongdoing related to an agency. A report
2 submitted through the office's Internet website, in person, or
3 through another means of communication may be anonymous.

4 Sec. 422.157. SEAL. The seal of the office shall be a
5 five-pointed star in the center with the words "Office of Inspector
6 General, State of Texas" engraved around the margin. The seal shall
7 be used to authenticate official documents issued by the office.

8 Sec. 422.158. EXECUTIVE ORDERS. (a) The governor may issue
9 executive orders directing agencies to implement recommendations
10 issued by the office for corrective or remedial actions promoting
11 the economical and efficient administration of money and the
12 detection of fraud.

13 (b) The governor shall submit to the lieutenant governor,
14 the speaker of the house of representatives, the state auditor, and
15 the comptroller a report of the executive orders issued under this
16 chapter and the compliance by agencies with those orders.

17 Sec. 422.159. DEFENSE BY ATTORNEY GENERAL. The attorney
18 general shall defend any action brought against the inspector
19 general, a deputy inspector general, or an employee or officer of
20 the office as a result of that person's official act or omission,
21 whether or not the person has terminated service with the office at
22 the time the action is instituted.

23 Sec. 422.160. INTERAGENCY COORDINATION. (a) The office may
24 develop and implement written procedures for coordinating reviews
25 of suspected fraud, waste, or abuse, as those terms are defined by
26 state or federal law, or other violations of state or federal law
27 under programs at an agency for which a deputy inspector general is

1 appointed or in programs at any agency receiving state or federal
2 funds that are implemented, administered, or overseen by the
3 agency.

4 (b) An exchange of any information under this section
5 between the office and appropriate authorities does not subject the
6 exchange of the information or the information to disclosure under
7 Chapter 552.

8 Sec. 422.161. INFORMATION AND TECHNOLOGY. The office may
9 obtain information or technology necessary to enable the office to
10 meet its responsibilities under this chapter or other law.

11 [Sections 422.162-422.200 reserved for expansion]

12 SUBCHAPTER E. REVIEWS, INVESTIGATIONS, AND AUDITS

13 Sec. 422.201. REVIEW, INVESTIGATION, AND AUDIT AUTHORITY.

14 (a) The inspector general may evaluate any activity or operation
15 of:

16 (1) an agency;

17 (2) a provider, in connection with an activity listed
18 in Section 422.002(9) or in connection with the provider's
19 relationship with the commission or a health and human services
20 agency as defined by Section 531.001; or

21 (3) a person in this state in relation to the
22 investigation, detection, or prevention of fraud, waste, abuse, or
23 employee misconduct in a program at an agency or in a state or
24 federally funded program implemented, administered, or overseen by
25 or for the agency.

26 (b) A review may include an investigation or other inquiry
27 into a specific act or allegation of, or a specific financial

1 transaction or practice that may involve, impropriety,
2 malfeasance, or nonfeasance in the obligation, spending, receipt,
3 or other use of state or federal money.

4 (c) The office shall conduct reviews and inspections to
5 protect the public and detect and prevent fraud, waste, and abuse in
6 the provision or funding of services or programs by or for an
7 agency.

8 (d) An agency or the governing body or governing officer of
9 an agency may not impair or prohibit the inspector general from
10 initiating or completing a review.

11 (e) With respect to an agency, the inspector general may
12 audit and review the use and effectiveness of state or federal
13 funds, including contract and grant funds, administered by a person
14 or agency receiving the funds in connection with an agency or state
15 or federally funded program implemented, administered, or overseen
16 by or for the agency.

17 Sec. 422.202. CLAIMS CRITERIA FOR INVESTIGATIONS. The
18 office by rule shall set specific claims criteria that, when met,
19 require the office to begin an investigation.

20 Sec. 422.203. INITIATION OF REVIEW. The inspector general
21 may initiate a review:

22 (1) on the inspector general's own initiative;

23 (2) at the request of an agency or the governing body
24 or governing officer of the agency; or

25 (3) based on a complaint from any source concerning a
26 matter described by Section 422.201.

27 Sec. 422.204. ACCESS TO INFORMATION. (a) To further a

1 review conducted by the office, the inspector general or a deputy
2 inspector general is entitled to access all books, records,
3 accounts, documents, reports, vouchers, databases, systems, or
4 other information, including confidential information, electronic
5 data, and internal records relevant to the functions of the office
6 that are maintained by or for a person, agency, or provider, if
7 applicable, in connection with an agency or a state or federally
8 funded program implemented, administered, or overseen by or for the
9 agency. The inspector general's authority under this subsection
10 supersedes any claim of privilege.

11 (b) The inspector general or deputy inspector general may
12 not access data or other information the release of which is
13 restricted under federal law unless the appropriate federal agency
14 approves the release to the office or its agent.

15 Sec. 422.205. COOPERATION REQUIRED. To further a review
16 conducted by the inspector general's office, the inspector general
17 or deputy inspector general may require medical or other
18 professional assistance from an agency or an auditor, accountant,
19 or other employee of the agency.

