

By: Dunnam, Crownover, Coleman,  
Turner of Harris, Gattis

H.B. No. 2942

Substitute the following for H.B. No. 2942:

By: Solomons

C.S.H.B. No. 2942

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to fiscal accountability and transparency in government  
3 operations by providing for effective legislative oversight;  
4 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 and every 12th year after that year are reviewed.

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, inspectors general, deputy  
19 inspectors general, assistant inspectors general, and special  
20 agents; and

21               (2) employ other ~~[stenographic and clerical]~~  
22 personnel.

23       (b) The State Auditor shall establish the qualifications  
24 necessary for appointment or employment, including qualifications  
25 regarding necessary legal knowledge, law enforcement experience,  
26 honesty, integrity, education, training, and executive ability. A  
27 person appointed or employed must have the experience necessary to



1 qualify the person for the position. The State Auditor may conduct  
2 professional examinations to determine the qualifications of a  
3 person seeking appointment or employment [~~prospective staff~~  
4 ~~members~~].

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

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

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

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

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

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

24 (c) An assistant state auditor, inspector general, deputy  
25 inspector general, or assistant inspector general may be  
26 commissioned under this section.

27 (d) The State Auditor may not commission more than 20

1 special agents at any time.

2 Sec. 321.0112. EXPERTS. Subject to the availability of  
3 funds, the State Auditor may contract with certified public  
4 accountants, qualified management consultants, or other  
5 professional experts as necessary to independently perform the  
6 functions of the office under this chapter or other law.

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

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

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

20 (a) The board [~~committee~~] directs and controls the  
21 expenditure of any money appropriated to the office [~~of the State~~  
22 ~~Auditor~~] and must approve the State Auditor's appropriation  
23 requests [~~and audit plan~~].

24 (c) The salaries of the assistant auditors and other  
25 [~~stenographic and clerical~~] personnel may not exceed the amounts  
26 paid by other departments for similar services without the approval  
27 of the board.

1 SECTION 2.16. Subchapter A, Chapter 321, Government Code,  
2 as added by this Act, is amended by adding Sections 321.0121 through  
3 321.0124 to read as follows:

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

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

8 (2) the matters or issues that may be subject to  
9 audits, investigations, and other functions performed by the  
10 office; and

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

13 (b) The office shall make the information described by  
14 Subsection (a) available to state officers and employees and to the  
15 public.

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

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

24 Sec. 321.0123. CONTRACT REPORTING REQUIREMENTS. A  
25 department that is required under other law to report information  
26 relating to a contract entered into by the department to the  
27 Legislative Budget Board shall also report the information to the

1 office.

2 Sec. 321.0124. POSTING OF CONTRACT INFORMATION ON INTERNET.

3 (a) The office shall post any information received by the office  
4 that relates to a contract entered into by a department and that is  
5 not confidential by law on an Internet site maintained by or for the  
6 office. The office shall post the information in a timely manner  
7 after receipt of the information.

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

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

12 SUBCHAPTER B. AUDITS AND INVESTIGATIONS

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

15 Sec. 321.013. ADDITIONAL POWERS AND DUTIES OF STATE  
16 AUDITOR.

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

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

24 (c) The State Auditor shall prepare an [~~recommend the~~] audit  
25 plan for the state for each year [~~to the committee~~]. In devising  
26 the plan, the State Auditor shall consider recommendations  
27 concerning coordination of agency functions made jointly by

1 representatives of the Legislative Budget Board, Sunset Advisory  
2 Commission, and the office [~~State Auditor's Office~~]. The State  
3 Auditor shall also consider the extent to which a department has  
4 received a significant increase in appropriations, including a  
5 significant increase in federal or other money passed through to  
6 the department, and shall review procurement activities for  
7 compliance with Section 2161.123. The plan shall provide for  
8 auditing of federal programs at least as often as required under  
9 federal law and shall ensure that audit requirements of all bond  
10 covenants and other credit or financial agreements are satisfied.  
11 The board [~~committee~~] shall review [~~and approve~~] the plan.

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

18 SECTION 2.20. Section 321.016, Government Code, is amended  
19 to read as follows:

20 Sec. 321.016. IMPROPER PRACTICES AND ILLEGAL TRANSACTIONS.

21 (a) If in the course of an audit the State Auditor finds evidence  
22 of improper practices of financial administration, inadequate  
23 fiscal records, uneconomical use of resources, or ineffective  
24 program performance, the State Auditor, after consulting with the  
25 head of the agency, shall immediately report the evidence to the  
26 governor, the board [~~committee~~], the chairs of the committees of  
27 each house with oversight responsibility for the agency, and the

1 administrative head and the chair [~~chairman~~] of the governing body  
2 of the affected department.

3 (b) If in the course of an audit the State Auditor finds  
4 evidence of an illegal transaction, the State Auditor, after  
5 consulting with the head of the agency, shall immediately report  
6 the transaction to the governor, the board [~~committee~~], the chairs  
7 of the committees of each house with oversight responsibility for  
8 the agency, the Travis County district attorney or the prosecuting  
9 attorney of the county in which the offense is alleged to have  
10 occurred, and any other [~~the~~] appropriate legal authority.

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

18 (d) If the administrative head or the governing body of the  
19 affected department refuses to make the changes recommended by the  
20 board [~~committee~~] at the hearing or provide any additional  
21 information or reports requested, the board [~~committee~~] shall  
22 report the refusal to the legislature.

23 SECTION 2.21. Section 321.018, Government Code, is amended  
24 to read as follows:

25 Sec. 321.018. SUBPOENAS. (a) The [~~At the request of the~~]  
26 State Auditor or the board [~~on its own motion, the committee~~] may  
27 subpoena witnesses or any books, records, or other documents

1 reasonably necessary to conduct an examination under this chapter.

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

3 (1) the State Auditor; or

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

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

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

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

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

26 Sec. 321.019. INTERFERENCE WITH AUDIT OR INVESTIGATION;  
27 CRIMINAL OFFENSE.

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

4 (b) An offense under this section is a Class A misdemeanor,  
5 except that the offense is a felony of the third degree if the audit  
6 or investigation is related to funds made available by or provided  
7 under the Recovery Act.

8 (c) An offense under this section may be prosecuted in the  
9 county in which an element of the offense occurs or in Travis  
10 County.

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

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

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

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

24 (b) An officer or employee who does not produce the  
25 documents or grant access to the property before the 25th hour after  
26 the request is served is personally liable to the state for a civil  
27 penalty of \$1,000 for each day the conduct continues, except that



1 the civil penalty is \$5,000 for each day the conduct continues if  
2 the audit or investigation is related to funds made available by or  
3 provided under the Recovery Act.

