

By: Dunnam

H.B. No. 2942

A BILL TO BE ENTITLED

AN ACT

relating to fiscal accountability and transparency in government operations by providing for effective legislative oversight.

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

ARTICLE 1. SHORT TITLE

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

ARTICLE 2. STATE AUDITOR AND FISCAL RESPONSIBILITY OFFICE

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

CHAPTER 321. TEXAS FISCAL RESPONSIBILITY OFFICE AND STATE AUDITOR

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

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2.03. Subchapter A, Chapter 321, Government Code, as added by this Act, is amended by adding Section 321.0005 to read as follows:

Sec. 321.0005. FINDING AND PURPOSE. (a) The Legislature finds that the public's confidence in their government is highest when there is adequate oversight of government spending and performance by an independent agency that answers to the people's elected representatives.

(b) The purpose of this chapter is to ensure that the State

1 Auditor and the Texas Fiscal Responsibility Office are able to
2 provide the highest level of oversight of government spending and
3 performance to ensure the utmost in government economy and
4 efficiency.

5 SECTION 2.04. Section 321.001, Government Code, is amended
6 by amending Subdivisions (1) and (3) and adding Subdivision (4-a)
7 to read as follows:

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

14 (3) "Board" [~~"Committee"~~] means the Legislative Audit
15 Board [~~legislative audit committee~~].

16 (4-a) "Office" means the Texas Fiscal Responsibility
17 Office.

18 SECTION 2.05. Subchapter A, Chapter 321, Government Code,
19 as added by this Act, is amended by adding Sections 321.0011 and
20 321.0014 to read as follows:

21 Sec. 321.0011. TEXAS FISCAL RESPONSIBILITY OFFICE; HEAD OF
22 OFFICE. The Texas Fiscal Responsibility Office is an independent
23 agency of the legislative branch of state government.

24 Sec. 321.0014. APPLICABILITY TO CERTAIN ENTITIES. This
25 chapter applies to the following entities in the same manner as a
26 department:

27 (1) an independent organization certified by the

1 Public Utility Commission of Texas under Section 39.151, Utilities
2 Code;

3 (2) a regional mobility authority;

4 (3) the Texas Economic Development Corporation;

5 (4) a nonprofit organization that is established by a
6 state officer, agency, board, commission, or department and that
7 solicits gifts, grants, and other donations for the Texas
8 Enterprise Fund under Section 481.078;

9 (5) a nonprofit organization that is established by a
10 state officer, agency, board, commission, or department and that
11 solicits gifts, grants, and other donations; and

12 (6) any public or private person or entity receiving
13 funds made available by or provided under the American Recovery and
14 Reinvestment Act of 2009 (Pub. L. No. 111-5).

15 Sec. 321.0015. REFERENCES IN OTHER LAW. (a) A reference in
16 law to the state auditor's office means the Texas Fiscal
17 Responsibility Office.

18 (b) A reference in law to the legislative audit committee
19 means the Legislative Audit Board.

20 SECTION 2.06. Sections 321.002 and 321.004, Government
21 Code, are amended to read as follows:

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

23 (a) The Legislative Audit Board [~~legislative audit committee~~]
24 consists of:

25 (1) the lieutenant governor;

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

27 (3) the chairman of the senate finance committee;

1 (4) four other members [~~one member~~] of the senate
2 appointed by the lieutenant governor;

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

5 (6) the chairman of the house ways and means
6 committee; and

7 (7) three other members of the house appointed by the
8 speaker.

9 (b) In the absence of the chairman of a house or senate
10 committee, the vice-chairman of the respective committee shall act.

11 (c) Member's of the board [~~committee~~] serve without
12 compensation but are entitled to actual and necessary expenses
13 incurred in performing official duties.

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

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

19 Sec. 321.004. MEETINGS; QUORUM; PROCEDURE FOR TIE VOTE. (a)
20 Except as provided by Subsection (b), a majority of the members of
21 the board from each house constitutes a quorum to transact
22 business. If a quorum is present, the board may act on any matter
23 that is within its jurisdiction by a majority vote.

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

26 (c) The board shall meet as often as necessary to perform
27 its duties. Meetings may be held at any time at the request of

1 either of the joint chairs of the board or on written petition of
2 two of the members of the board from each house.

3 (c-1) Beginning July 1, 2009, the board shall meet at least
4 once each month in Austin to take testimony and receive evidence
5 related to funds received by the state from the Federal government
6 for economic stabilization, including funds received under the
7 American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).
8 This subsection expires January 1, 2011.

9 (d) The board shall meet in Austin, except that if a
10 majority of the members of the board from each house agree, the
11 board may meet in any location determined by the board.

12 (e) Each member of the legislature is entitled to attend and
13 present his views in any meeting of the board, except that a
14 legislator who is not a member of the board may not vote.

15 (f) As an exception to Chapter 551 and other law, if a
16 meeting is located in Austin and the joint chairs of the board are
17 physically present at the meeting, then any number of the other
18 members of the board may attend the meeting by use of telephone
19 conference call, video conference call, or other similar
20 telecommunication device. This subsection applies for purposes of
21 constituting, for a quorum, for purposes of voting, and for any
22 other purpose allowing a member of the board to otherwise fully
23 participate in any meeting of the board. This subsection applies
24 without exception with regard to the subject of the meeting or
25 topics considered by the members.

26 (g) A meeting held by use of telephone conference call,
27 video conference call, or other similar telecommunication device:

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

3 (2) must specify in the notice of the meeting the
4 location in Austin of the meeting at which the joint chairs will be
5 physically present;

6 (3) must be open to the public and shall be audible to
7 the public at the location in Austin specified in the notice of the
8 meeting as the location of the meeting at which the joint chairs
9 will be physically present; and

10 (4) must provide two-way audio communication between
11 all members of the board attending the meeting during the entire
12 meeting, and if the two-way audio communication link with any
13 member attending the meeting is disrupted at any time, the meeting
14 may not continue until the two-way audio communication link is
15 reestablished.

16 (f) If the full board [~~committee~~] is present and is not able
17 to resolve a tie vote within a reasonable time on a matter this
18 chapter requires the committee to decide, the board [~~committee~~]
19 shall select a member of the house or senate to meet with the board
20 [~~committee~~] and to cast the tie-breaking vote.