20 Sec. 422.206. EMPLOYEE REPORTS. The inspector general may
21 require employees at an agency to report to the office information
22 regarding fraud, waste, misuse or abuse of funds or resources,
23 corruption, or illegal acts.

24 Sec. 422.207. SUBPOENAS. (a) The inspector general may
25 issue a subpoena to compel the attendance of a relevant witness at a
26 hearing or deposition under this chapter or to compel the
27 production, for inspection or copying, of books, papers, records,

1 documents, or other relevant materials, including electronic data,
2 in connection with a review, hearing, or deposition conducted under
3 this chapter. The inspector general may issue a subpoena for the
4 records of any person receiving any funds from an agency under a
5 contract for the delivery of goods or services to this state.

6 (b) The inspector general may delegate the authority to
7 issue subpoenas to a deputy inspector general.

8 (c) A subpoena may be served personally or by certified
9 mail. If a person fails to comply with a subpoena, the inspector
10 general, acting through the attorney general, may file suit to
11 enforce the subpoena in a district court in this state.

12 (d) On finding that good cause exists for issuing the
13 subpoena, the court shall order the person to comply with the
14 subpoena. The court may hold in contempt a person who fails to obey
15 the court order.

16 (e) The reimbursement of the expenses of a witness whose
17 attendance is compelled under this section is governed by Section
18 2001.103.

19 (f) Nothing in this section limits or alters a person's
20 rights under state or federal law.

21 Sec. 422.208. INTERNAL AUDITOR. (a) In this section,
22 "internal auditor" means a person appointed under Section 2102.006.

23 (b) The internal auditor for an agency shall provide the
24 inspector general with a copy of the agency's internal audit plan
25 to:

26 (1) assist in the coordination of efforts between the
27 inspector general and the internal auditor; and

1 (2) limit duplication of effort regarding reviews by
2 the inspector general and internal auditor.

3 (c) The internal auditor shall provide to the inspector
4 general all final audit reports concerning audits of any:

5 (1) part or division of the agency;

6 (2) contract, procurement, or grant; and

7 (3) program conducted by the agency.

8 Sec. 422.209. REFERRAL OF CRIMINAL, CIVIL, AND
9 ADMINISTRATIVE MATTERS. (a) The inspector general may provide
10 information and evidence relating to criminal acts to the state
11 auditor's office and appropriate law enforcement officials.

12 (b) The inspector general shall refer matters for further
13 criminal action in the same manner as the state auditor refers
14 criminal matters under Chapter 321.

15 (c) The inspector general shall refer matters for further
16 civil and administrative action in the same manner as the state
17 auditor refers civil and administrative matters under Chapter 321.

18 (d) The office may assist appropriate authorities with
19 their administrative, civil, or criminal investigations if the
20 assistance is requested by the appropriate authorities.

21 (e) An appropriate authority that decides not to
22 investigate or prosecute a complaint alleging criminal conduct
23 referred to that authority by the inspector general shall notify
24 the inspector general of that decision.

25 Sec. 422.210. COOPERATION AND COORDINATION WITH STATE
26 AUDITOR. (a) The state auditor may, on request of the inspector
27 general, provide appropriate information or other assistance to the

1 inspector general or office, as determined by the state auditor.

2 (b) The inspector general may meet with the state auditor's
3 office to coordinate a review conducted under this chapter, share
4 information, or schedule work plans.

5 (c) The state auditor is entitled to access all information
6 maintained by the inspector general, including vouchers,
7 electronic data, internal records, and information obtained under
8 Section 422.204 or subject to Section 422.253.

9 (d) Any information obtained or provided by the state
10 auditor under this section is confidential and not subject to
11 disclosure under Chapter 552.

12 Sec. 422.211. PREVENTION. (a) The inspector general may
13 recommend to an agency or the presiding officer of the agency
14 policies on:

15 (1) promoting economical and efficient administration
16 of state or federal funds administered by an individual or entity
17 that received the funds from an agency; and

18 (2) preventing and detecting fraud, waste, and abuse
19 in the administration of those funds.

20 (b) The inspector general may provide training or other
21 education regarding the prevention of fraud, waste, and abuse to
22 employees of an agency. The training or education provided must be
23 approved by the presiding officer of the agency.

24 Sec. 422.212. AWARD FOR REPORTING FRAUD, WASTE, ABUSE, OR
25 OVERCHARGES. (a) If the office determines that the report results
26 in the recovery of an administrative or civil penalty imposed by
27 law, the office may grant an award to an individual who reports:

1 (1) activity that constitutes fraud, waste, or abuse
2 of money related to any agency programs or in programs receiving
3 state or federal funds that are implemented, administered, or
4 overseen by the agency; or

5 (2) overcharges in a program described by Subdivision
6 (1).

7 (b) The office may not grant an award to an individual in
8 connection with a report if the office or attorney general had
9 independent knowledge of the activity reported by the individual.