4 (c) The attorney general, the Travis County district  
5 attorney, or the prosecuting attorney of the county in which a  
6 violation is alleged to have occurred may sue to collect the  
7 penalty.

8 Sec. 321.023. GOVERNMENT ACCOUNTABILITY RECOMMENDATIONS.

9 The office shall recommend policies for:

10 (1) the detection of fraud and abuse, including state  
11 contract violations, conflicts of interest, and the inappropriate  
12 use or unauthorized expenditure of state funds;

13 (2) the identification of participants in any detected  
14 fraud or abuse;

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

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

19 Sec. 321.024. RECEIPT AND INVESTIGATION OF COMPLAINTS AND  
20 INFORMATION. (a) The State Auditor may receive and investigate  
21 complaints and information concerning the possible existence of  
22 fraud or abuse.

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

27 (1) obtain information concerning audits or

1 investigations conducted by the office; or

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

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

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

14 Sec. 321.025. LEGAL ASSISTANCE. On request of the State  
15 Auditor, the Travis County district attorney or the prosecuting  
16 attorney of the county in which an offense is alleged to have  
17 occurred shall assist the State Auditor with investigations and  
18 provide appropriate legal assistance.

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

27 (b) After receiving a referral from the office under this

1 section, the Travis County district attorney or the prosecuting  
2 attorney of the county in which an offense or impropriety is alleged  
3 to have occurred shall review the request, make an independent  
4 decision, and issue a written public opinion with respect to the  
5 existence of fraud or abuse and whether the attorney intends to  
6 pursue the recovery of state funds.

7 Sec. 321.027. REFERRAL OF MATTERS RELATED TO RECOVERY ACT.

8 Notwithstanding any other provision of law, a matter referred by  
9 the State Auditor concerning fraud or other criminal activity in  
10 connection with Recovery Act funds may be prosecuted in a county in  
11 which an element of the offense occurs or in Travis County.

12 SECTION 2.25. Sections 322.015, 322.016, 322.0165,  
13 322.017, and 322.018, Government Code, are transferred to Chapter  
14 321, Government Code, renumbered as Sections 321.051, 321.052,  
15 321.053, 321.054, and 321.055, Government Code, respectively,  
16 designated as Subchapter C, Chapter 321, Government Code, and  
17 amended, and a heading is added for Subchapter C, Chapter 321,  
18 Government Code, to read as follows:

19 SUBCHAPTER C. PERFORMANCE REVIEWS

20 Sec. 321.051 [~~322.015~~]. REVIEW OF INTERSCHOLASTIC  
21 COMPETITION. The office [~~board~~] may periodically review and  
22 analyze the effectiveness and efficiency of the policies,  
23 management, fiscal affairs, and operations of an organization that  
24 is a component or part of a state agency or institution and that  
25 sanctions or conducts interscholastic competition. The office  
26 [~~board~~] shall report the findings to the governor and the  
27 legislature. The legislature may consider the office's [~~board's~~]

1 reports in connection with the legislative appropriations process.

2       Sec. 321.052 [~~322.016~~]. PERFORMANCE REVIEW OF SCHOOL  
3 DISTRICTS. (a) The office [~~board~~] may periodically review the  
4 effectiveness and efficiency of the operations of school districts,  
5 including the district's expenditures for its officers' and  
6 employees' travel services. A review of a school district may be  
7 initiated by the office [~~board~~] at the State Auditor's [~~its~~]  
8 discretion or on the request of the school district. A review may  
9 be initiated by a school district only by resolution adopted by a  
10 majority of the members of the board of trustees of the district.

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

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

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

17           (2) file the report with the school district, the  
18 governor, the lieutenant governor, the speaker of the house of  
19 representatives, the chairs of the standing committees of the  
20 senate and the house of representatives with jurisdiction over  
21 public education, and the commissioner of education; and

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

24       (d) Until the office [~~board~~] has completed a review under  
25 this section, all information, documentary or otherwise, prepared  
26 or maintained in conducting the review or preparing the review  
27 report, including intra-agency and interagency communications and

1 drafts of the review report or portions of those drafts, is excepted  
2 from required public disclosure as audit working papers under  
3 Section 552.116. This subsection does not affect whether  
4 information described by this subsection is confidential or  
5 excepted from required public disclosure under a law other than  
6 Section 552.116.

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

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

- 13 (1) public junior colleges; and  
14 (2) general academic teaching institutions.

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

- 17 (1) the governor; or  
18 (2) the public junior college or general academic  
19 teaching institution.

20 (d) A review may be initiated by a public junior college or  
21 general academic teaching institution only at the request of the  
22 president of the college or institution or by a resolution adopted  
23 by a majority of the governing body of the college or institution.

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

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

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

3           (2) file the report with:

4                 (A) the chief executive officer of the public  
5 junior college or general academic teaching institution that is the  
6 subject of the report; and

7                 (B) the governor, the lieutenant governor, the  
8 speaker of the house of representatives, the chairs of the standing  
9 committees of the senate and of the house of representatives with  
10 primary jurisdiction over higher education, and the commissioner of  
11 higher education; and

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

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

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

27           (b) The office [~~board~~] periodically may review and analyze

1 the effectiveness and efficiency of the policies, management,  
2 fiscal affairs, and operations of state agencies.

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

5 (d) The legislature may consider the office's [~~board's~~]  
6 reports in connection with the legislative appropriations process.

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

17 Sec. 321.055 [~~322.018~~]. RECORDS MANAGEMENT REVIEW. (a) In  
18 this section, "state agency" has the meaning assigned by Section  
19 2056.001.

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

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

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

27 SECTION 2.26. Chapter 321, Government Code, is amended by

1 adding Subchapter D to read as follows:

2 SUBCHAPTER D. INSPECTOR GENERAL DIVISION

3 Sec. 321.101. DEFINITIONS. In this subchapter:

4 (1) "Agency" means a state agency subject to this  
5 chapter under Section 321.102.

6 (2) "Commission" means the Health and Human Services  
7 Commission.

8 (3) "Division" means the inspector general division.

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

14 (5) "Furnished," in reference to items or services:

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

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

20 (ii) a provider; or

21 (iii) another supplier of services; and

22 (B) does not include services ordered by one  
23 party but billed for and provided by or under the supervision of  
24 another.