21 (g) [~~(b)~~] The thirteenth [~~seventh~~] member's duty to the
22 board [~~committee~~] ends when the member casts the tie-breaking vote
23 and the matter is resolved.

24 SECTION 2.07. Subchapter A, Chapter 321, Government Code,
25 as added by this Act, is amended by adding Section 321.003 to read
26 as follows:

27 Sec. 321.003. SUNSET PROVISION. The office and the board

1 are subject to review under Chapter 325 (Texas Sunset Act), but is
2 not abolished under that chapter. The office and board shall be
3 reviewed during the periods in which state agencies abolished in
4 2013 and every 12th year after that year are reviewed.

5 SECTION 2.08. Section 321.005, Government Code, is amended
6 to read as follows:

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

8 (a) The State Auditor is the office's chief executive and
9 administrative officer. The State Auditor shall:

10 (1) administer and enforce this chapter;

11 (2) [~~The committee shall appoint a State Auditor to~~
12 investigate all custodians of state funds, disbursing agents, and
13 department personnel;

14 (3) investigate fraud or abuse in all departments,
15 including misuse of funds, conflicts of interest, contract abuses,
16 and other violations of law;

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

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

23 (6) refer civil matters as appropriate to the attorney
24 general, the district attorney of Travis County, or the prosecuting
25 attorney of the county in which an offense is alleged to have
26 occurred; and

27 (6) perform all other duties and exercise all other

1 powers granted to the office or the State Auditor by this chapter or
2 any other law.

3 (b) The board [~~committee~~] shall appoint the State Auditor.
4 The joint chairs of the board shall execute a written declaration of
5 the person appointed by the board as State Auditor and file the
6 declaration with the secretary of state.

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

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

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

15 SECTION 2.09. Subchapter A, Chapter 321, Government Code,
16 as added by this Act, is amended by amending Sections 321.010 and
17 321.011 and adding Sections 321.0101-321.0102 to read as follows:

18 Sec. 321.010. FIRST ASSISTANT STATE AUDITOR. (a) The State
19 Auditor shall [~~may~~] appoint a first assistant state auditor with
20 the approval of the board.

21 (b) The first assistant state auditor shall:

22 (1) perform the duties and assignments prescribed by
23 the State Auditor; and

24 (2) act as the State Auditor when the State Auditor is
25 absent.

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

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

3 (c) The counsellor 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 Sec. 321.011. PERSONNEL. (a) Subject to the General
11 Appropriations Act or other law, the [The] State Auditor shall
12 appoint assistant state auditors [may employ a professional staff,
13 including assistant auditors] and may employ [stenographic and
14 clerical] personnel as necessary to carry out the powers and duties
15 of the State Auditor and the office under this chapter and other
16 laws granting jurisdiction or applicable to the State Auditor or
17 the office.

18 (b) The State Auditor shall establish the qualifications
19 necessary for appointment or employment. A person appointed or
20 employed must have the experience necessary to qualify the person
21 for the position. The State Auditor may conduct professional
22 examinations to determine the qualifications of a person seeking
23 appointment or employment [prospective staff members].

24 (c) The State Auditor may discharge any assistant state
25 auditors or other [stenographic or clerical] personnel at any time
26 for any reason satisfactory to the State Auditor and without a
27 hearing.

1 (d) The State Auditor and office personnel [~~staff~~] are to be
2 free from partisan politics, and the State Auditor is free to select
3 the most efficient personnel available for each position in the
4 [~~his~~] office so that the State Auditor may render to the legislature
5 the service the legislature has a right to expect.

6 (e) It is against public policy and illegal for a member of
7 the legislature, an officer or employee of the state, or an officer
8 or employee of a state department to recommend or suggest that the
9 State Auditor appoint a person to a position in the office [~~on the~~
10 ~~state auditor's staff~~]. An offense under this section is a Class A
11 misdemeanor.

12 Sec. 321.012. EXPENDITURES AND SALARIES. (a) The board
13 [~~committee~~] directs and controls the expenditure of any money
14 appropriated to the office of the State Auditor and must approve the
15 State Auditor's appropriation requests and must review the audit
16 plan.

17 (b) Before payment may be made on a voucher issued for
18 payment of the salaries and expenses of the office, the State
19 Auditor must approve the voucher.

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

24 (d) Salaries shall be paid monthly.

25 SECTION 2.10. Subchapter A, Chapter 321, Government Code,
26 as added by this Act, is amended by adding Sections
27 321.0121-321.012 to read as follows:

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

3 (1) the functions of the office, including the
4 functions of the state auditor;

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

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

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

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

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

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

26 Sec. 321.0124. POSTING OF CONTRACT INFORMATION ON INTERNET.
27 (a) The office shall post any information received by the office

1 that relates to a contract entered into by a department on an
2 Internet site maintained by or for the office. The office shall post
3 the information in a timely manner after receipt of the
4 information.

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

6 SECTION 2.11. Section 321.023, Government Code, is
7 redesignated as Section 321.009, Government Code, and amended to
8 read as follows:

9 Sec. 321.009 [~~321.023~~]. SEAL. The [~~state auditor shall~~
10 ~~obtain a~~] seal of the office is [~~with "State Auditor, State of~~
11 ~~Texas" engraved around the margin and~~] a five-pointed star in the
12 center with the words "Texas Fiscal Responsibility Office, State of
13 Texas" engraved around the margin. The seal shall [~~to~~] be used to
14 authenticate official documents issued by the state auditor.

15 SECTION 2.12. Chapter 321, Government Code, is amended by
16 designating Sections 321.013-321.022 as Subchapter B and adding a
17 heading for Subchapter B to read as follows:

18 SUBCHAPTER B. AUDITS AND INVESTIGATIONS

19 SECTION 2.13. The heading for Section 321.013 and
20 Subsections (a), (c), and (f) of that section, Government Code, are
21 amended to read as follows:

22 Sec. 321.013. ADDITIONAL POWERS AND DUTIES OF STATE AUDITOR

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

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

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

21 SECTION 2.14. Section 321.016, Government Code, is amended
22 to read as follows:

23 Sec. 321.016. IMPROPER PRACTICES AND ILLEGAL TRANSACTIONS.

24 (a) If in the course of an audit the State Auditor finds evidence of
25 improper practices of financial administration, inadequate fiscal
26 records, uneconomical use of resources, or ineffective program
27 performance, the State Auditor, after consulting with the head of

1 the agency, shall immediately report the evidence to the governor,
2 the board [~~committee~~], the chairmen of the committees of each house
3 with oversight responsibility for the agency, and the
4 administrative head and the chairman of the governing body of the
5 affected department.