10 (c) The office shall determine the amount of an award
11 granted under this section. The amount may not exceed five percent
12 of the amount of the administrative or civil penalty imposed by law
13 that resulted from the individual's report.

14 (d) In determining the amount of an award granted under this
15 section, the office:

16 (1) shall consider the importance of the report in
17 ensuring the fiscal integrity of the program; and

18 (2) may consider whether the individual participated
19 in the reported fraud, waste, abuse, or overcharge.

20 (e) A person who brings an action under Subchapter C,
21 Chapter 36, Human Resources Code, is not eligible for an award under
22 this section.

23 Sec. 422.213. RULEMAKING BY PRESIDING OFFICER OF AGENCY.
24 An agency may adopt rules governing the agency's response to
25 reports and referrals from the inspector general on issues
26 identified by the inspector general related to the agency or a
27 contractor of the agency.

1 Sec. 422.214. ALLEGATIONS OF MISCONDUCT AGAINST PRESIDING
2 OFFICER. If a review by the inspector general involves allegations
3 that a presiding officer of the governing body of an agency, or if
4 applicable the single state officer who governs the agency, has
5 engaged in misconduct, the inspector general shall report to the
6 governor during the review until the report is completed or the
7 review is closed without a finding.

8 Sec. 422.215. RIGHT TO DECLINE INVESTIGATION. The
9 inspector general may decline to investigate a complaint that the
10 inspector general determines:

- 11 (1) is trivial, frivolous, or vexatious;
12 (2) was not made in good faith;
13 (3) is based on a situation for which too much time has
14 passed to justify an investigation;
15 (4) may not be adequately investigated with the
16 resources available, considering established priorities; or
17 (5) addresses a matter that is not within the
18 inspector general's investigatory authority.

19 [Sections 422.216-422.250 reserved for expansion]

20 SUBCHAPTER F. REPORTS

21 Sec. 422.251. REPORTING OFFICE FINDINGS. Unless the
22 findings would compromise an ongoing investigation by the attorney
23 general or law enforcement, the inspector general shall report the
24 findings of the office in connection with a review conducted under
25 this chapter to:

- 26 (1) the presiding officer of the governing body of the
27 agency, or if applicable the single state officer who governs the

1 agency;

2 (2) the governor;

3 (3) the lieutenant governor;

4 (4) the speaker of the house of representatives;

5 (5) the comptroller;

6 (6) the state auditor; and

7 (7) the attorney general.

8 Sec. 422.252. FLAGRANT VIOLATIONS. The inspector general
9 may report to the presiding officer of the governing body of the
10 agency associated with the review, or if applicable the single
11 state officer who governs the agency, the governor, and the state
12 auditor a particularly serious or flagrant problem relating to the
13 administration of a program, operation of the agency, or
14 interference with an inspector general review.

15 Sec. 422.253. INFORMATION CONFIDENTIAL. (a) Except as
16 provided by this chapter, all information and material compiled by
17 the inspector general during a review under this chapter is:

18 (1) confidential and not subject to disclosure under
19 Chapter 552; and

20 (2) not subject to disclosure, discovery, subpoena, or
21 other means of legal compulsion for release to anyone other than the
22 state auditor's office, the agency that is the subject of a review,
23 or the office or its agents involved in the review related to that
24 information or material.

25 (b) As the inspector general determines appropriate,
26 information relating to a review may be disclosed to:

27 (1) a law enforcement agency;

- 1 (2) the attorney general;
- 2 (3) the state auditor; or
- 3 (4) the agency that is the subject of a review.

4 (c) A person that receives information under Subsection (b)
5 may not disclose the information except to the extent that
6 disclosure is consistent with the authorized purpose for which the
7 person received the information.

8 Sec. 422.254. DRAFT OF FINAL REVIEW REPORT; AGENCY
9 RESPONSE. (a) Except in cases in which the office has determined
10 that potential fraud, waste, or abuse exists, the office shall
11 provide a draft of the final review report of any investigation,
12 audit, or review of the operations of an agency to the presiding
13 officer of the governing body of the agency, or if applicable to the
14 single state officer who governs the agency, before publishing the
15 office's final review report.

16 (b) The agency may provide a response to the office's draft
17 report in the manner prescribed by the office not later than the
18 10th day after the date the draft report is received by the agency.
19 The inspector general by rule shall specify the format of and
20 requirements for the agency response.

21 (c) Notwithstanding Subsection (a), the office may not
22 provide a draft report to the presiding officer of the governing
23 body of the agency, or if applicable to the single state officer who
24 governs the agency, if in the inspector general's opinion providing
25 the draft report could negatively affect any anticipated civil or
26 criminal proceedings.

27 (d) The office may include any portion of the agency's

1 response in the office's final report.

2 Sec. 422.255. FINAL REVIEW REPORTS; AGENCY RESPONSE. (a)

3 The inspector general shall prepare a final report for each review
4 conducted under this chapter. The final report must include:

5 (1) a summary of the activities performed by the
6 inspector general in conducting the review;

7 (2) a determination of whether wrongdoing was found;
8 and

9 (3) a description of any findings of wrongdoing.