25 (6) "Hold on payment" means the temporary denial of  
26 reimbursement under a federal program for items or services  
27 furnished by a specified provider.



1           (7) "Inspector general" means the inspector general  
2 appointed under Section 321.106.

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

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

9                   (A) medical assistance under contract or  
10 provider agreement with the commission; or

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

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

15           (11) "State funds" or "state money" includes federal  
16 funds or money received and appropriated by the state or for which  
17 the state has oversight responsibility.

18           Sec. 321.102. APPLICABILITY. (a) Except as provided by  
19 Subsection (c), this chapter applies only to the:

20                   (1) Health and Human Services Commission;

21                   (2) Texas Education Agency; and

22                   (3) Texas Department of Transportation.

23           (b) A state agency, other than the Texas Youth Commission or  
24 the Texas Department of Criminal Justice, may not establish an  
25 office of inspector general without specific legislative  
26 authorization.

27           (c) A health and human services agency as defined by Section

1 531.001 is an agency to which this subchapter applies for purposes  
2 related to the review and investigatory authority of the division.

3 Sec. 321.103. REFERENCE IN OTHER LAW. (a) Notwithstanding  
4 any other provision of law, a reference in law or rule to an  
5 agency's office of inspector general means, for an agency to which  
6 this chapter applies, the division established under this  
7 subchapter.

8 (b) Notwithstanding any other provision of law, with regard  
9 to responsibilities that do not inherently involve the execution of  
10 the laws and in accordance with this subchapter, a reference in law  
11 or rule to the commission's office of investigations and  
12 enforcement or the commission's office of inspector general means  
13 the division established under this subchapter.

14 Sec. 321.104. ADMINISTRATIVE ATTACHMENT. A person  
15 designated by the inspector general to serve as the deputy  
16 inspector general for an agency, together with staff assigned to  
17 the deputy inspector general, are administratively attached to the  
18 assigned agency. The inspector general, a deputy inspector  
19 general, and division personnel are not employees of the assigned  
20 agency.

21 Sec. 321.105. SERVICE LEVEL AGREEMENT. (a) The division  
22 and each state agency to which this subchapter applies shall enter  
23 into a service level agreement that establishes the performance  
24 standards and deliverables with regard to administrative support  
25 provided to the division by the agency.

26 (b) The service level agreement must be reviewed at least  
27 annually to ensure that services and deliverables are provided in

1 accordance with the agreement.

2 Sec. 321.106. APPOINTMENT. The state auditor shall appoint  
3 a person as inspector general to serve as director of the division.  
4 The inspector general serves at the pleasure of the state auditor.

5 Sec. 321.107. CONFLICT OF INTEREST. (a) A division officer  
6 or employee may not serve as an ex officio member on the governing  
7 body of a governmental entity.

8 (b) A division officer or employee may not have a financial  
9 interest in the transactions of the division or an agency to which  
10 this subchapter applies.

11 (c) A division officer or employee may not have a financial  
12 interest in the transactions of a provider.

13 Sec. 321.108. DEPUTY INSPECTORS GENERAL. (a) The  
14 inspector general, as necessary to implement this subchapter, shall  
15 designate persons to serve as deputy inspectors general for each  
16 agency to which this subchapter applies.

17 (b) A deputy inspector general shall report to and perform  
18 duties as directed by the inspector general.

19 (c) Each agency to which this subchapter applies shall  
20 provide to the agency's designated deputy inspector general  
21 facilities and support services, including suitable office space,  
22 furniture, computer and communications equipment, administrative  
23 support, and salary and benefits as provided by the General  
24 Appropriations Act.

25 Sec. 321.109. TRAINING. The inspector general shall train  
26 division personnel to pursue, efficiently and as necessary, fraud,  
27 waste, and abuse in programs at an agency to which this subchapter

1 applies or other state or federally funded programs implemented,  
2 administered, or overseen by or for the agency.

3 Sec. 321.110. ASSISTANCE BY AGENCY EMPLOYEES. (a) The  
4 inspector general may require employees of an agency to which this  
5 subchapter applies to provide assistance to the division in  
6 connection with the division's duties relating to the investigation  
7 of fraud, waste, and abuse in the provision of services for programs  
8 at an agency to which this subchapter applies or state or federally  
9 funded programs implemented, administered, or overseen by or for  
10 the agency.

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

14 Sec. 321.111. INSPECTOR GENERAL RESPONSIBILITIES. (a) The  
15 division shall investigate fraud, waste, and abuse, as defined in  
16 applicable state and federal law, in the provision or funding of  
17 services by or for an agency to which this subchapter applies or  
18 under a program implemented, administered, or overseen by or for  
19 the agency.

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

23 (1) coordinating investigative efforts with other  
24 governmental entities that have the authority to aggressively  
25 recover money;

26 (2) allocating resources so that those entities have  
27 the strongest supportive evidence and the greatest potential for

1 recovery of money; and

2 (3) maximizing opportunities for referral of cases to  
3 the office of the attorney general in accordance with this  
4 subchapter and other applicable law.

5 (c) In addition to performing functions and duties  
6 otherwise provided by law, the division may:

7 (1) provide for coordination between the division and  
8 special investigative units formed by managed care organizations  
9 under Section 531.113 or entities with which managed care  
10 organizations contract under that section;

11 (2) audit the use and effectiveness of state or  
12 federal funds, including contract and grant funds, administered by  
13 a person or an agency to which this subchapter applies;

14 (3) conduct reviews, investigations, and inspections  
15 relating to the funds described by Subdivision (2);

16 (4) recommend policies promoting economical and  
17 efficient administration of the funds described by Subdivision (2)  
18 and the prevention and detection of fraud, waste, and abuse in  
19 administration of those funds; and

20 (5) conduct investigations in instances of fraud,  
21 waste, and abuse and in instances of misconduct by employees,  
22 contractors, subcontractors, and vendors.

23 (d) The division shall:

24 (1) investigate fraud, waste, and abuse in the  
25 provision or funding of health or human services by this state;

26 (2) determine and report regarding whether there is  
27 adequate enforcement of state law relating to the provision of

1 those services; and

2 (3) alert the appropriate law enforcement authorities  
3 to enable the authorities to prevent and detect crime relating to  
4 the provision of those services.

5 Sec. 321.112. STATE AUDITOR AUDITS, INVESTIGATIONS, AND  
6 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law  
7 related to the operation of the division does not:

8 (1) take precedence over other authority of the state  
9 auditor to conduct audits under this chapter or other law; or

10 (2) affect the state auditor's authority under another  
11 provision of this chapter to conduct an audit, investigation, or  
12 other review or to have full and complete access to all records and  
13 other information, including witnesses and electronic data, that  
14 the state auditor considers necessary for the audit, investigation,  
15 or other review.