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

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

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

27 SECTION 2.15. Subchapter A, Government Code, as added by

1 this Act, is amended by amending Sections 321.018 and 321.019 and
2 adding Section 321.0191 to read as follows:

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

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

8 (1) the State Auditor; or

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

11 (c) On the request of either the State Auditor or one of the
12 joint chairs of the board [~~committee or the secretary of the~~
13 ~~committee~~], the sergeant at arms or an assistant sergeant at arms of
14 either house of the legislature or any peace officer shall serve the
15 subpoena in the manner prescribed for service of a district court
16 subpoena.

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

25 (e) The State Auditor or the board [~~committee~~] may provide
26 for the compensation of subpoenaed witnesses. The amount of
27 compensation may not exceed the amount paid to a witness subpoenaed

1 by a district court in a civil proceeding.

2 Sec. 321.019. INTERFERENCE WITH AUDIT OR INVESTIGATION;
3 CRIMINAL OFFENSE. (a) An officer or employee of this state or of an
4 entity subject to audit or investigation by the state auditor
5 commits an offense if the officer or employee:

6 (1) refuses to immediately permit the State Auditor to
7 examine or have access to the books, accounts, reports, vouchers,
8 papers, documents, or electronic data to which the State Auditor is
9 entitled under Section 321.013(e) or other law, or to the cash
10 drawer, or cash from the officer's or employee's department;

11 (2) interferes with an examination by the State
12 Auditor; or

13 (3) refuses to make a report required by this chapter.

14 (b) An offense under this section is a Class A misdemeanor,
15 except that that an offense under Subsection (a) is a felony of the
16 third degree if the audit or investigation is related to funds made
17 available by or provided under the American Recovery and
18 Reinvestment Act of 2009 (Pub. L. No. 111-5).

19 (c) An offense under this section may be prosecuted in the
20 county in which an element of the offense occurs or in Travis
21 County.

22 Sec. 321.0191. REQUEST FOR INFORMATION; CIVIL PENALTY. (a)
23 The State Auditor may serve upon the officer or employee of any
24 agency or entity written requests for information or inspection of
25 property. A request under this section shall identify with
26 reasonable particularity the information, documents or material
27 sought. A request seeking inspection of documents or property shall

1 describe with reasonable particularity the documents to be produced
2 or the property to which access is requested, and shall set forth
3 the items to be inspected by individual item or by category.

4 (b) An officer or employee who does not produce the
5 documents or grant access to the property not later than 24 hours
6 after the request is served is personally liable to the state for a
7 civil penalty of \$1,000 for each day the conduct continues, except
8 that the civil penalty is \$5,000 for each day the conduct continues
9 if the audit or investigation is related to funds made available by
10 or provided under the American Recovery and Reinvestment Act of
11 2009 (Pub. L. No. 111-5).

12 (c) The attorney general, the district attorney of Travis
13 County, or the prosecuting attorney of the county in which an
14 violation is alleged to have occurred may sue to collect the
15 penalty.

16 SECTION 2.16. Subchapter B, Chapter 321, as added by this
17 Act, is amended by adding Sections 321.020-321.027 to read as
18 follows:

19 Sec. 321.023. GOVERNMENT ACCOUNTABILITY RECOMMENDATIONS.
20 The office shall recommend policies for:

21 (1) the detection of fraud and abuse, including state
22 contract violations, conflicts of interest, and the inappropriate
23 use or unauthorized expenditure of state funds;

24 (2) the identification of participants in any detected
25 fraud or abuse;

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

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

3 Sec. 321.024. RECEIPT AND INVESTIGATION OF COMPLAINTS AND
4 INFORMATION. (a) The State Auditor may receive and investigate
5 complaints and information concerning the possible existence of
6 fraud or abuse.

7 (b) The State Auditor shall establish and operate a toll-
8 free telephone line known as the Texas Government Accountability
9 Hotline that enables a person to call the hotline number to:

10 (1) obtain information concerning audits or
11 investigations conducted by the office; or

12 (2) report an alleged violation of the laws of this
13 state related to government accountability, including laws related
14 to spending, procurement, and auditing, by any agency or entity
15 that may be audited or investigated by the State Auditor.

16 (c) The State Auditor shall establish an Internet page that
17 permits a person to obtain any information a person may obtain from
18 or report any violation a person may report to the hotline.

19 (d) Each agency or entity that may be audited or
20 investigated by the State Auditor that maintains one or more
21 Internet pages shall post on the home page a prominent link to the
22 Internet page maintained by the State Auditor under this section.

23 Sec. 321.025. LEGAL ASSISTANCE. On request of the State
24 Auditor, the district attorney of Travis County or the prosecuting
25 attorney of the county in which an offense is alleged to have
26 occurred shall assist the State Auditor with investigations and
27 provide appropriate legal assistance.

1 Sec. 321.026. LEGAL REFERRAL. (a) After an investigation of
2 possible fraud or abuse, if the State Auditor believes that fraud or
3 abuse by a department may have resulted in the inappropriate use or
4 unauthorized expenditure of state funds, the office may refer the
5 matter to the district attorney of Travis County or the prosecuting
6 attorney of the county in which an offense is alleged to have
7 occurred and recommend that the appropriate district attorney
8 pursue the recovery of state funds.

9 (b) After receiving a referral from the office under this
10 section, the district attorney of Travis County or the prosecuting
11 attorney of the county in which an offense is alleged to have
12 occurred shall review the request, make an independent decision,
13 and issue a written public opinion with respect to the existence of
14 fraud or abuse and whether the district attorney pursue the
15 recovery of state funds.

16 Sec. 321.027. LEGAL REFERRAL RELATED TO RECOVERY ACT
17 MATTERS. (a) Notwithstanding any other provision of law, a matter
18 referred by the State Auditor concerning fraud or other criminal
19 activity in connection with Recovery Act funds may be prosecuted in
20 the county in which an element of the offense occurs or in Travis
21 County.