10 (b) The inspector general's final review reports are
11 subject to disclosure under Chapter 552.

12 (c) All working papers and other documents related to
13 compiling the final review reports remain confidential and are not
14 subject to disclosure under Chapter 552.

15 (d) Not later than the 60th day after the date the office
16 issues a final report that identifies deficiencies or
17 inefficiencies in, or recommends corrective measures in the
18 operations of, an agency, the agency shall file a response that
19 includes:

20 (1) an implementation plan and timeline for
21 implementing corrective measures; or

22 (2) the agency's rationale for declining to implement
23 corrective measures for the identified deficiencies or
24 inefficiencies or the office's recommended corrective measures, as
25 applicable.

26 Sec. 422.256. COSTS. (a) The inspector general shall
27 maintain information regarding the cost of reviews.

1 (b) The inspector general may cooperate with appropriate
2 administrative and prosecutorial agencies, including the attorney
3 general, in recovering costs incurred under this chapter from
4 nongovernmental entities, including contractors or individuals
5 involved in:

6 (1) violations of applicable state or federal rules or
7 statutes;

8 (2) abusive or wilful misconduct; or

9 (3) violations of a provider contract or program
10 policy.

11 Sec. 422.257. SEMIANNUAL REPORT; LEGISLATIVE REPORT. (a)
12 The office shall prepare and submit a semiannual report to the
13 governor, the lieutenant governor, the speaker of the house of
14 representatives, the state auditor, the comptroller, and each
15 member of the legislature concerning:

16 (1) any completed final review; and

17 (2) the activities of the office and the attorney
18 general in detecting and preventing fraud, waste, and abuse under
19 any agency programs or in programs receiving state or federal funds
20 that are implemented, administered, or overseen by an agency that
21 is reviewed by the office under this chapter.

22 (b) Not later than December 1 of each even-numbered year,
23 the office shall issue to each member of the legislature a report
24 that contains the information required under Subsection (a) for the
25 two years immediately preceding the legislative session. The
26 office shall make the report available to the public.

27 [Sections 422.258-422.300 reserved for expansion]

1 SUBCHAPTER G. HEALTH AND HUMAN SERVICES POWERS AND DUTIES

2 Sec. 422.301. GENERAL HEALTH AND HUMAN SERVICES POWERS.

3 The office has all the powers necessary or appropriate to carry out
4 its responsibilities and functions under this chapter and other law
5 in relation to health and human services matters. In addition to
6 performing functions and duties otherwise provided by law, the
7 office may provide for coordination between the office and special
8 investigative units formed by managed care organizations under
9 Section 531.113 or entities with which managed care organizations
10 contract under that section.

11 Sec. 422.302. HEALTH AND HUMAN SERVICES RESPONSIBILITIES.

12 The office is responsible for:

13 (1) the investigation of fraud, waste, and abuse in
14 the provision or funding of health or human services by this state;

15 (2) the enforcement of state law relating to the
16 provision of those services to protect the public; and

17 (3) the prevention and detection of crime relating to
18 the provision of those services.

19 Sec. 422.303. INTEGRITY REVIEW FOR MEDICAID PROGRAM. (a)

20 The deputy inspector general designated for the commission shall
21 conduct an integrity review to determine whether there is
22 sufficient basis to warrant a full investigation on receipt of any
23 complaint of fraud, waste, or abuse of funds in the state Medicaid
24 program from any source.

25 (b) An integrity review under this section must begin not
26 later than the 30th day after the date the office receives a
27 complaint or has reason to believe that Medicaid fraud, waste, or

1 abuse has occurred. An integrity review shall be completed not
2 later than the 90th day after the date the review began.

3 (c) If the findings of an integrity review give the office
4 reason to believe that an incident of fraud involving possible
5 criminal conduct has occurred in the state Medicaid program, the
6 office must take the following action, as appropriate, not later
7 than the 30th day after the completion of the integrity review:

8 (1) if a provider is suspected of fraud involving
9 criminal conduct, the office must refer the case under Section
10 422.209, provided that the criminal referral does not preclude the
11 office from continuing its investigation of the provider or
12 preclude the imposition of appropriate administrative or civil
13 sanctions; or

14 (2) if there is reason to believe that a recipient of
15 funds has defrauded the Medicaid program, the office may conduct a
16 full investigation of the suspected fraud.

17 Sec. 422.304. IMMEDIATE REFERRAL OF MEDICAID FRAUD. (a) At
18 the time the office learns or has reason to suspect that a health or
19 human services provider's records related to participation in the
20 state Medicaid program are being withheld, concealed, destroyed,
21 fabricated, or in any way falsified, the office shall immediately
22 refer the case as provided in Section 422.209.

23 (b) A criminal referral under Subsection (a) does not
24 preclude the office from continuing its investigation of a health
25 or human services provider or the imposition of appropriate
26 administrative or civil sanctions.

