

1-1 By: Bettencourt, et al. S.B. No. 933
 1-2 (In the Senate - Filed February 20, 2019; March 1, 2019,
 1-3 read first time and referred to Committee on Education;
 1-4 April 9, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 10, Nays 0; April 9, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Taylor	X			
1-9 Lucio	X			
1-10 Bettencourt	X			
1-11 Campbell	X			
1-12 Fallon	X			
1-13 Hall	X			
1-14 Hughes			X	
1-15 Paxton	X			
1-16 Powell	X			
1-17 Watson	X			
1-18 West	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 933 By: Bettencourt

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the creation of the office of inspector general at the
 1-24 Texas Education Agency to investigate the administration of public
 1-25 education.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Chapter 7, Education Code, is amended by adding
 1-28 Subchapter E to read as follows:

1-29 SUBCHAPTER E. OFFICE OF INSPECTOR GENERAL

1-30 Sec. 7.151. DEFINITIONS. In this subchapter:

1-31 (1) "Fraud" means an intentional deception or
 1-32 misrepresentation made by a person with the knowledge that the
 1-33 deception could result in some unauthorized benefit to that person
 1-34 or some other person. The term includes any act that constitutes
 1-35 fraud under applicable federal or state law.

1-36 (2) "Office" means the office of inspector general
 1-37 established under this subchapter.

1-38 Sec. 7.152. OFFICE OF INSPECTOR GENERAL. (a) The office
 1-39 of inspector general is established as a division within the
 1-40 agency.

1-41 (b) The commissioner shall appoint an inspector general to
 1-42 serve as director of the office. The inspector general serves until
 1-43 removed by the commissioner.

1-44 (c) The agency shall provide staff and administrative
 1-45 resources and support services as necessary to ensure
 1-46 investigations and reviews authorized by this subchapter are
 1-47 conducted expeditiously.

1-48 Sec. 7.153. GENERAL RESPONSIBILITIES. (a) The office is
 1-49 responsible for the investigation, prevention, and detection of
 1-50 criminal misconduct and wrongdoing and of fraud, waste, and abuse
 1-51 in the administration of public education by the agency, the State
 1-52 Board of Education, school districts, open-enrollment charter
 1-53 schools, regional education service centers, and other local
 1-54 education agencies in this state.

1-55 (b) The office shall investigate allegations of fraud,
 1-56 waste, and abuse and violations of this code or other law.

1-57 (c) The office may:

1-58 (1) conduct criminal, civil, and administrative
 1-59 investigations and initiate reviews of the agency, the State Board
 1-60 of Education, a school district, an open-enrollment charter school,

2-1 a regional education service center, or another local education
 2-2 agency as considered appropriate by the inspector general;

2-3 (2) receive and investigate complaints from any source
 2-4 on its own initiative;

2-5 (3) conduct special accreditation investigations
 2-6 authorized by the commissioner under Section 39.057(a); and

2-7 (4) make findings of fact that the agency, the State
 2-8 Board of Education, a school district, an open-enrollment charter
 2-9 school, a regional education service center, or another local
 2-10 education agency or an employee or agent of the entity committed an
 2-11 act of criminal misconduct, wrongdoing, fraud, waste, or abuse in
 2-12 the administration of public education and take appropriate action
 2-13 as determined by the commissioner, regardless of any time
 2-14 requirement relating to the action under Chapter 8, 12, or 39A.

2-15 (d) The commissioner or chair of any legislative committee
 2-16 may order the office to conduct a forensic audit of any entity over
 2-17 which the office has jurisdiction.

2-18 (e) The office shall perform all other duties and exercise
 2-19 all other powers granted to the office by this subchapter or another
 2-20 law.

2-21 Sec. 7.154. GENERAL POWERS. (a) The office has all the
 2-22 powers necessary or appropriate to carry out its responsibilities
 2-23 and functions under this subchapter and other law.

2-24 (b) Subject to Subsection (c), in conducting an
 2-25 investigation under this subchapter of the agency, the State Board
 2-26 of Education, the board of trustees of a school district, the
 2-27 governing body of an open-enrollment charter school, the board of
 2-28 directors of a regional education service center, another local
 2-29 education agency, or the executive leadership of any of those
 2-30 entities, the office may:

2-31 (1) attend any meeting or proceeding of the agency,
 2-32 State Board of Education, school district, open-enrollment charter
 2-33 school, regional education service center, or other local education
 2-34 agency, including a meeting or proceeding that is closed to the
 2-35 public; and

2-36 (2) inspect the records, documents, and files of the
 2-37 agency, State Board of Education, school district, open-enrollment
 2-38 charter school, regional education service center, or other local
 2-39 education agency, including any record, document, or file that is
 2-40 an attorney-client communication between a member of the State
 2-41 Board of Education, executive leadership of the agency, board of
 2-42 trustees of a school district, governing body of an open-enrollment
 2-43 charter school, board of directors of a regional education service
 2-44 center, or executive leadership of another local education agency
 2-45 and the attorney of the entity by which the person is employed.

2-46 (c) The office's authority under Subsection (b) applies
 2-47 only to a meeting, a proceeding, or information that is relevant to
 2-48 the discovery of relevant information regarding an allegation of
 2-49 criminal misconduct, wrongdoing, or a violation of this code or of
 2-50 fraud, waste, or abuse in the administration of public education by
 2-51 a person or entity described by Subsection (b). The office may not
 2-52 inspect a record, document, or file that is a privileged
 2-53 communication between an individual and the individual's personal
 2-54 attorney.