16 Sec. 321.113. INTERAGENCY COORDINATION. (a) An exchange  
17 of information under this section between the division and the  
18 attorney general or any other state agency does not affect whether  
19 the information is subject to disclosure under Chapter 552.

20 (b) With respect to Medicaid fraud, the division shall  
21 ensure that no barriers to direct fraud referrals to the attorney  
22 general's Medicaid fraud control unit or unreasonable impediments  
23 to communication between Medicaid agency employees and the Medicaid  
24 fraud control unit are imposed.

25 Sec. 321.114. REVIEW, INVESTIGATION, AND AUDIT AUTHORITY.

26 (a) The division may evaluate any activity or operation of an  
27 agency to which this subchapter applies, a provider, if applicable,

1 or a person in this state that is related to the investigation,  
2 detection, or prevention of fraud, waste, abuse, or employee  
3 misconduct in a program at an agency to which this subchapter  
4 applies or in a state or federally funded program implemented,  
5 administered, or overseen by or for the agency. A review may  
6 include an investigation or other inquiry into a specific act or  
7 allegation of, or a specific financial transaction or practice that  
8 may involve, impropriety, malfeasance, or nonfeasance in the  
9 obligation, spending, receipt, or other use of state or federal  
10 money.

11 (b) The division shall conduct reviews and inspections to  
12 protect the public and detect and prevent fraud, waste, and abuse in  
13 the provision or funding of services or programs described by  
14 Subsection (a).

15 (c) With respect to an agency to which this subchapter  
16 applies, the division may audit and review the use and  
17 effectiveness of state or federal funds, including contract and  
18 grant funds, administered by a person or agency receiving the funds  
19 in connection with an agency or state or federally funded program  
20 implemented, administered, or overseen by or for the agency.

21 Sec. 321.115. INITIATION OF REVIEW. The inspector general  
22 may initiate a review:

- 23 (1) on the inspector general's own initiative;  
24 (2) at the request of an agency to which this  
25 subchapter applies or the governing body or governing officer of  
26 the agency; or  
27 (3) based on a complaint from any source concerning a

1 matter described by Section 321.114.

2 Sec. 321.116. INTEGRITY REVIEW FOR MEDICAID PROGRAM. (a)  
3 The division shall conduct an integrity review to determine whether  
4 there is sufficient basis to warrant a full investigation on  
5 receipt of any complaint of fraud, waste, or abuse of funds in the  
6 state Medicaid program from any source.

7 (b) An integrity review under this section must begin not  
8 later than the 30th day after the date the division receives a  
9 complaint or has reason to believe that Medicaid fraud, waste, or  
10 abuse has occurred. An integrity review shall be completed not  
11 later than the 90th day after the date the review began.

12 (c) If the findings of an integrity review give the division  
13 reason to believe that an incident of fraud involving possible  
14 criminal conduct has occurred in the state Medicaid program, the  
15 division must take the following action, as appropriate, not later  
16 than the 30th day after the completion of the integrity review:

17 (1) if a provider is suspected of fraud involving  
18 criminal conduct, the office must refer the case to the state's  
19 Medicaid fraud control unit, provided that the criminal referral  
20 does not preclude the division from continuing its investigation of  
21 the provider, making an additional criminal referral to the  
22 appropriate prosecuting attorney, or recommending the imposition  
23 of appropriate administrative or civil sanctions; or

24 (2) if there is reason to believe that a recipient of  
25 funds has defrauded the Medicaid program, the division may conduct  
26 a full investigation of the suspected fraud.

27 Sec. 321.117. ACCESS TO INFORMATION. (a) To further a



1 review conducted by the division, 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  
6 division that are maintained by or for a person, state agency, or  
7 provider, if applicable, in connection with an agency to which this  
8 subchapter applies or a state or federally funded program  
9 implemented, administered, or overseen by or for the agency.

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

14 Sec. 321.118. COOPERATION REQUIRED. To further a review  
15 conducted by the division, the inspector general or deputy  
16 inspector general may require medical or other professional  
17 assistance from an agency to which this subchapter applies or an  
18 auditor, accountant, or other employee of the agency.

19 Sec. 321.119. REFERRAL TO STATE MEDICAID FRAUD CONTROL  
20 UNIT. (a) At the time the division learns or has reason to suspect  
21 that a health or human services provider's records related to  
22 participation in the state Medicaid program are being withheld,  
23 concealed, destroyed, fabricated, or in any way falsified, the  
24 division shall immediately refer the case to the state's Medicaid  
25 fraud control unit.

26 (b) A criminal referral under Subsection (a) does not  
27 preclude the division from continuing its investigation of a health

1 or human services provider or the imposition by the appropriate  
2 agency of appropriate administrative or civil sanctions.

3 Sec. 321.120. HOLD ON CLAIM REIMBURSEMENT PAYMENT;  
4 EXCLUSION FROM PROGRAMS. (a) In addition to other instances  
5 authorized under state or federal law, the division shall whenever  
6 appropriate recommend that the comptroller impose without prior  
7 notice a hold on payment of claims for reimbursement submitted by a  
8 health or human services provider to compel production of records  
9 related to participation in the state Medicaid program or on  
10 request of the state's Medicaid fraud control unit, as applicable.

11 (b) The comptroller must notify the health or human services  
12 provider of the hold on payment not later than the fifth working day  
13 after the date the payment hold is imposed.

14 (c) The comptroller shall, in consultation with the  
15 division and the state's Medicaid fraud control unit, establish  
16 guidelines under which holds on payment or exclusions from a health  
17 and human services program:

18 (1) may permissively be imposed on a health or human  
19 services provider; or

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

21 (d) A health or human services provider subject to a hold on  
22 payment or excluded from a program under this section is entitled to  
23 a hearing on the hold or exclusion. A hearing under this subsection  
24 is a contested case hearing under Chapter 2001. The State Office of  
25 Administrative Hearings shall conduct the hearing. After the  
26 hearing, the comptroller, subject to judicial review, shall make a  
27 final determination. The commission, a health and human services

1 agency, and the attorney general are entitled to intervene as  
2 parties in the contested case.