27 Sec. 422.305. HOLD ON CLAIM REIMBURSEMENT PAYMENT;

1 EXCLUSION FROM PROGRAMS. (a) In addition to other instances
2 authorized under state or federal law, the office shall impose
3 without prior notice a hold on payment of claims for reimbursement
4 submitted by a health or human services provider to compel
5 production of records related to participation in the state
6 Medicaid program or on request of the state's Medicaid fraud
7 control unit, as applicable.

8 (b) The office must notify the health or human services
9 provider of the hold on payment not later than the fifth working day
10 after the date the payment hold is imposed.

11 (c) The office shall, in consultation with the state's
12 Medicaid fraud control unit, establish guidelines under which holds
13 on payment or exclusions from a health and human services program:

14 (1) may permissively be imposed on a health or human
15 services provider; or

16 (2) shall automatically be imposed on a provider.

17 (d) A health or human services provider subject to a hold on
18 payment or excluded from a program under this section is entitled to
19 a hearing on the hold or exclusion. A hearing under this subsection
20 is a contested case hearing under Chapter 2001. The State Office of
21 Administrative Hearings shall conduct the hearing. After the
22 hearing, the office, subject to judicial review, shall make a final
23 determination. The commission, a health and human services agency,
24 and the attorney general are entitled to intervene as parties in the
25 contested case.

26 Sec. 422.306. REQUEST FOR EXPEDITED HEARING. (a) On timely
27 written request by a health or human services provider subject to a

1 hold on payment under Section 422.305, other than a hold requested
2 by the state's Medicaid fraud control unit, the office shall file a
3 request with the State Office of Administrative Hearings for an
4 expedited administrative hearing regarding the hold.

5 (b) The health or human services provider must request an
6 expedited hearing not later than the 10th day after the date the
7 provider receives notice from the office under Section 422.305(b).

8 Sec. 422.307. INFORMAL RESOLUTION. (a) The inspector
9 general shall adopt rules that allow a health or human services
10 provider subject to a hold on payment under Section 422.305, other
11 than a hold requested by the state's Medicaid fraud control unit, to
12 seek an informal resolution of the issues identified by the office
13 in the notice provided under that section.

14 (b) A health or human services provider that seeks an
15 informal resolution must do so not later than the 10th day after the
16 date the provider receives notice from the office under Section
17 422.305(b).

18 (c) A health or human services provider's decision to seek
19 an informal resolution does not extend the time by which the
20 provider must request an expedited administrative hearing under
21 Section 422.306.

22 (d) A hearing initiated under Section 422.305 shall be
23 stayed at the office's request until the informal resolution
24 process is completed.

25 [Sections 422.308-422.450 reserved for expansion]

26 SUBCHAPTER J. PENALTIES

27 Sec. 422.451. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

1 (a) The office may request that the appropriate authorities obtain
2 an injunction to prevent a person from disposing of an asset
3 identified by the office as potentially subject to recovery by the
4 office due to the person's fraud, waste, or abuse.

5 (b) The office may act for an agency in assessing
6 administrative or civil penalties the agency is authorized to
7 assess under applicable law if:

8 (1) the inspector general is required to designate a
9 deputy inspector general for the agency under Section 422.106;

10 (2) the agency is a health and human services agency as
11 defined by Section 531.001; or

12 (3) the penalty is imposed in connection with fraud,
13 waste, or abuse in the use of state or federal funds.

14 (c) If the office imposes an administrative or civil penalty
15 under Subsection (b) for an agency:

16 (1) the agency may not impose an administrative or
17 civil penalty against the same person for the same violation; and

18 (2) the office shall impose the penalty under
19 applicable rules of the office, this chapter, and applicable laws
20 governing the imposition of a penalty by the agency.

21 SECTION 10.02. Section 20.038, Business & Commerce Code, is
22 amended to read as follows:

23 Sec. 20.038. EXEMPTION FROM SECURITY FREEZE. A security
24 freeze does not apply to a consumer report provided to:

25 (1) a state or local governmental entity, including a
26 law enforcement agency or court or private collection agency, if
27 the entity, agency, or court is acting under a court order, warrant,

1 subpoena, or administrative subpoena;

2 (2) a child support agency as defined by Section
3 101.004, Family Code, acting to investigate or collect child
4 support payments or acting under Title IV-D of the Social Security
5 Act (42 U.S.C. Section 651 et seq.);

6 (3) the office of inspector general [~~Health and Human~~
7 ~~Services Commission~~] acting to investigate fraud, waste, or abuse
8 in state agencies under Chapter 422, Government Code, or other law
9 [~~under Section 531.102, Government Code~~];

10 (4) the comptroller acting to investigate or collect
11 delinquent sales or franchise taxes;

12 (5) a tax assessor-collector acting to investigate or
13 collect delinquent ad valorem taxes;

14 (6) a person for the purposes of prescreening as
15 provided by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et
16 seq.), as amended;

