

By: Rose

H.B. No. 3579

A BILL TO BE ENTITLED

AN ACT

relating to the office of inspector general.

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

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. INSPECTOR GENERAL

Sec. 531.451. DEFINITIONS. In this subchapter:

(1) "Fraud" has the meaning assigned by Section 531.1011.

(2) "Inspector general" means the inspector general appointed under this subchapter.

(3) "Office" means the Office of Inspector General.

(4) "Provider" has the meaning assigned by Section 531.1011.

(5) "Review" includes an inspection, investigation, audit, or similar activity.

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

Sec. 531.452. REFERENCE IN OTHER LAW. Notwithstanding any other provision of law, a reference in law or rule to the commission's office of inspector general or the commission's office of investigations and enforcement means the Office of Inspector General.

1           Sec. 531.453. OFFICE OF INSPECTOR GENERAL; ADMINISTRATIVE  
2 ATTACHMENT. (a) The Office of Inspector General is responsible  
3 for:

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

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

8           (3) the prevention and detection of crime relating to  
9 the provision of those services.

10           (b) The office is administratively attached to the  
11 commission. The commission shall provide to the office  
12 administrative support services from the commission and from the  
13 health and human services agencies.

14           Sec. 531.454. SERVICE LEVEL AGREEMENT; FUNDS. (a) The  
15 commission and the office shall enter into a service level  
16 agreement that establishes the performance standards and  
17 deliverables with regard to administrative support by the  
18 commission.

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

22           (c) The commission shall request, apply for, and receive for  
23 the office any appropriations or other money from this state or the  
24 federal government.

25           (d) The commission shall provide to the office for the state  
26 fiscal biennium beginning September 1, 2007, the same level of  
27 administrative support the commission provided to the office

1 established under former Section 531.102 for the state fiscal  
2 biennium beginning September 1, 2005. This subsection expires  
3 January 1, 2010.

4 Sec. 531.455. DUTIES OF COMMISSION. (a) The commission  
5 shall:

6 (1) provide administrative assistance to the office;  
7 and

8 (2) coordinate administrative responsibilities with  
9 the office to avoid unnecessary duplication of duties.

10 (b) The commission may not take an action that affects or  
11 relates to the validity, status, or terms of an interagency  
12 agreement or a contract to which the office is a party without the  
13 office's approval.

14 Sec. 531.456. INDEPENDENCE OF OFFICE. (a) Except as  
15 otherwise provided by this chapter, the office and inspector  
16 general operate independently of the commission.

17 (b) The inspector general, and not the executive  
18 commissioner, supervises the office staff. However, the office  
19 staff must be included in the commission's calculation of its cost  
20 allocation plan.

21 Sec. 531.457. INSPECTOR GENERAL: APPOINTMENT AND TERM. (a)  
22 The governor shall appoint an inspector general to serve as  
23 director of the office.

24 (b) The inspector general serves a two-year term that  
25 expires on February 1 of each odd-numbered year.

26 Sec. 531.458. CONFLICT OF INTEREST. (a) The inspector  
27 general may not serve as an ex officio member on the governing body

1 of a governmental entity.

2 (b) The inspector general may not have a financial interest  
3 in the transactions of the office, a health and human services  
4 agency, or a health or human services provider.

5 Sec. 531.459. RULEMAKING BY INSPECTOR GENERAL. (a)  
6 Notwithstanding Section 531.0055(e) and any other law, the  
7 inspector general shall adopt the rules necessary to administer the  
8 functions of the office, including rules to address the imposition  
9 of sanctions and penalties for violations and due process  
10 requirements for imposing sanctions and penalties.

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

17 (c) The office may submit proposed rules and adopted rules  
18 to the commission for publication. The executive commissioner or  
19 commission may not amend or modify a rule submitted by the office.

20 (d) The rules must include standards for the office that  
21 emphasize:

22 (1) coordinating investigative efforts to  
23 aggressively recover money;

24 (2) allocating resources to cases that have the  
25 strongest supportive evidence and the greatest potential for  
26 recovery of money; and

27 (3) maximizing opportunities for referral of cases to

1 the office of the attorney general.

2 Sec. 531.460. EMPLOYEES; TRAINING. (a) The inspector  
3 general may employ personnel as necessary to implement the duties  
4 of the office.

5 (b) The inspector general shall train office personnel to  
6 pursue priority Medicaid and other health and human services fraud,  
7 waste, and abuse cases efficiently and as necessary.

8 (c) The inspector general may contract with certified  
9 public accountants, management consultants, or other professional  
10 experts necessary to enable the inspector general and office  
11 personnel to independently perform the functions of the inspector  
12 general's office.

13 (d) The inspector general may require employees of health  
14 and human services agencies to provide assistance to the office in  
15 connection with the office's duties relating to the investigation  
16 of fraud, waste, and abuse in the provision of health and human  
17 services.