22 (b) As used in this section, "Recovery Act" means the
23 American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

24 SECTION 8. Sections 322.015, 322.016, 322.0165, 322.017,
25 and 322.018, Government Code, are transferred to Chapter 321,
26 Government Code, redesignated as Subchapter C, Chapter 321,
27 Government Code, and amended with the addition of a subchapter

1 heading to read as follows:

2 SUBCHAPTER C. PERFORMANCE REVIEWS

3 Sec. 321.051 [~~322.015~~]. REVIEW OF INTERSCHOLASTIC
4 COMPETITION. The office [~~board~~] may periodically review and analyze
5 the effectiveness and efficiency of the policies, management,
6 fiscal affairs, and operations of an organization that is a
7 component or part of a state agency or institution and that
8 sanctions or conducts interscholastic competition. The office
9 [~~board~~] shall report the findings to the governor and the
10 legislature. The legislature may consider the office's [~~board's~~]
11 reports in connection with the legislative appropriations process.

12 Sec. 321.052 [~~322.016~~]. PERFORMANCE REVIEW OF SCHOOL
13 DISTRICTS. (a) The office [~~board~~] may periodically review the
14 effectiveness and efficiency of the operations of school districts,
15 including the district's expenditures for its officers' and
16 employees' travel services. A review of a school district may be
17 initiated by the office [~~board~~] at the State Auditor's [~~its~~]
18 discretion or on the request of the school district. A review may be
19 initiated by a school district only by resolution adopted by a
20 majority of the members of the board of trustees of the district.

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

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

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

27 (2) file the report with the school district, the

1 governor, the lieutenant governor, the speaker of the house of
2 representatives, the chairs of the standing committees of the
3 senate and the house of representatives with jurisdiction over
4 public education, and the commissioner of education; and

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

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

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

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

23 (1) public junior colleges; and

24 (2) general academic teaching institutions.

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

27 (1) the governor; or

1 (2) the public junior college or general academic
2 teaching institution.

3 (d) A review may be initiated by a public junior college or
4 general academic teaching institution only at the request of the
5 president of the college or institution or by a resolution adopted
6 by a majority of the governing body of the college or institution.

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

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

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

13 (2) file the report with:

14 (A) the chief executive officer of the public
15 junior college or general academic teaching institution that is the
16 subject of the report; and

17 (B) the governor, the lieutenant governor, the
18 speaker of the house of representatives, the chairs of the standing
19 committees of the senate and of the house of representatives with
20 primary jurisdiction over higher education, and the commissioner of
21 higher education; and

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

24 (g) 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. 321.054 [~~322.017~~]. EFFICIENCY REVIEW OF STATE AGENCIES.

8 (a) In this section, "state agency" has the meaning assigned by
9 Section 2056.001.

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

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

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

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

27 Sec. 321.055 [~~322.018~~]. RECORDS MANAGEMENT REVIEW. (a) In

1 this section, "state agency" has the meaning assigned by Section
2 2056.001.

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

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

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

10 ARTICLE 2. LEGISLATIVE BUDGET BOARD

11 SECTION 2.01. Section 322.001(a), Government Code, is
12 amended to read as follows:

13 Sec. 322.001. MEMBERSHIP. (a) The Legislative Budget Board
14 consists of:

15 (1) the lieutenant governor;

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

17 (3) the chairman of the senate finance committee;

18 (4) the chairman of the house appropriations
19 committee;

20 (5) the chairman of the house ways and means
21 committee;

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

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

26 SECTION 2.02. Chapter 322, Government Code, is amended by
27 adding Section 322.002 to read as follows:

1 Sec. 321.002. SUNSET PROVISION. The board is subject to
2 review under Chapter 325 (Texas Sunset Act), but is not abolished
3 under that chapter. The board shall be reviewed during the periods
4 in which state agencies abolished in 2013 and every 12th year after
5 that year are reviewed.

6 SECTION 2.03. Section 322.003, Government Code, is amended
7 by amending Subsections (a) and (b) and adding Subsections (a-1),
8 (b-1), and (c-1) to read as follows:

9 Sec. 322.003. QUORUM; MEETINGS. (a) Except as provided by
10 Subsection (a-1), a [A] majority of the members of the board from
11 each house constitutes a quorum to transact business. If a quorum is
12 present, the board may act on any matter that is within its
13 jurisdiction by a majority vote.

14 (a-1) Two members of the board from each house constitutes a
15 quorum for the taking of testimony and receiving evidence.

16 (b) The board shall meet as often as necessary to perform
17 its duties. Meetings may be held at any time at the request of
18 either of the joint chairs of the board or on written petition of
19 two [a majority] of the members of the board from each house.

20 (b-1) Beginning July 1, 2009, the board shall meet at least
21 once each month in Austin to take testimony and receive evidence
22 related to funds received by the state from the Federal government
23 for economic stabilization, including funds received under the
24 American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).
25 This subsection expires January 1, 2011.

26 (c-1) Each member of the legislature is entitled to attend
27 and present his views in any meeting of the board, except that a

1 legislator who is not a member of the board may not vote.

2 SECTION 2.04. Chapter 322, Government Code, is amended by
3 adding Sections 322.0141, 322.0142, 322.1043, and 322.0144 to read
4 as follows:

5 Sec. 322.0141. RECOVERY ACT FUNDING. (a) The board shall
6 report monthly on the receipt and use of Recovery Act funds as
7 provided by this section.

8 (b) The board shall issue the report not later than the 15th
9 day of each month following a reporting period. A reporting period
10 consists of a calendar month.

11 (c) The report shall contain the following information:

12 (1) the amount of Recovery Act funding received by
13 each state agency, political subdivision, and private entity under
14 the Act;

15 (2) the title(s) and section(s) of the Recovery Act
16 under which the funding is provided;

17 (3) any outstanding requirements or unmet deadlines
18 for applying for Recovery Act funds;

19 (4) any changes in any requirements associated with
20 Recovery Act funding, including but not limited to spending
21 limitations, state match or cost share requirements, percentage
22 limitations and timeframes;

23 (5) when Recovery Act funding is anticipated to end;

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

26 (7) the number of additional state employees actually
27 employed or projected as needed to oversee or administer Recovery

1 Act funds; and

2 (8) current plans for addressing how each agency will
3 conduct its operations when Recovery Act funds ends.