17 (7) a person with whom the consumer has an account or
18 contract or to whom the consumer has issued a negotiable
19 instrument, or the person's subsidiary, affiliate, agent,
20 assignee, prospective assignee, or private collection agency, for
21 purposes related to that account, contract, or instrument;

22 (8) a subsidiary, affiliate, agent, assignee, or
23 prospective assignee of a person to whom access has been granted
24 under Section 20.037(b);

25 (9) a person who administers a credit file monitoring
26 subscription service to which the consumer has subscribed;

27 (10) a person for the purpose of providing a consumer

1 with a copy of the consumer's report on the consumer's request;

2 (11) a check service or fraud prevention service
3 company that issues consumer reports:

4 (A) to prevent or investigate fraud; or

5 (B) for purposes of approving or processing
6 negotiable instruments, electronic funds transfers, or similar
7 methods of payment;

8 (12) a deposit account information service company
9 that issues consumer reports related to account closures caused by
10 fraud, substantial overdrafts, automated teller machine abuses, or
11 similar negative information regarding a consumer to an inquiring
12 financial institution for use by the financial institution only in
13 reviewing a consumer request for a deposit account with that
14 institution; or

15 (13) a consumer reporting agency that:

16 (A) acts only to resell credit information by
17 assembling and merging information contained in a database of
18 another consumer reporting agency or multiple consumer reporting
19 agencies; and

20 (B) does not maintain a permanent database of
21 credit information from which new consumer reports are produced.

22 SECTION 10.03. Article 2.12, Code of Criminal Procedure, is
23 amended to read as follows:

24 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace
25 officers:

26 (1) sheriffs, their deputies, and those reserve
27 deputies who hold a permanent peace officer license issued under

1 Chapter 1701, Occupations Code;

2 (2) constables, deputy constables, and those reserve
3 deputy constables who hold a permanent peace officer license issued
4 under Chapter 1701, Occupations Code;

5 (3) marshals or police officers of an incorporated
6 city, town, or village, and those reserve municipal police officers
7 who hold a permanent peace officer license issued under Chapter
8 1701, Occupations Code;

9 (4) rangers and officers commissioned by the Public
10 Safety Commission and the Director of the Department of Public
11 Safety;

12 (5) investigators of the district attorneys', criminal
13 district attorneys', and county attorneys' offices;

14 (6) law enforcement agents of the Texas Alcoholic
15 Beverage Commission;

16 (7) each member of an arson investigating unit
17 commissioned by a city, a county, or the state;

18 (8) officers commissioned under Section 37.081,
19 Education Code, or Subchapter E, Chapter 51, Education Code;

20 (9) officers commissioned by the General Services
21 Commission;

22 (10) law enforcement officers commissioned by the
23 Parks and Wildlife Commission;

24 (11) airport police officers commissioned by a city
25 with a population of more than 1.18 million that operates an airport
26 that serves commercial air carriers;

27 (12) airport security personnel commissioned as peace

1 officers by the governing body of any political subdivision of this
2 state, other than a city described by Subdivision (11), that
3 operates an airport that serves commercial air carriers;

4 (13) municipal park and recreational patrolmen and
5 security officers;

6 (14) security officers and investigators commissioned
7 as peace officers by the comptroller;

8 (15) officers commissioned by a water control and
9 improvement district under Section 49.216, Water Code;

10 (16) officers commissioned by a board of trustees
11 under Chapter 54, Transportation Code;

12 (17) investigators commissioned by the Texas Medical
13 Board;

14 (18) officers commissioned by the board of managers of
15 the Dallas County Hospital District, the Tarrant County Hospital
16 District, or the Bexar County Hospital District under Section
17 281.057, Health and Safety Code;

18 (19) county park rangers commissioned under
19 Subchapter E, Chapter 351, Local Government Code;

20 (20) investigators employed by the Texas Racing
21 Commission;

22 (21) officers commissioned under Chapter 554,
23 Occupations Code;

24 (22) officers commissioned by the governing body of a
25 metropolitan rapid transit authority under Section 451.108,
26 Transportation Code, or by a regional transportation authority
27 under Section 452.110, Transportation Code;

1 (23) investigators commissioned by the attorney
2 general under Section 402.009, Government Code;

3 (24) security officers and investigators commissioned
4 as peace officers under Chapter 466, Government Code;

5 (25) an officer employed by the Department of State
6 Health Services under Section 431.2471, Health and Safety Code;

7 (26) officers appointed by an appellate court under
8 Subchapter F, Chapter 53, Government Code;

9 (27) officers commissioned by the state fire marshal
10 under Chapter 417, Government Code;

11 (28) an investigator commissioned by the commissioner
12 of insurance under Section 701.104, Insurance Code;

13 (29) apprehension specialists [~~and inspectors~~
14 ~~general~~] commissioned by the Texas Youth Commission as officers
15 under Section [~~Sections 61.0451 and~~] 61.0931, Human Resources Code;

16 (30) [~~officers appointed by the inspector general of~~
17 ~~the Texas Department of Criminal Justice under Section 493.019,~~
18 ~~Government Code,~~