2-55 Sec. 7.155. SUBPOENAS. (a) The inspector general may
 2-56 issue a subpoena to compel the attendance of a relevant witness at a
 2-57 hearing or deposition under this subchapter or to compel the
 2-58 production, for inspection or copying, of books, papers, records,
 2-59 documents, or other relevant materials, including electronic data,
 2-60 in connection with an investigation, review, hearing, or deposition
 2-61 conducted under this subchapter.

2-62 (b) A subpoena may be served personally or by certified
 2-63 mail. If a person fails to comply with a subpoena, the inspector
 2-64 general, acting through the attorney general, may file suit to
 2-65 enforce the subpoena in a district court in this state.

2-66 (c) On finding that good cause exists for issuing the
 2-67 subpoena, the court shall order the person to comply with the
 2-68 subpoena. The court may hold in contempt a person who fails to obey
 2-69 the court order.

3-1 Sec. 7.156. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND
 3-2 OTHER ENTITIES. (a) The office may provide information and
 3-3 evidence relating to criminal acts to the state auditor's office
 3-4 and appropriate law enforcement officials.

3-5 (b) The office may refer matters for further civil,
 3-6 criminal, and administrative action to appropriate administrative
 3-7 and prosecutorial agencies, including the attorney general.

3-8 SECTION 2. Section 39.057(a), Education Code, is amended to
 3-9 read as follows:

3-10 (a) The commissioner may authorize special accreditation
 3-11 investigations to be conducted:

3-12 (1) when excessive numbers of absences of students
 3-13 eligible to be tested on state assessment instruments are
 3-14 determined;

3-15 (2) when excessive numbers of allowable exemptions
 3-16 from the required state assessment instruments are determined;

3-17 (3) in response to complaints submitted to the agency
 3-18 with respect to alleged violations of civil rights or other
 3-19 requirements imposed on the state by federal law or court order;

3-20 (4) in response to established compliance reviews of
 3-21 the district's financial accounting practices and state and federal
 3-22 program requirements;

3-23 (5) when extraordinary numbers of student placements
 3-24 in disciplinary alternative education programs, other than
 3-25 placements under Sections 37.006 and 37.007, are determined;

3-26 (6) in response to an allegation involving a conflict
 3-27 between members of the board of trustees or between the board and
 3-28 the district administration if it appears that the conflict
 3-29 involves a violation of a role or duty of the board members or the
 3-30 administration clearly defined by this code;

3-31 (7) when excessive numbers of students in special
 3-32 education programs under Subchapter A, Chapter 29, are assessed
 3-33 through assessment instruments developed or adopted under Section
 3-34 39.023(b);

3-35 (8) in response to an allegation regarding or an
 3-36 analysis using a statistical method result indicating a possible
 3-37 violation of an assessment instrument security procedure
 3-38 established under Section 39.0301, including for the purpose of
 3-39 investigating or auditing a school district under that section;

3-40 (9) when a significant pattern of decreased academic
 3-41 performance has developed as a result of the promotion in the
 3-42 preceding two school years of students who did not perform
 3-43 satisfactorily as determined by the commissioner under Section
 3-44 39.0241(a) on assessment instruments administered under Section
 3-45 39.023(a), (c), or (l);

3-46 (10) when excessive numbers of students eligible to
 3-47 enroll fail to complete an Algebra II course or any other advanced
 3-48 course as determined by the commissioner;

3-49 (11) when resource allocation practices as evaluated
 3-50 under Section 39.0821 indicate a potential for significant
 3-51 improvement in resource allocation;

3-52 (12) when a disproportionate number of students of a
 3-53 particular demographic group is graduating with a particular
 3-54 endorsement under Section 28.025(c-1);

3-55 (13) when an excessive number of students is
 3-56 graduating with a particular endorsement under Section
 3-57 28.025(c-1);

3-58 (14) in response to a complaint submitted to the
 3-59 agency with respect to alleged inaccurate data that is reported
 3-60 through the Public Education Information Management System (PEIMS)
 3-61 or through other reports required by state or federal law or rule or
 3-62 court order and that is used by the agency to make a determination
 3-63 relating to public school accountability, including accreditation,
 3-64 under this chapter;

3-65 (15) when a school district for any reason fails to
 3-66 produce, at the request of the agency, evidence or an investigation
 3-67 report relating to an educator who is under investigation by the
 3-68 State Board for Educator Certification; ~~[or]~~

3-69 (16) by the office of inspector general for the

4-1 purpose of investigating allegations of fraud, waste, and abuse in
4-2 the administration of public education; or
4-3 (17) as the commissioner otherwise determines
4-4 necessary.

4-5 SECTION 3. The Texas Education Agency is required to
4-6 implement a provision of this Act only if the legislature
4-7 appropriates money specifically for that purpose. If the
4-8 legislature does not appropriate money specifically for that
4-9 purpose, the agency may, but is not required to, implement a
4-10 provision of this Act using other appropriations available for that
4-11 purpose.

4-12 SECTION 4. This Act takes effect immediately if it receives
4-13 a vote of two-thirds of all the members elected to each house, as
4-14 provided by Section 39, Article III, Texas Constitution. If this
4-15 Act does not receive the vote necessary for immediate effect, this
4-16 Act takes effect September 1, 2019.

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