18 Sec. 531.461. PEACE OFFICERS. (a) The office may  
19 commission and employ peace officers to carry out duties within the  
20 scope of the duties of the office.

21 (b) A commissioned peace officer or other designated law  
22 enforcement officer employed by the office is not entitled to  
23 supplemental benefits from the law enforcement and custodial  
24 officer supplemental retirement fund under Title 8.

25 Sec. 531.462. REVIEW, INVESTIGATION, AND AUDIT AUTHORITY.

26 (a) The inspector general may evaluate any activity or operation of  
27 a health and human services agency, health or human services

1 provider, or person in this state that is related to the  
2 investigation, detection, or prevention of fraud, waste, abuse, or  
3 employee misconduct in a state or state-funded health or human  
4 services program. A review may include an investigation or other  
5 inquiry into a specific act or allegation of, or a specific  
6 financial transaction or practice that may involve, impropriety,  
7 malfeasance, or nonfeasance in the obligation, spending, receipt,  
8 or other use of state money.

9 (b) The office shall conduct reviews and inspections to  
10 protect the public and detect and prevent fraud, waste, and abuse in  
11 the provision of health and human services.

12 (c) The office shall conduct internal affairs  
13 investigations in instances of suspected fraud, waste, and abuse  
14 and in instances of suspected misconduct by employees, contractors,  
15 subcontractors, and vendors.

16 (d) The executive commissioner, the commission, or a health  
17 and human services agency of this state may not impair or prohibit  
18 the inspector general from initiating or completing a review.

19 (e) The inspector general may audit and review the use and  
20 effectiveness of state funds, including contract and grant funds,  
21 administered by a person or state agency receiving the funds in  
22 connection with a state or state-funded health or human services  
23 program.

24 Sec. 531.463. INITIATION OF REVIEW; INTEGRITY REVIEW. (a)  
25 The inspector general may initiate a review:

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

27 (2) at the request of the commission or executive

1 commissioner; or

2 (3) based on a complaint from any source concerning a  
3 matter described by Section 531.462.

4 (b) The office shall conduct an integrity review to  
5 determine whether there is sufficient basis to warrant a full  
6 investigation on receipt of any complaint of fraud, waste, or abuse  
7 of funds in the state Medicaid program from any source.

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

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

18 (1) if a provider is suspected of fraud involving  
19 criminal conduct, the office must refer the case to the state's  
20 Medicaid fraud control unit, provided that the criminal referral  
21 does not preclude the office from continuing its investigation of  
22 the provider or preclude the imposition of appropriate  
23 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 office may conduct a  
26 full investigation of the suspected fraud.

27 Sec. 531.464. ACCESS TO INFORMATION. To further a review

1 conducted by the office, the inspector general is entitled to  
2 access all books, records, accounts, documents, reports, vouchers,  
3 databases, systems, or other information, including confidential  
4 information, electronic data, and internal records relevant to the  
5 functions of the office, maintained by a person, health and human  
6 services agency, or health or human services provider in connection  
7 with a state or state-funded health or human services program.

8 Sec. 531.465. COOPERATION REQUIRED. To further a review  
9 conducted by the inspector general's office, the inspector general  
10 is entitled to full and unrestricted access to all offices, limited  
11 access or restricted areas, employees, equipment, and computers,  
12 including areas, equipment, and computers that contain  
13 confidential information and internal records, relevant to the  
14 functions of the office that are maintained by a person, health and  
15 human services agency, or health and human services provider in  
16 connection with a state or state-funded health or human services  
17 program.

18 Sec. 531.466. REFERRAL TO STATE MEDICAID FRAUD CONTROL  
19 UNIT. (a) At the time the office learns or has reason to suspect  
20 that a health or human services provider's records related to  
21 participation in the state Medicaid program are being withheld,  
22 concealed, destroyed, fabricated, or in any way falsified, the  
23 office shall immediately refer the case to the state's Medicaid  
24 fraud control unit.

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



1 administrative or civil sanctions.

2 Sec. 531.467. HOLD ON CLAIM REIMBURSEMENT PAYMENT;  
3 EXCLUSION FROM PROGRAMS. (a) In addition to other instances  
4 authorized under state or federal law, the office shall impose  
5 without prior notice a hold on payment of claims for reimbursement  
6 submitted by a health or human services provider to compel  
7 production of records related to participation in the state  
8 Medicaid program or on request of the state's Medicaid fraud  
9 control unit, as applicable.

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

13 (c) The office shall, in consultation with the state's  
14 Medicaid fraud control unit, establish guidelines under which holds  
15 on payment or exclusions from a state or state-funded program:

16 (1) may permissively be imposed on a health or human  
17 services provider; or

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

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

1 parties in the contested case.