19 [~~(31)~~] investigators commissioned by the Commission
20 on Law Enforcement Officer Standards and Education under Section
21 1701.160, Occupations Code;

22 (31) [~~(32)~~] commission investigators commissioned by
23 the Texas Private Security Board under Section 1702.061(f),
24 Occupations Code;

25 (32) [~~(33)~~] the fire marshal and any officers,
26 inspectors, or investigators commissioned by an emergency services
27 district under Chapter 775, Health and Safety Code;

1 (33) [~~34~~] officers commissioned by the State Board
2 of Dental Examiners under Section 254.013, Occupations Code,
3 subject to the limitations imposed by that section; [~~and~~]

4 (34) [~~35~~] investigators commissioned by the Texas
5 Juvenile Probation Commission as officers under Section 141.055,
6 Human Resources Code; and

7 (35) officers commissioned by the office of inspector
8 general established under Chapter 422, Government Code.

9 SECTION 10.04. The following sections of the Government
10 Code are repealed:

- 11 (1) Section 531.102;
12 (2) Section 531.1021; and
13 (3) Section 531.103.

14 SECTION 10.05. (a) The repeal by this Act of Section
15 531.102, Government Code, does not affect the validity of a
16 complaint, investigation, or other proceeding initiated under that
17 section before the effective date of this Act. A complaint,
18 investigation, or other proceeding initiated under that section is
19 continued in accordance with the changes in law made by this Act.

20 (b) The repeal by this Act of Section 531.1021, Government
21 Code, does not affect the validity of a subpoena issued under that
22 section before the effective date of this Act. A subpoena issued
23 under that section before the effective date of this Act is governed
24 by the law that existed when the subpoena was issued, and the former
25 law is continued in effect for that purpose.

26 SECTION 10.06. (a) As soon as practicable after the
27 effective date of this Act, the Legislative Budget Board shall

1 submit to the governor a list with the names of at least three
2 persons who may be appointed as inspector general for the office of
3 inspector general as required by Chapter 422, Government Code, as
4 added by this Act.

5 (b) As soon as practicable after the date the governor
6 receives the list under Subsection (a) of this section, the
7 governor shall appoint an inspector general for the office of
8 inspector general established under Chapter 422, Government Code,
9 as added by this Act, to a term expiring February 1, 2011.

10 (c) A person serving on the effective date of this Act as
11 inspector general for a state agency subject to Chapter 422,
12 Government Code, as added by this Act, shall serve as the deputy
13 inspector general designated for the agency under Chapter 422,
14 Government Code, as added by this Act, unless and until replaced by
15 the inspector general.

16 SECTION 10.07. A contract or proceeding primarily related
17 to a function transferred to the office of inspector general
18 established under this Act is transferred to the office. The
19 transfer does not affect the status of a proceeding or the validity
20 of a contract.

21 SECTION 10.08. (a) All personnel and assets currently
22 assigned to the inspector general of an agency subject to Chapter
23 422, Government Code, as added by this Act, shall be promptly
24 transferred to the office of inspector general established under
25 Chapter 422 along with any equipment, documents, and records
26 currently assigned to or used by the inspector general of that
27 agency. Inventory of personnel, equipment, documents, records, and

1 assets to be transferred under this section shall be accomplished
2 jointly by the transferring agency and the inspector general
3 serving under Chapter 422. All funds previously appropriated or
4 used, from any source, by the transferring agency in support of the
5 transferred functions, personnel, equipment, documents, records,
6 or assets shall also be contemporaneously transferred to the
7 office.

8 (b) For purposes of this section, "currently assigned"
9 means:

10 (1) all personnel and vacant full-time equivalent
11 positions assigned to or supporting a transferred function at any
12 time during the state fiscal biennium beginning September 1, 2007;
13 and

14 (2) all inventory and equipment assigned to a
15 transferred function or transferring personnel or that was in the
16 possession of transferring personnel on or at any time after
17 October 31, 2008.

18 (c) All state and federal funding, including funding for
19 overhead costs, support costs, and lease or colocation lease costs,
20 for the functions to be transferred to the office of inspector
21 general established under Chapter 422, Government Code, as added by
22 this Act, shall be reallocated to that office.

23 (d) For purposes of federal single state agency funding
24 requirements, any federal funds for an agency subject to Chapter
25 422, Government Code, as added by this Act, that may not be
26 appropriated directly to the office of inspector general shall be
27 transferred from the single state agency receiving the funds to the

1 office of inspector general established under Chapter 422 if the
2 funds are intended for a function performed by the office.

3 SECTION 10.09. On the effective date of this Act:

4 (1) all functions, activities, employees, rules,
5 forms, money, property, contracts, memorandums of understanding,
6 records, and obligations of a previously established office of
7 inspector general of an agency subject to Chapter 422, Government
8 Code, as added by this Act, become functions, activities,
9 employees, rules, forms, money, property, contracts, memorandums
10 of understanding, records, and obligations of the office of
11 inspector general established under Chapter 422, without a change
12 in status; and

13 (2) all money appropriated or budgeted for the
14 operations of a previously established office of inspector general
15 at an agency subject to Chapter 422, Government Code, as added by
16 this Act, including money for providing administrative support, is
17 considered appropriated for the use of the office of inspector
18 general established under Chapter 422.