4 (d) Each state agency, political subdivision, and private
5 entity receiving Recovery Act funds shall provide the board any
6 information requested by the board under this section necessary for
7 the board to prepare a report required under this section and shall
8 submit such reports as the board may require to administer this
9 section.

10 Sec. 322.0142. INTERFERENCE WITH BOARD FUNCTIONS; CRIMINAL
11 OFFENSE. (a) An officer or employee of this state or of an entity
12 receiving Recovery Act funds commits an offense if the officer or
13 employee:

14 (1) refuses to immediately permit the board to examine
15 or have access to the books, accounts, reports, vouchers, papers,
16 documents, or electronic data which the board designated as
17 necessary to prepare the reports required under Section 322.0141;

18 (2) interferes with the Board's reporting duties; or

19 (3) refuses to make a report required by this chapter.

20 (b) An offense under this section is a felony of the third
21 degree.

22 (c) An offense under this section may be prosecuted in the
23 county in which an element of the offense occurs or in Travis
24 County.

25 Sec. 322.0143. REQUEST FOR INFORMATION; CIVIL PENALTY. (a)
26 The board may serve upon the officer or employee of an agency or
27 entity written requests for information or inspection of property

1 necessary to produce the reports under Section 322.0141. A request
2 under this section shall identify with reasonable particularity the
3 information, documents or material sought. A request seeking
4 inspection of documents or property shall describe with reasonable
5 particularity the documents to be produced or the property to which
6 access is requested, and shall set forth the items to be inspected
7 by individual item or by category.

8 (b) An officer or employee who does not produce the
9 documents or grant access to the property not later than 24 hours
10 after the request is served is personally liable to the state for a
11 civil penalty of \$5,000 for each day the conduct continues.

12 (c) The attorney general, the district attorney of Travis
13 County, or the prosecuting attorney of the county in which an
14 violation is alleged to have occurred may sue to collect the
15 penalty.

16 Sec. 322.0144. SUPPLEMENTAL DEFINITION. As used in this
17 chapter, "Recovery Act" means the American Recovery and
18 Reinvestment Act of 2009 (Pub. L. No. 111-5).

19 ARTICLE 3. TEXAS LEGISLATIVE COUNCIL

20 SECTION 3.01. 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 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 3.02. 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 abolished in 2013 and every 12th
11 year after that year are reviewed.

12 SECTION 3.03. Section 323.003, Government Code, by amending
13 Subsections (a) and (b) and adding Subsections (a-1), (b-1), (e),
14 and (f) to read as follows:

15 Sec. 323.003. MEETINGS. (a) The council shall meet as often
16 as necessary to perform its duties. Meetings may be held at any time
17 at the request of either of the joint chairs of the council or on
18 written petition of two of the members of the council from each
19 house.

20 (a-1) Beginning July 1, 2009, the council shall meet at
21 least once very two months in Austin to take testimony and receive
22 evidence related to funds received by the state from the Federal
23 government for economic stabilization, including funds received
24 under the American Recovery and Reinvestment Act of 2009 (Pub. L.
25 No. 111-5). This subsection expires January 1, 2011.

26 (b) Except as provided by Subsection (b-1), a [A] majority
27 of the members of the council from each house of the legislature

1 constitutes a quorum. If a quorum is present, the council may act on
2 any matter that is within its jurisdiction by a majority vote.

3 (b-1) Two members of the council from each house constitutes
4 a quorum for the taking of testimony and receiving evidence.

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

16 (f) A meeting held by use of telephone conference call,
17 video conference 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 council attending the meeting during the entire
2 meeting, and if the two-way audio communication link with any
3 member attending the meeting is disrupted at any time, the meeting
4 may not continue until the two-way audio communication link is
5 reestablished.

6 SECTION 3.04. Sections 323.0145(a)-(b), Government Code,
7 are amended to read as follows:

8 Sec. 323.0145. ELECTRONIC AVAILABILITY OF LEGISLATIVE
9 INFORMATION THROUGH THE INTERNET. (a) In this section:

10 (1) "Internet" means the largest nonproprietary
11 nonprofit cooperative public computer network, popularly known as
12 the Internet.

13 (2) "Legislative information" means:

14 (A) a list of all the members of each house of the
15 legislature;

16 (B) a list of the committees of the legislature
17 and their members;

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

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

24 (E) the calendar of each house of the
25 legislature, the schedule of legislative committee hearings, and a
26 list of the matters pending on the floor of each house of the
27 legislature;

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

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

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

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

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

19 (3) "Recovery Act" means the American Recovery and
20 Reinvestment Act of 2009 (Pub. L. No. 111-5)

21 (b) The council, to the extent it considers it to be
22 feasible and appropriate, may make legislative information
23 available to the public through the Internet. The council shall
24 make legislative information related to the Recovery Act available
25 to the public through the Internet.

1 ARTICLE 4. LEGISLATIVE REFERENCE LIBRARY AND SUNSET ADVISORY

2 COMMISSION

3 SECTION 4.01. Chapter 324, Government Code, is amended by
4 adding Section 324.003 to read as follows:

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

10 SECTION 4.02. Chapter 324, Government Code, is amended by
11 amending Section 324.004 and adding Section 324.0041 to read as
12 follows:

13 Sec. 324.004. LEGISLATIVE LIBRARY BOARD. (a) The board
14 controls and administers the library.

15 (b) The board consists of:

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

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

26 (c) Members of the board serve without compensation but are
27 entitled to reimbursement for actual and necessary expenses

1 incurred in attending meetings and performing official functions.

2 (d) Actual and necessary expenses are paid from funds
3 appropriated to the board.

4 Sec. 323.0041. MEETINGS. (a) The board shall meet as often
5 as necessary to perform its duties. Meetings may be held at any time
6 at the request of either of the joint chairs of the board or on
7 written petition of two of the members of the board from each house.

8 (a-1) Beginning July 1, 2009, the board shall meet at least
9 once every two months in Austin to take testimony and receive
10 evidence related to funds received by the state from the Federal
11 government for economic stabilization, including funds received
12 under the American Recovery and Reinvestment Act of 2009 (Pub. L.
13 No. 111-5). This subsection expires January 1, 2010.

14 (b) Except as provided by Subsection (c), a majority of the
15 members of the board from each house of the legislature constitutes
16 a quorum. If a quorum is present, the board may act on any matter
17 that is within its jurisdiction by a majority vote.