3 Sec. 321.121. REQUEST FOR EXPEDITED HEARING. (a) On timely  
4 written request by a health or human services provider subject to a  
5 hold on payment under Section 321.120, other than a hold requested  
6 by the state's Medicaid fraud control unit, the comptroller shall  
7 file a request with the State Office of Administrative Hearings for  
8 an expedited administrative hearing regarding the hold.

9 (b) The health or human services provider must request an  
10 expedited hearing not later than the 10th day after the date the  
11 provider receives notice from the comptroller under Section  
12 321.120(b).

13 Sec. 321.122. INFORMAL RESOLUTION. (a) The comptroller  
14 shall adopt rules that allow a health or human services provider  
15 subject to a hold on payment under Section 321.120, other than a  
16 hold requested by the state's Medicaid fraud control unit, to seek  
17 an informal resolution of the issues identified by the comptroller  
18 in the notice provided under that section.

19 (b) A health or human services provider that seeks an  
20 informal resolution must do so not later than the 10th day after the  
21 date the provider receives notice from the comptroller under  
22 Section 321.120(b).

23 (c) A health or human services provider's decision to seek  
24 an informal resolution does not extend the time by which the  
25 provider must request an expedited administrative hearing under  
26 Section 321.121.

27 (d) A hearing initiated under Section 321.120 shall be

1 stayed at the comptroller's request until the informal resolution  
2 process is completed.

3 Sec. 321.123. EMPLOYEE REPORTS. The state auditor may  
4 require employees at an agency to which this subchapter applies to  
5 report to the division information regarding fraud, waste, misuse  
6 or abuse of funds or resources, corruption, or illegal acts.

7 Sec. 321.124. INTERNAL AUDITOR. (a) In this section,  
8 "internal auditor" means a person appointed under Section 2102.006.

9 (b) The internal auditor for an agency to which this  
10 subchapter applies shall provide the state auditor with a copy of  
11 the agency's internal audit plan to:

12 (1) assist in the coordination of efforts between the  
13 state auditor and the internal auditor; and

14 (2) limit duplication of effort regarding reviews by  
15 the state auditor and internal auditor.

16 (c) The internal auditor shall provide to the state auditor  
17 all final audit reports concerning audits of any:

18 (1) part or division of the agency;

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

20 (3) program conducted by the agency.

21 Sec. 321.125. COOPERATION WITH LAW ENFORCEMENT OFFICIALS  
22 AND OTHER ENTITIES. (a) The state auditor may provide information  
23 and evidence relating to criminal acts to appropriate law  
24 enforcement officials.

25 (b) The state auditor may refer matters for further civil,  
26 criminal, and administrative action to appropriate administrative  
27 and prosecutorial agencies.

1       Sec. 321.126. PREVENTION. (a) The state auditor may  
2 recommend to an agency to which this subchapter applies or the  
3 presiding officer of the agency policies on:

4           (1) promoting economical and efficient administration  
5 of state or federal funds administered by an individual or entity  
6 that received the funds from a state agency; and

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

9       (b) The state auditor may provide training or other  
10 education regarding the prevention of fraud, waste, and abuse to  
11 employees of a state agency. The training or education provided  
12 must be approved by the presiding officer of the agency.

13       Sec. 321.127. PERIODIC REPORTING REQUIRED. The state  
14 auditor shall timely inform the governor, the attorney general, and  
15 the presiding officer of the relevant agency of the initiation of a  
16 review of an agency program and the ongoing status of the review.

17       Sec. 321.128. REPORT OF FINDINGS. The state auditor shall  
18 report the findings of the division in connection with a review  
19 conducted under this subchapter to:

20           (1) the presiding officer of the agency;

21           (2) the governor;

22           (3) the lieutenant governor;

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

24           (5) the comptroller; and

25           (6) the attorney general.

26       Sec. 321.129. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The  
27 state auditor shall immediately report to the presiding officer of

1 the agency associated with the review, the governor, and any other  
2 person the state auditor considers necessary a particularly serious  
3 or flagrant problem relating to the administration of a program,  
4 operation of the agency, or interference with a review by the state  
5 auditor.

6 Sec. 321.130. INFORMATION CONFIDENTIAL. (a) Except as  
7 provided by this subchapter, all information and material compiled  
8 by the state auditor during a review under this subchapter is:

9 (1) confidential and not subject to disclosure under  
10 Chapter 552; and

11 (2) not subject to disclosure, discovery, subpoena, or  
12 other means of legal compulsion for release to anyone other than the  
13 state auditor's office or the agency that is the subject of a  
14 review.

15 (b) As the state auditor determines appropriate,  
16 information relating to a review may be disclosed to:

17 (1) a law enforcement agency;

18 (2) the appropriate prosecuting attorney;

19 (3) the attorney general; or

20 (4) the agency that is the subject of a review.

21 (c) A person that receives information under Subsection (b)  
22 may not disclose the information except to the extent that  
23 disclosure is consistent with the authorized purpose for which the  
24 person received the information.

25 Sec. 321.131. DRAFT OF FINAL REVIEW REPORT; AGENCY  
26 RESPONSE. (a) Except in cases in which the division has determined  
27 that potential fraud, waste, or abuse exists, the state auditor

1 shall provide a draft of the final review report of any  
2 investigation, audit, or review of the operations of an agency to  
3 the presiding officer of the agency before publishing the state  
4 auditor's final review report.

5 (b) The presiding officer of the agency may provide a  
6 response to the draft report in the manner prescribed by the state  
7 auditor not later than the 10th day after the date the draft report  
8 is received by the agency. The state auditor may specify the format  
9 of and requirements for the agency response.

10 (c) Notwithstanding Subsection (a), the division may not  
11 provide a draft report to the presiding officer of the agency if in  
12 the state auditor's opinion providing the draft report could  
13 negatively affect any anticipated civil or criminal proceedings.

14 (d) The state auditor may include any portion of the  
15 agency's response in the final report.

16 Sec. 321.132. FINAL REVIEW REPORTS; AGENCY RESPONSE. (a)  
17 The state auditor shall prepare a final report for each review  
18 conducted under this subchapter. The final report must include:

19 (1) a summary of the activities performed by the state  
20 auditor in conducting the review;

21 (2) a determination of whether wrongdoing was found;  
22 and

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

24 (b) The state auditor's final review reports are subject to  
25 disclosure under Chapter 552.

26 (c) All working papers and other documents related to  
27 compiling the final review reports remain confidential and are not

1 subject to disclosure under Chapter 552.