2 Sec. 531.468. REQUEST FOR EXPEDITED HEARING. (a) On timely  
3 written request by a health or human services provider subject to a  
4 hold on payment under Section 531.467, other than a hold requested  
5 by the state's Medicaid fraud control unit, the office shall file a  
6 request with the State Office of Administrative Hearings or the  
7 hearings division of the commission for an expedited administrative  
8 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 office under Section 531.467(b).

12 Sec. 531.469. INFORMAL RESOLUTION. (a) The inspector  
13 general shall adopt rules that allow a health or human services  
14 provider subject to a hold on payment under Section 531.467, other  
15 than a hold requested by the state's Medicaid fraud control unit, to  
16 seek an informal resolution of the issues identified by the office  
17 in the notice provided under that section.

18 (b) A health or human services provider must seek an  
19 informal resolution not later than the 10th day after the date the  
20 provider receives notice from the office under Section 531.467(b).

21 (c) A health or human services provider's decision to seek  
22 an informal resolution does not extend the time by which the  
23 provider must request an expedited administrative hearing under  
24 Section 531.468.

25 (d) A hearing initiated under Section 531.467 shall be  
26 stayed at the office's request until the informal resolution  
27 process is completed.

1       Sec. 531.470. EMPLOYEE REPORTS. The inspector general may  
2 require employees at the commission or a health and human services  
3 agency to report to the office information regarding fraud, waste,  
4 misuse or abuse of funds or resources, corruption, or illegal acts.

5       Sec. 531.471. SUBPOENAS. (a) The inspector general may  
6 issue a subpoena to compel the attendance of a relevant witness or  
7 the production, for inspection or copying, of relevant evidence in  
8 connection with a review conducted under this subchapter.

9       (b) A subpoena may be served personally or by certified  
10 mail.

11       (c) If a person fails to comply with a subpoena, the  
12 inspector general, acting through the attorney general, may file  
13 suit to enforce the subpoena in a district court in this state.

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

18       (e) The reimbursement of the expenses of a witness whose  
19 attendance is compelled under this section is governed by Section  
20 2001.103.

21       Sec. 531.472. INTERNAL AUDITOR. (a) In this section,  
22 "internal auditor" means a person appointed under Section 2102.006.

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

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

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

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

5                 (1) part or division of the agency;

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

7                 (3) program conducted by the agency.

8           Sec. 531.473. COOPERATION WITH LAW ENFORCEMENT OFFICIALS  
9 AND OTHER ENTITIES. (a) The inspector general may provide  
10 information and evidence relating to criminal acts to the state  
11 auditor's office and appropriate law enforcement officials.

12           (b) The inspector general may refer matters for further  
13 civil, criminal, and administrative action to appropriate  
14 administrative and prosecutorial agencies, including the attorney  
15 general.

16           (c) The inspector general may enter into a memorandum of  
17 understanding with a law enforcement or prosecutorial agency,  
18 including the office of the attorney general, to assist in  
19 conducting a review under this subchapter.

20           Sec. 531.474. COOPERATION AND COORDINATION WITH STATE  
21 AUDITOR. (a) The state auditor may, on request of the inspector  
22 general, provide appropriate information or other assistance to the  
23 inspector general or office, as determined by the state auditor.

24           (b) The inspector general may meet with the state auditor's  
25 office to coordinate a review conducted under this subchapter,  
26 share information, or schedule work plans.

27           (c) The state auditor is entitled to access all information

1 maintained by the inspector general, including vouchers,  
2 electronic data, internal records, and information obtained under  
3 Section 531.464 or subject to Section 531.481.

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

7 Sec. 531.475. PREVENTION. (a) The inspector general may  
8 recommend to the commission and executive commissioner policies on:

9 (1) promoting economical and efficient administration  
10 of state funds administered by an individual or entity that  
11 received the funds from a health and human services agency; and

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

14 (b) The inspector general may provide training or other  
15 education regarding the prevention of fraud, waste, or abuse to  
16 employees of a health and human services agency. The training or  
17 education provided must be approved by the presiding officer of the  
18 agency.

19 Sec. 531.476. RULEMAKING BY EXECUTIVE COMMISSIONER. The  
20 executive commissioner may adopt rules governing a health and human  
21 services agency's response to reports and referrals from the  
22 inspector general on issues identified by the inspector general  
23 related to the agency or a contractor of the agency.

24 Sec. 531.477. ALLEGATIONS OF MISCONDUCT AGAINST PRESIDING  
25 OFFICER. If a review by the inspector general involves allegations  
26 that a presiding officer of a health and human services agency has  
27 engaged in misconduct, the inspector general shall report to the

1 governor during the review until the report is completed or the  
2 review is closed without a finding.