18 (c) Two members of the board from each house constitutes a
19 quorum for the taking of testimony and receiving evidence.

20 (d) As an exception to Chapter 551 and other law, if a
21 meeting is located in Austin and the joint chairs of the board are
22 physically present at the meeting, then any number of the other
23 members of the board may attend the meeting by use of telephone
24 conference call, video conference call, or other similar
25 telecommunication device. This subsection applies for purposes of
26 constituting a quorum, for purposes of voting, and for any other
27 purpose allowing a member of the board to otherwise fully

1 participate in any meeting of the board. This subsection applies
2 without exception with regard to the subject of the meeting or
3 topics considered by the members.

4 (e) A meeting held by use of telephone conference call,
5 video conference call, or other similar telecommunication device:

6 (1) is subject to the notice requirements applicable
7 to other meetings;

8 (2) must specify in the notice of the meeting the
9 location in Austin of the meeting at which the joint chairs will be
10 physically present;

11 (3) must be open to the public and shall be audible to
12 the public at the location in Austin specified in the notice of the
13 meeting as the location of the meeting at which the joint chairs
14 will be physically present; and

15 (4) must provide two-way audio communication between
16 all members of the board attending the meeting during the entire
17 meeting, and if the two-way audio communication link with any
18 member attending the meeting is disrupted at any time, the meeting
19 may not continue until the two-way audio communication link is
20 reestablished.

21 SECTION 4.03. Chapter 324, Government Code, is amended by
22 amending by adding Section 324.0081 to read as follows:

23 Sec. 324.0081. RECOVERY ACT DEPOSITORY. (a) The library
24 shall serve as the central depository for all Recovery Act
25 publications.

26 (b) Each agency, political subdivision, or private entity
27 receiving, disbursing, investigating, auditing, or reporting the

1 use of Recovery Act funds shall provide the library with a copy of
2 each Recovery Act publication.

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

5 (d) As used in this section:

6 (1) "Recovery Act" means the American Recovery and
7 Reinvestment Act of 2009 (Pub. L. No. 111-5)

8 (2) "Recovery Act publication":

9 (A) means information in any format, including
10 materials in a physical format or in an electronic format, related
11 in any way to Recovery Act funds that:

12 (i) is produced by the authority of or at
13 the total or partial expense of a state agency or is required to be
14 distributed under law by the agency; and

15 (ii) is publicly distributed outside the
16 agency by or for the agency;

17 (iii) information the distribution of which
18 is limited to contractors with or grantees of the agency;

19 (iv) information the distribution of which
20 is limited to persons within the agency or within other government
21 agencies; and

22 (B) does not include information the
23 distribution of which is limited to members of the public under a
24 request made under the open records law, Chapter 552.

25 SECTION 4.04. Section 325.011, Government Code, is amended
26 to read as follows:

27 Sec. 325.011. CRITERIA FOR REVIEW. The commission and its

1 staff shall consider the following criteria in determining whether
2 a public need exists for the continuation of a state agency or its
3 advisory committees or for the performance of the functions of the
4 agency or its advisory committees:

5 (1) the efficiency and effectiveness with which the
6 agency or the advisory committee operates;

7 (2)(A) an identification of the mission, goals, and
8 objectives intended for the agency or advisory committee and of the
9 problem or need that the agency or advisory committee was intended
10 to address; and

11 (B) the extent to which the mission, goals, and
12 objectives have been achieved and the problem or need has been
13 addressed;

14 (3)(A) an identification of any activities of the
15 agency in addition to those granted by statute and of the authority
16 for those activities; and

17 (B) the extent to which those activities are
18 needed;

19 (4) an assessment of authority of the agency relating
20 to fees, inspections, enforcement, and penalties;

21 (5) whether less restrictive or alternative methods of
22 performing any function that the agency performs could adequately
23 protect or provide service to the public;

24 (6) the extent to which the jurisdiction of the agency
25 and the programs administered by the agency overlap or duplicate
26 those of other agencies, the extent to which the agency coordinates
27 with those agencies, and the extent to which the programs

1 administered by the agency can be consolidated with the programs of
2 other state agencies;

3 (7) the promptness and effectiveness with which the
4 agency addresses complaints concerning entities or other persons
5 affected by the agency, including an assessment of the agency's
6 administrative hearings process;

7 (8) an assessment of the agency's rulemaking process
8 and the extent to which the agency has encouraged participation by
9 the public in making its rules and decisions and the extent to which
10 the public participation has resulted in rules that benefit the
11 public;

12 (9) the extent to which the agency has complied with:

13 (A) federal and state laws and applicable rules
14 regarding equality of employment opportunity and the rights and
15 privacy of individuals; and

16 (B) state law and applicable rules of any state
17 agency regarding purchasing guidelines and programs for
18 historically underutilized businesses;

19 (10) the extent to which the agency issues and
20 enforces rules relating to potential conflicts of interest of its
21 employees;

22 (11) the extent to which the agency complies with
23 Chapters 551 and 552 and follows records management practices that
24 enable the agency to respond efficiently to requests for public
25 information; ~~and~~

26 (12) the effect of federal intervention or loss of
27 federal funds if the agency is abolished;

1 (13) for a legislative agency, board, or council
2 subject to review under this chapter, the extent to which the
3 agency, board, or council discharged its responsibilities related
4 to Recovery Act funds. As used in this subdivision, "Recovery Act"
5 means the American Recovery and Reinvestment Act of 2009 (Pub. L.
6 No. 111-5).

7 ARTICLE 5. RECOVERY ACT ACCOUNTABILITY BOARD

8 SECTION 5.01. Subtitle C, Title 3, Government Code, is
9 amended by adding Chapter 331 to read as follows:

10 CHAPTER 331. RECOVERY ACT ACCOUNTABILITY BOARD.

11 Sec. 331.001. DEFINITIONS. In this chapter:

12 (1) "Recovery Act" means the American Recovery and
13 Reinvestment Act of 2009 (Pub. L. No. 111-5).

14 (2) "Board" means the Recovery Act Accountability
15 Board.

16 (3) "Legislative agency" means:

17 (A) the Texas Legislative Council;

18 (B) the Legislative Budget Board;

19 (C) the Legislative Reference Library;

20 (D) the Texas Fiscal Responsibility Office; or

21 (E) any other agency in the legislative branch of
22 state government.