2 (d) Not later than the 60th day after the date the state  
3 auditor issues a final report under this subchapter that identifies  
4 deficiencies or inefficiencies in, or recommends corrective  
5 measures in the operations of, an agency, the agency shall file a  
6 response that includes:

7 (1) an implementation plan and timeline for  
8 implementing corrective measures; or

9 (2) the agency's rationale for declining to implement  
10 corrective measures for the identified deficiencies or  
11 inefficiencies or the state auditor's recommended corrective  
12 measures, as applicable.

13 Sec. 321.133. COSTS. (a) The state auditor shall maintain  
14 information regarding the cost of reviews.

15 (b) The state auditor may cooperate with appropriate  
16 administrative and prosecutorial agencies, including the attorney  
17 general, in recovering costs incurred under this subchapter from  
18 nongovernmental entities, including contractors or individuals  
19 involved in:

20 (1) violations of applicable state or federal rules or  
21 statutes;

22 (2) abusive or wilful misconduct; or

23 (3) violations of a provider contract or program  
24 policy.

25 Sec. 321.134. SEMIANNUAL REPORT. The state auditor shall  
26 prepare and submit a semiannual report to the governor, the  
27 lieutenant governor, the speaker of the house of representatives,



1 the attorney general, the comptroller, and each member of the  
2 legislature concerning the activities of the division in detecting  
3 and preventing fraud, waste, and abuse under any agency programs or  
4 in programs receiving state or federal funds that are implemented,  
5 administered, or overseen by a state agency that is reviewed by the  
6 division under this chapter. The report may be consolidated with  
7 any other report relating to the same subject matter the state  
8 auditor is required to submit under other law.

9 SECTION 2.27. (a) Sections 321.011(d) and (e), Government  
10 Code, are repealed.

11 (b) To the extent of a conflict between Subchapter D,  
12 Chapter 321, Government Code, as added by this Act, and Chapter 531,  
13 Government Code, Subchapter D, Chapter 321, prevails.

14 ARTICLE 3. LEGISLATIVE BUDGET BOARD

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

17 (a) The Legislative Budget Board consists of:

- 18 (1) the lieutenant governor;
- 19 (2) the speaker of the house of representatives;
- 20 (3) the chair [~~chairman~~] of the senate finance  
21 committee;
- 22 (4) the chair [~~chairman~~] of the house appropriations  
23 committee;
- 24 (5) the chair [~~chairman~~] of the house ways and means  
25 committee;
- 26 (6) five [~~three~~] members of the senate appointed by  
27 the lieutenant governor; and

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

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

5           Sec. 322.002. SUNSET PROVISION. The board is subject to  
6 review under Chapter 325 (Texas Sunset Act) but is not abolished  
7 under that chapter. The board shall be reviewed during the periods  
8 in which state agencies scheduled to be abolished in 2013 and every  
9 12th year after that year are reviewed.

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

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

19                           ARTICLE 4. TEXAS LEGISLATIVE COUNCIL

20          SECTION 4.01. Section 323.001(b), Government Code, is  
21 amended to read as follows:

22           (b) The council consists of:

- 23                   (1) the lieutenant governor;
- 24                   (2) the speaker of the house of representatives;
- 25                   (3) the chair [~~chairman~~] of the house administration  
26 committee;
- 27                   (4) eight [~~six~~] senators from various areas of the

1 state appointed by the president of the senate; and

2 (5) seven [~~five~~] other members of the house of  
3 representatives from various areas of the state appointed by the  
4 speaker.

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

7 Sec. 323.002. SUNSET PROVISION. The council is subject to  
8 review under Chapter 325 (Texas Sunset Act) but is not abolished  
9 under that chapter. The council shall be reviewed during the  
10 periods in which state agencies scheduled to be abolished in 2013  
11 and every 12th year after that year are reviewed.

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

15 (2) "Legislative information" means:

16 (A) a list of all the members of each house of the  
17 legislature;

18 (B) a list of the committees of the legislature  
19 and their members;

20 (C) the full text of each bill as filed and as  
21 subsequently amended, substituted, engrossed, or enrolled in  
22 either house of the legislature;

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

26 (E) the calendar of each house of the  
27 legislature, the schedule of legislative committee hearings, and a

1 list of the matters pending on the floor of each house of the  
2 legislature;

3 (F) detailed procedural information about how a  
4 bill filed in either house of the legislature becomes law,  
5 including detailed timetable information concerning the times  
6 under the constitution or the rules of either house when the  
7 legislature may take certain actions on a bill;

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

- 10 (i) house of representatives;  
11 (ii) senate;  
12 (iii) State Board of Education; and  
13 (iv) United States Congress; ~~and~~

14 (H) information about legislative oversight of  
15 Recovery Act funds, including the committees of each house and each  
16 legislative agency responsible for providing oversight of or  
17 information about Recovery Act funds; and

18 (I) other information related to the legislative  
19 process that in the council's opinion should be made available  
20 through the Internet.

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

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

26 (b) The council, to the extent it considers it to be  
27 feasible and appropriate, may make legislative information

1 available to the public through the Internet. The council shall  
2 make legislative information related to the Recovery Act available  
3 to the public through the Internet.

4 ARTICLE 5. LEGISLATIVE REFERENCE LIBRARY

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

7 Sec. 324.003. SUNSET PROVISION. The board and the library  
8 are subject to review under Chapter 325 (Texas Sunset Act) but are  
9 not abolished under that chapter. The board and the library shall  
10 be reviewed during the periods in which state agencies scheduled to  
11 be abolished in 2013 and every 12th year after that year are  
12 reviewed.

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

- 16 (b) The board consists of:
- 17 (1) the lieutenant governor;
  - 18 (2) the speaker of the house of representatives;
  - 19 (3) the chair [~~chairman~~] of the house appropriations  
20 committee;
  - 21 (4) four [~~two~~] members of the senate appointed by the  
22 lieutenant governor; and
  - 23 (5) three [~~one~~] other members [~~member~~] of the house  
24 appointed by the speaker.

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

27 SECTION 5.03. Chapter 324, Government Code, is amended by

1 adding Section 324.0081 to read as follows:

2 Sec. 324.0081. RECOVERY ACT DEPOSITORY. (a) The library  
3 shall serve as the central depository for all Recovery Act  
4 publications.