19 SECTION 10.10. (a) Each agency subject to Chapter 422,
20 Government Code, as added by this Act, shall take all action
21 necessary to provide for the orderly transfer of the assets and
22 responsibilities of any previously established office of inspector
23 general for that agency to the office of inspector general
24 established under Chapter 422.

25 (b) A rule or form adopted by a previously established
26 office of inspector general of an agency subject to Chapter 422,
27 Government Code, as added by this Act, is a rule or form of the

1 office of inspector general established under Chapter 422 and
2 remains in effect until changed by the office of inspector general.

3 (c) A reference in law or administrative rule to a
4 previously established office of inspector general of an agency
5 subject to Chapter 422, Government Code, as added by this Act, means
6 the office of inspector general established under Chapter 422.

7 SECTION 10.11. If before implementing any provision of this
8 Act a state agency determines that a waiver or authorization from a
9 federal agency is necessary for implementation of that provision,
10 the agency affected by the provision shall request the waiver or
11 authorization and may delay implementing that provision until the
12 waiver or authorization is granted.

13 ARTICLE 11. TRANSITION PROVISIONS AND EFFECTIVE DATES

14 SECTION 11.01. (a) On the effective date of this Act the
15 state auditor's office is renamed the State Accountability Office.

16 (b) The validity of an action taken by the state auditor,
17 the state auditor's office, or the legislative audit committee is
18 not affected by the change in names of the state auditor's office
19 and the legislative audit committee.

20 (c) On the effective date of this Act:

21 (1) all functions, activities, employees, rules,
22 forms, money, property, contracts, records, and obligations of the
23 state auditor's office become functions, activities, employees,
24 rules, forms, money, property, contracts, records, and obligations
25 of the State Accountability Office without a change in status;

26 (2) a reference in law to the state auditor's office
27 means the State Accountability Office; and

1 (3) all funds appropriated to the state auditor's
2 office, including funds for providing administrative support for
3 the state auditor's office, such as funds to pay the salary and
4 benefits of employees who provide administrative support, are
5 transferred to the State Accountability Office.

6 SECTION 11.02. (a) Not later than March 1, 2010, the State
7 Accountability Office shall develop the standard contract
8 provision required by Section 321.0122, Government Code, as added
9 by this Act.

10 (b) A department is not required to comply with Section
11 321.0122, Government Code, as added by this Act, until September 1,
12 2010.

13 SECTION 11.03. A governmental entity is not required to
14 submit a report under Section 331.007, Government Code, as added by
15 this Act, until the end of the first full state fiscal quarter after
16 the effective date of this Act.

17 SECTION 11.04. (a) In this section, "performance review"
18 means a function performed by the Legislative Budget Board before
19 the effective date of this Act under Section 322.015, 322.016,
20 322.0165, 322.017, or 322.018, Government Code.

21 (b) On the effective date of this Act, the following are
22 transferred from the Legislative Budget Board to the State
23 Accountability Office:

24 (1) all employees whose primary duties involved
25 performing or supporting the performance of performance reviews;

26 (2) all records and equipment primarily used by the
27 board in connection with performance reviews; and

1 (3) all appropriations for the state fiscal biennium
2 beginning September 1, 2009, made to or budgeted by the board
3 specifically for performance reviews.

4 (c) If the Legislative Budget Board does not receive
5 appropriations specifically designated for performance review
6 purposes for the state fiscal biennium beginning September 1, 2009,
7 and has not specifically budgeted amounts for performance review
8 purposes for that biennium, an amount equal to the amount of
9 appropriations specifically designated for or budgeted by the
10 Legislative Budget Board for performance review purposes for the
11 state fiscal biennium beginning September 1, 2007, is transferred
12 from appropriations made to the Legislative Budget Board for the
13 state fiscal biennium beginning September 1, 2009, to the State
14 Accountability Office for that biennium.

15 SECTION 11.05. In the event of a conflict between a
16 provision of this Act and another Act passed by the 81st
17 Legislature, Regular Session, 2009, that becomes law, this Act
18 prevails and controls regardless of the relative dates of
19 enactment.

20 SECTION 11.06. (a) The changes in law made by this Act do
21 not affect the entitlement of a person who is a member of a board,
22 commission, or council serving immediately before the effective
23 date of this Act to continue to carry out the board's, commission's,
24 or council's functions for the remainder of the member's term.

25 (b) As soon as possible after the effective date of this
26 Act, the lieutenant governor and speaker of the house of
27 representatives shall appoint members in accordance with Sections

1 321.002, 322.001, 323.001, and 324.004, Government Code, as amended
2 by this Act, and Section 331.002, Government Code, as added by this
3 Act.

4 SECTION 11.07. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect September 1, 2009.