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

25 (1) the following voting members:

26 (A) the lieutenant governor;

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

1 (C) one senate member and one house member of the
2 Legislative Audit Board;

3 (D) one senate member and one house member of the
4 Legislature Budget Board;

5 (E) one senate member and one house member of the
6 Texas Legislative Council

7 (F) one senate member and one house member of the
8 Sunset Advisory Commission;

9 (G) one senate member and one house member of the
10 Legislative Library Board;

11 (H) the chairman and vice-chairman of the House
12 Select Committee on Federal Economic Stabilization Funding;

13 (I) four other members of the senate;

14 (J) four other members of the house;

15 (K) two public members appointed by the
16 lieutenant governor; and

17 (L) two public members appointed by the speaker
18 of the house.

19 (2) the following non-voting members:

20 (A) four members of Congress from Texas, with two
21 members selected by the members of each party required by law to
22 hold a primary;

23 (B) the State Auditor;

24 (C) the director of the Legislative Budget Board;

25 (D) the executive director of the Texas
26 Legislative Council;

27 (E) the executive director of the Sunset Advisory

1 Commission; and

2 (F) the director of the Legislative Reference
3 Library.

4 (b) One of the members appointed under Subsection (a)(1)
5 must be the chairman of the senate finance committee. One other
6 member appointed under Subsection (a)(1) must be the chairman of
7 the house appropriations committee.

8 (c) The lieutenant governor and the speaker are joint chairs
9 of the board.

10 (d) Legislative members serving on the board because of
11 their service on another board or committee serve during their
12 service on that board. Other legislative members and public members
13 serve for the term of the board.

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

17 (f) Each member of the board is entitled to reimbursement
18 for actual and necessary expenses incurred in performing commission
19 duties. Each legislative member is entitled to reimbursement from
20 the appropriate fund of the member's respective house. Each public
21 member is entitled to reimbursement from the appropriate fund of
22 the house of the appointing authority.

23 Sec. 331.003. TERM OF BOARD. The board is abolished and this
24 chapter expires December 31, 2013.

25 Sec. 331.004. ADMINISTRATIVE OFFICER. The State Auditor
26 serves as the chief administrative officer of the board.

27 Sec. 331.005. QUORUM; MEETINGS. (a) The board shall meet as

1 often as necessary to perform its duties. Meetings may be held at
2 any time at the request of either of the joint chairs of the board or
3 on written petition of four of the members of the board from each
4 house.

5 (b) Beginning July 1, 2009, the board shall meet at least
6 once each month in Austin to take testimony and receive evidence
7 related to funds received by the state from the Federal government
8 for economic stabilization, including funds received under the
9 American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5).

10 (c) Except as provided by Subsection (b-1), a majority of
11 the members of the board from each house of the legislature
12 constitutes a quorum. If a quorum is present, the board may act on
13 any matter that is within its jurisdiction by a majority vote.

14 (d) Two members of the board from each house constitutes a
15 quorum for the taking of testimony and receiving evidence.

16 (e) Each member of the legislature is entitled to attend and
17 present the legislator's views in any meeting of the board, except
18 that a legislator who is not a member of the board may not vote.

19 (f) As an exception to Chapter 551 and other law, if a
20 meeting is located in Austin and the joint chairs of the board are
21 physically present at the meeting, then any number of the other
22 members of the board may attend the meeting by use of telephone
23 conference call, video conference call, or other similar
24 telecommunication device. This subsection applies for purposes of
25 constituting a quorum, for purposes of voting, and for any other
26 purpose allowing a member of the board to otherwise fully
27 participate in any meeting of the board. This subsection applies

1 without exception with regard to the subject of the meeting or
2 topics considered by the members.

3 (g) A meeting held by use of telephone conference call,
4 video conference call, or other similar telecommunication device:

5 (1) is subject to the notice requirements applicable
6 to other meetings;

7 (2) must specify in the notice of the meeting the
8 location in Austin of the meeting at which the joint chairs will be
9 physically present;

10 (3) must be open to the public and shall be audible to
11 the public at the location in Austin specified in the notice of the
12 meeting as the location of the meeting at which the joint chairs
13 will be physically present; and

14 (4) must provide two-way audio communication between
15 all members of the board attending the meeting during the entire
16 meeting, and if the two-way audio communication link with any
17 member attending the meeting is disrupted at any time, the meeting
18 may not continue until the two-way audio communication link is
19 reestablished.

20 Sec. 331.006. POWERS AND DUTIES. The board shall coordinate
21 the auditing and reviews of spending of funds provided to the state
22 through the Recovery Act that are conducted by a legislative agency
23 to ensure that duplication and overlap of legislative agency work
24 is avoided.

25 Sec. 331.007. HEARINGS; INVESTIGATIONS AND SURVEYS.

26 (a) The board may hold public or executive hearings to make
27 investigations and surveys.

1 (b) The hearing shall be held at a time and place in the
2 state determined by the board.

3 (c) The board may:

4 (1) inspect and copy any book, record, file, or other
5 instrument or document of a department, institution, county, or
6 political subdivision of the state that is pertinent to a matter
7 under investigation by the board; and

8 (2) examine and audit the books of a person, firm, or
9 corporation having dealings with a department or institution under
10 investigation by the board.

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

13 Sec. 331.008. SUBPOENAS. (a) The board may issue subpoenas
14 to compel the attendance of witnesses and the production of books,
15 records, or other documents in their custody.

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

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

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

26 (e) The district court shall enforce a board subpoena by
27 attachment proceedings for contempt in the same manner the court

1 enforces a subpoena issued by that court.

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

5 Sec. 331.009. ASSISTANCE FROM OTHER AGENCIES; CONTRACTS.

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

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

11 (1) the counsellor of the Texas Fiscal Responsibility
12 Office; or

13 (2) the director of the legal division of the Texas
14 Legislative Council.