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

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

13 (d) In this section:

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

17 (2) "Recovery Act publication":

18 (A) means information in any format, including  
19 materials in a physical format or in an electronic format, related  
20 in any way to the receipt, disbursement, expenditure, or audit of  
21 Recovery Act funds, including a report regarding Recovery Act  
22 funds, that:

23 (i) is produced, assembled, or maintained  
24 by or for a state or local governmental entity receiving Recovery  
25 Act funds or an entity receiving Recovery Act funds through a  
26 governmental entity in this state; and

27 (ii) is distributed to persons outside the

1 entity or distributed to persons within the entity; and

2 (B) does not include information the  
3 distribution of which is limited to members of the public under a  
4 request made under Chapter 552.

5 ARTICLE 6. SUNSET ADVISORY COMMISSION

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

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

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

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

19 ARTICLE 7. RECOVERY ACT ACCOUNTABILITY BOARD

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

22 CHAPTER 331. RECOVERY ACT ACCOUNTABILITY BOARD

23 Sec. 331.001. DEFINITIONS. In this chapter:

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

27 (2) "Board" means the Recovery Act Accountability

1 Board.

2 (3) "Legislative agency" means:

3 (A) the Texas Legislative Council;

4 (B) the Legislative Budget Board;

5 (C) the Legislative Reference Library;

6 (D) the State Accountability Office; or

7 (E) any other agency in the legislative branch of  
8 state government.

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

11 (1) the following voting members:

12 (A) the lieutenant governor;

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

14 (C) one senate member, designated by the  
15 lieutenant governor, and one house member, designated by the  
16 speaker, of the Legislative Audit Board;

17 (D) one senate member, designated by the  
18 lieutenant governor, and one house member, designated by the  
19 speaker, of the Legislative Budget Board;

20 (E) one senate member, designated by the  
21 lieutenant governor, and one house member, designated by the  
22 speaker, of the Texas Legislative Council;

23 (F) one senate member, designated by the  
24 lieutenant governor, and one house member, designated by the  
25 speaker, of the Sunset Advisory Commission;

26 (G) one senate member, designated by the  
27 lieutenant governor, and one house member, designated by the



1 speaker, of the Legislative Library Board;

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

4 (I) four other members of the senate, designated  
5 by the lieutenant governor;

6 (J) four other members of the house, designated  
7 by the speaker;

8 (K) two public members appointed by the  
9 lieutenant governor; and

10 (L) two public members appointed by the speaker;  
11 and

12 (2) the following nonvoting members:

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

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

18 (b) One of the members appointed under Subsection (a)(1)  
19 must be the chair of the Senate Finance Committee. One other member  
20 appointed under Subsection (a)(1) must be the chair of the House  
21 Appropriations Committee.

22 (c) The lieutenant governor and the speaker are joint chairs  
23 of the board.

24 (d) A legislative member serving on the board because of the  
25 member's service on another board, commission, or committee serves  
26 a term coinciding with the member's service on the other board,  
27 commission, or committee. Other legislative members and public

1 members serve for the term of the board.

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

5 (f) Each member of the board is entitled to reimbursement  
6 for actual and necessary expenses incurred in performing board  
7 duties. Each legislative member is entitled to reimbursement from  
8 the appropriate fund of the member's respective house. Each public  
9 member is entitled to reimbursement from the appropriate fund of  
10 the house of the appointing authority.

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

13 Sec. 331.004. ADMINISTRATIVE OFFICER. The board shall  
14 select a chief administrative officer of the board. An officer or  
15 employee of a legislative agency, other than the State  
16 Accountability Office, is eligible for appointment under this  
17 section.

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

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

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

27 (2) may hold hearings and conduct investigations and

1 surveys as provided by Section 331.008;

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

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

6 (5) may make recommendations regarding interagency  
7 coordination, opportunities that concern multiple units of  
8 government, and opportunities for public-private partnerships  
9 using Recovery Act funds; and

10 (6) may appoint advisory committees as necessary to  
11 assist the board.

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

16 (1) the amount of Recovery Act funding received by a  
17 public or private entity by or through the governmental entity  
18 under the Act;

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

21 (3) any outstanding requirements or unmet deadlines  
22 for applying for Recovery Act funds;

23 (4) any changes in any requirements associated with  
24 Recovery Act funding, including spending limitations, state match  
25 or cost share requirements, percentage limitations, and  
26 timeframes;

27 (5) the date on which each type of Recovery Act funding

1 discussed in the report is anticipated to end;

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

4 (7) the number of additional state employees actually  
5 employed or projected to be needed to oversee or administer  
6 Recovery Act funds;

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

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

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

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

13 (C) an evaluation of the completion status of the  
14 project or activity;

15 (10) an assessment of the performance of all Recovery  
16 Act funds expended or obligated relating to specific performance  
17 measures, including:

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

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

21 (C) the estimated economic benefit for small and  
22 medium-sized businesses;

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

25 (E) the estimated economic benefit for  
26 women-owned and minority-owned businesses;

27 (F) the number of new jobs created in distressed

1 areas;

2 (G) the estimated economic benefit in distressed  
3 areas;

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

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

8 (J) any other performance measures prescribed by  
9 the board; and

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

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

14 (B) carbon emissions in this state resulting from  
15 energy and transportation projects, including any emissions  
16 reductions; and

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

20 Sec. 331.008. HEARINGS; INVESTIGATIONS AND SURVEYS. (a)  
21 The board may make investigations and surveys regarding funds  
22 received by governmental entities in this state from the federal  
23 government for economic stabilization, including Recovery Act  
24 funds, and may hold public or executive hearings in connection with  
25 those investigations and surveys.

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

1       (c) The board may:

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

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

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

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

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

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

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

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

26       (f) A subpoenaed witness who attends a board hearing or  
27 meeting is entitled to the same mileage and per diem as a witness

1 who appears before a grand jury of this state.

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

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

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

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

9 or

10 (2) the director of the legal division of the Texas  
11 Legislative Council.

12 ARTICLE 8. PROVISIONS APPLICABLE TO ALL LEGISLATIVE AGENCIES

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

15 CHAPTER 326. PROVISIONS GENERALLY APPLICABLE TO [COOPERATION  
16 ~~BETWEEN~~] LEGISLATIVE AGENCIES AND OVERSIGHT COMMITTEES

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

20 SUBCHAPTER A. COOPERATION BETWEEN LEGISLATIVE AGENCIES

21 SECTION 8.03. Section 326.001, Government Code, is amended  
22 to read as follows:

23 Sec. 326.001. DEFINITION. In this subchapter [~~chapter~~],  
24 "legislative agency" means:

25 (1) the senate;

26 (2) the house of representatives;

27 (3) a committee, division, department, or office of

1 the senate or house;

2 (4) the Texas Legislative Council;

3 (5) the Legislative Budget Board;

4 (6) the Legislative Reference Library;

5 (7) the [~~office of the~~] State Accountability Office  
6 [~~Auditor~~];

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

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

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

12 Sec. 326.003. COMMITTEE OF STATE ACCOUNTABILITY  
13 [~~AUDITOR'S~~] OFFICE, LEGISLATIVE BUDGET BOARD, AND SUNSET ADVISORY  
14 COMMISSION.