15 ARTICLE 6. CONFORMING CHANGES

16 SECTION 6.01. Sections 326.001 and 326.003, Government
17 Code, are amended to read as follows:

18 Sec. 326.001. DEFINITION. In this chapter, "legislative
19 agency" means:

- 20 (1) the senate;
- 21 (2) the house of representatives;
- 22 (3) a committee, division, department, or office of
23 the senate or house;
- 24 (4) the Texas Legislative Council;
- 25 (5) the Legislative Budget Board;
- 26 (6) the Legislative Reference Library;
- 27 (7) the Texas Fiscal Responsibility Office [~~office of~~

1 ~~the State Auditor~~];

2 (7-a) the Recovery Act Accountability Board; or

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

5 Sec. 326.003. COMMITTEE OF TEXAS FISCAL RESPONSIBILITY
6 OFFICE [~~STATE AUDITOR'S~~] OFFICE, LEGISLATIVE BUDGET BOARD, AND
7 SUNSET ADVISORY COMMISSION. (a) The Texas Fiscal Responsibility
8 [~~State Auditor's~~] Office, Legislative Budget Board, and Sunset
9 Advisory Commission shall form a committee to make recommendations
10 relating to the coordination of the agencies' functions.

11 (b) The committee shall meet on a regular basis at least
12 quarterly. The State Auditor shall call each meeting.

13 (c) Each agency shall designate a supervisory level staff
14 member as its representative on the committee.

15 (d) Not later than one month after the date of a meeting, the
16 committee shall submit its recommendations in writing to the head
17 of each agency and the members of the Legislative Audit Board
18 [~~legislative audit committee~~].

19 SECTION 6.02. Section 783.003(4), Government Code, is
20 amended to read as follows:

21 Sec. 783.003. DEFINITIONS. In this chapter:

22 (4) "State agency" means a state board, commission, or
23 department, or office having statewide jurisdiction, but does not
24 include a state college or university or an agency of the
25 legislative branch.

26 ARTICLE 7. TRANSITION PROVISIONS AND EFFECTIVE DATES

27 SECTION 7.01. (a) On the effective date of this Act the

1 state auditor's office is renamed the Texas Fiscal Responsibility
2 Office.

3 (b) The validity of an action taken by the state auditor,
4 the state auditor's office, or the legislative audit committee is
5 not affected by the change in names of the state auditor's office
6 and the legislative audit committee.

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

8 (1) all functions, activities, employees, rules,
9 forms, money, property, contracts, records, and obligations of the
10 state auditor's office become functions, activities, employees,
11 rules, forms, money, property, contracts, records, and obligations
12 of the Texas Fiscal Responsibility Office without a change in
13 status;

14 (2) a reference in law to the state auditor's office
15 means the Texas Fiscal Responsibility Office; and

16 (3) all funds appropriated by the state auditor's
17 office, including funds for providing administrative support for
18 the state auditor's office, such as funds to pay the salary and
19 benefits of employees who provide administrative support, are
20 transferred to the Texas Fiscal Responsibility Office.

21 SECTION 7.02. (a) In this section, "board," "department,"
22 and "office" have the meanings assigned by Section 321.001,
23 Government Code, as amended by this Act.

24 (c) During the time before the effective date of this Act,
25 any person who performs a function related to the investigation of
26 fraud or abuse immediately before the effective date of this Act
27 continues to keep the same functions that the person had under the

1 law as it existed immediately before the effective date of this Act,
2 and the former law is continued in effect for that purpose.

3 (d) Except as provided by Subsection (c) of this section,
4 the powers, duties, and functions of an inspector general or other
5 officer or employee of a department that relate to the
6 investigation of fraud or abuse are transferred to the State
7 Auditor under Subchapter B, Chapter 321, Government Code, as added
8 by this Act.

9 (e) Except as provided by Subsection (c) of this section,
10 the personnel, property, and obligations of an inspector general or
11 other officer or employee of the department that relate to the
12 investigation of fraud or abuse are transferred to the inspector
13 general.

14 (f) A department procedure that relates to the
15 investigation of fraud or abuse remains in effect as a department
16 procedure until procedures are developed by the State Auditor under
17 Subchapter B.

18 (g) Except as provided by Subsection (c) of this section, a
19 reference in law to an inspector general or other officer or
20 employee of a department that relates to the investigation of fraud
21 or abuse means the State Auditor.

22 (h) The validity of a prior action that relates to the
23 investigation of fraud or abuse is not affected by the transfer.

24 SECTION 7.03. (a) Not later than March 1, 2010, the Texas
25 Fiscal Responsibility Office shall develop the standard contract
26 provision required by Section 321.026, Government Code, as added by
27 this Act.

1 (b) A department is not required to comply with Section
2 321.026, Government Code, as added by this Act, until September 1,
3 2010.

4 SECTION 7.04. (a) In this section, "performance review"
5 means a function performed by the Legislative Budget Board before
6 the effective date of this Act under Section 322.015, 322.016,
7 322.0165, 322.017, or 322.018, Government Code.

8 (b) On the effective date of this Act, the following are
9 transferred from the Legislative Budget Board to the Texas Fiscal
10 Responsibility Office:

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

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

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

18 (c) If the Legislative Budget Board does not receive
19 appropriations specifically designated for performance review
20 purposes for the state fiscal biennium beginning September 1, 2009,
21 and has not specifically budgeted amounts for performance review
22 purposes for that biennium, an amount equal to the amount of
23 appropriations specifically designated for or budgeted by the
24 Legislative Budget Board for performance review purposes for the
25 state fiscal biennium beginning September 1, 2007, is transferred
26 from appropriations made to the Legislative Budget Board for the
27 state fiscal biennium beginning September 1, 2009, to the Texas

1 Fiscal Responsibility Office for that biennium.

2 SECTION 7.05. In the event of a conflict between a provision
3 of this Act and another Act passed by the 81st Legislature, Regular
4 Session, 2009, that becomes law, this Act prevails and controls
5 regardless of the relative dates of enactment.

6 SECTION 7.06. A person holding an office for which this Act
7 alters the duties of that office or serving as a member of a board,
8 committee, or council for which this Act alters the composition of
9 the board, committee, or council does not vacate the office or the
10 board, committee, or council because of the changes made by this Act
11 and those persons continue in office or as members of the board,
12 committee, or council.

13 SECTION 7.07. This Act takes effect immediately if it
14 receives a vote of two-thirds of all the members elected to each
15 House, as provided by Section 39, Article III, Texas Constitution.
16 If this Act does not receive the vote necessary for immediate
17 effect, this Act takes effect September 1, 2009.