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

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

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

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



1                   SUBCHAPTER B. QUORUM AND MEETINGS

2           Sec. 326.021. DEFINITION. In this subchapter, "legislative  
3 entity" means:

4                   (1) the Legislative Audit Board;

5                   (2) the Legislative Budget Board;

6                   (3) the Legislative Library Board;

7                   (4) the Texas Legislative Council;

8                   (5) the Recovery Act Accountability Board; and

9                   (6) any other oversight committee created under this  
10 subtitle.

11           Sec. 326.022. CONFLICT WITH OTHER LAW. To the extent of a  
12 conflict between this subchapter and any other provision of this  
13 subtitle, the other provision of this subtitle prevails.

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

19                   (b) Two members of a legislative entity from each house  
20 constitutes a quorum for the taking of testimony and receiving  
21 evidence.

22           Sec. 326.024. MEETINGS. (a) A legislative entity shall  
23 meet as often as necessary to perform its duties. A legislative  
24 entity shall meet at least once every six months. Meetings may be  
25 held at any time at the request of either of the joint chairs of a  
26 legislative entity or on written petition of two of the members of a  
27 legislative entity from each house.

1       (b) Each member of the legislature is entitled to attend and  
2 present the member's views in any meeting of the legislative  
3 entity. A legislator who is not a member of the legislative entity  
4 may not vote.

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

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

18               (1) is subject to the notice requirements applicable  
19 to other meetings;

20               (2) must specify in the notice of the meeting the  
21 location in Austin of the meeting at which the joint chairs will be  
22 physically present;

23               (3) must be open to the public and shall be audible to  
24 the public at the location in Austin specified in the notice of the  
25 meeting as the location of the meeting at which the joint chairs  
26 will be physically present; and

27               (4) must provide two-way audio communication between

1 all members of the legislative entity attending the meeting during  
2 the entire meeting, and if the two-way audio communication link  
3 with any member attending the meeting is disrupted at any time, the  
4 meeting may not continue until the two-way audio communication link  
5 is reestablished.

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

8 (4) "State agency" means a state board, commission, or  
9 department, or office having statewide jurisdiction, but does not  
10 include a state college or university or an agency of the  
11 legislative branch of state government.

12 ARTICLE 9. TRANSITION PROVISIONS AND EFFECTIVE DATES

13 SECTION 9.01. (a) On the effective date of this Act the  
14 state auditor's office is renamed the State Accountability Office.

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

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

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

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

27 (3) all funds appropriated to the state auditor's

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

5 SECTION 9.02. (a) In this section, "department" and  
6 "office" have the meanings assigned by Section 321.001, Government  
7 Code, as amended by this Act.

8 (b) Each department, other than the Texas Department of  
9 Criminal Justice and the Texas Youth Commission, that has an  
10 inspector general and each department, other than the Texas  
11 Department of Criminal Justice and the Texas Youth Commission, that  
12 does not have an inspector general but that has a division  
13 responsible for investigating fraud and abuse in the expenditure of  
14 funds shall enter into a memorandum of understanding with the  
15 office under which:

16 (1) the responsibilities of the inspector general or  
17 division that involve the execution of the laws and the  
18 responsibilities of the inspector general or division that concern  
19 only auditing and investigation are clearly defined and delineated;

20 (2) the responsibilities of the inspector general or  
21 division that involve the execution of the laws remain under the  
22 authority of the department; and

23 (3) the responsibilities of the inspector general or  
24 division that concern only auditing and investigation are  
25 transferred to the office.

26 (c) With respect to responsibilities transferred to the  
27 office under Subsection (b)(3) of this section, the office has

1 discretion with respect to whether to allow employees whose duties  
2 primarily involve a transferred function to remain in the same  
3 physical location while performing those duties or to require that  
4 the employees are housed in another facility.

5 (d) All employees whose duties primarily involve a  
6 transferred function and all property and support staff and  
7 appropriations connected to those employees and their duties are  
8 transferred to the office.

9 SECTION 9.03. (a) Not later than March 1, 2010, the State  
10 Accountability Office shall develop the standard contract  
11 provision required by Section 321.0122, Government Code, as added  
12 by this Act.

13 (b) A department is not required to comply with Section  
14 321.0122, Government Code, as added by this Act, until September 1,  
15 2010.

16 SECTION 9.04. A governmental entity is not required to  
17 submit a report under Section 331.007, Government Code, as added by  
18 this Act, until the end of the first full state fiscal quarter after  
19 the effective date of this Act.

20 SECTION 9.05. (a) In this section, "performance review"  
21 means a function performed by the Legislative Budget Board before  
22 the effective date of this Act under Section 322.015, 322.016,  
23 322.0165, 322.017, or 322.018, Government Code.

24 (b) On the effective date of this Act, the following are  
25 transferred from the Legislative Budget Board to the State  
26 Accountability Office:

27 (1) all employees whose primary duties involved

1 performing or supporting the performance of performance reviews;

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

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

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

18 SECTION 9.06. In the event of a conflict between a provision  
19 of this Act and another Act passed by the 81st Legislature, Regular  
20 Session, 2009, that becomes law, this Act prevails and controls  
21 regardless of the relative dates of enactment.

22 SECTION 9.07. (a) The changes in law made by this Act do not  
23 affect the entitlement of a person who is a member of a board,  
24 commission, or council serving immediately before the effective  
25 date of this Act to continue to carry out the board's, commission's,  
26 or council's functions for the remainder of the member's term.

27 (b) As soon as possible after the effective date of this

1 Act, the lieutenant governor and speaker of the house of  
2 representatives shall appoint members in accordance with Sections  
3 321.002, 322.001, 323.001, and 324.004, Government Code, as amended  
4 by this Act, and Section 331.002, Government Code, as added by this  
5 Act.

6 SECTION 9.08. This Act takes effect immediately if it  
7 receives a vote of two-thirds of all the members elected to each  
8 house, as provided by Section 39, Article III, Texas Constitution.  
9 If this Act does not receive the vote necessary for immediate  
10 effect, this Act takes effect September 1, 2010.