3 Sec. 531.478. PERIODIC REPORTING TO STATE AUDITOR AND  
4 EXECUTIVE COMMISSIONER REQUIRED. The inspector general shall  
5 timely inform the state auditor and the executive commissioner of  
6 the initiation of a review of a health and human services agency  
7 program and the ongoing status of each review.

8 Sec. 531.479. REPORTING OFFICE FINDINGS. The inspector  
9 general shall report the findings of the office for any review  
10 conducted under Section 531.477 or described by Section 531.478 to:

- 11 (1) the executive commissioner;
- 12 (2) the governor;
- 13 (3) the lieutenant governor;
- 14 (4) the speaker of the house of representatives;
- 15 (5) the state auditor's office; and
- 16 (6) appropriate law enforcement and prosecutorial  
17 agencies, including the office of the attorney general, if the  
18 findings suggest the probability of criminal conduct.

19 Sec. 531.480. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The  
20 inspector general shall immediately report to the executive  
21 commissioner, the governor's general counsel, and the state auditor  
22 a particularly serious or flagrant problem relating to the  
23 administration of a program, operation of a health and human  
24 services agency, or interference with an inspector general review.

25 Sec. 531.481. INFORMATION CONFIDENTIAL. (a) Except as  
26 provided by this section, Sections 531.103, 531.477 through  
27 531.480, and 531.482, all information and material compiled by the

1 inspector general during a review under this subchapter is:

2 (1) confidential and not subject to disclosure under  
3 Chapter 552; and

4 (2) not subject to disclosure, discovery, subpoena, or  
5 other means of legal compulsion for release to anyone other than the  
6 state auditor's office, the commission, or the office or its agents  
7 involved in the review related to that information or material.

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

10 (1) a law enforcement agency;

11 (2) the attorney general's office;

12 (3) the state auditor's office; or

13 (4) the commission.

14 (c) A person that receives information under Subsection (b)  
15 may not disclose the information except to the extent that  
16 disclosure is consistent with the authorized purpose for which the  
17 person first obtained the information.

18 Sec. 531.482. DRAFT OF FINAL REVIEW REPORT; AGENCY  
19 RESPONSE. (a) Except in cases in which the office has determined  
20 that potential fraud, waste, or abuse exists, the office shall  
21 provide a draft of the final review report of any investigation,  
22 audit, or review of the operations of a health and human services  
23 agency to the presiding officer of the agency before publishing the  
24 office's final review report.

25 (b) The health and human services agency may provide a  
26 response to the office's draft report in the manner prescribed by  
27 the office not later than the 10th day after the date the draft

1 report is received by the agency. The inspector general by rule  
2 shall specify the format and requirements of the agency response.

3 (c) Notwithstanding Subsection (a), the office may not  
4 provide a draft report to the presiding officer of the agency if in  
5 the inspector general's opinion providing the draft report could  
6 negatively affect any anticipated civil or criminal proceedings.

7 (d) The office may include any portion of the agency's  
8 response in the office's final report.

9 Sec. 531.483. FINAL REVIEW REPORTS; AGENCY RESPONSE. (a)  
10 The inspector general shall prepare a final report for each review  
11 conducted under this subchapter. The final report must include:

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

14 (2) a determination of whether wrongdoing was found;  
15 and

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

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

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

22 (d) Not later than the 60th day after the date the office  
23 issues a final report that identifies deficiencies or  
24 inefficiencies in, or recommends corrective measures in the  
25 operations of, a health and human services agency, the agency shall  
26 file a response that includes:

27 (1) an implementation plan and timeline for



1 implementing corrective measures; or

2 (2) the agency's rationale for declining to implement  
3 corrective measures for the identified deficiencies or  
4 inefficiencies or the office's recommended corrective measures, as  
5 applicable.

6 Sec. 531.484. STATE AUDITOR AUDITS, INVESTIGATIONS, AND  
7 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law  
8 related to the operation of the inspector general does not prohibit  
9 the state auditor from conducting an audit, investigation, or other  
10 review or from having full and complete access to all records and  
11 other information, including witnesses and electronic data, that  
12 the state auditor considers necessary for the audit, investigation,  
13 or other review.

14 Sec. 531.485. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY  
15 AUDITS NOT IMPAIRED. This chapter or other law related to the  
16 operation of the inspector general does not take precedence over  
17 the authority of the state auditor to conduct an audit under Chapter  
18 321 or other law.

19 Sec. 531.486. BUDGET. (a) The inspector general shall  
20 submit a budget in accordance with the reporting requirements of  
21 the General Appropriations Act.

22 (b) The inspector general shall submit to the commission a  
23 legislative appropriations request and an operating budget in  
24 accordance with the service level agreement entered into under  
25 Section 531.454 and applicable law.

26 (c) The commission shall submit the office's appropriations  
27 request and, if required by or under law, operating budget to the

1 legislature. The request or budget is not subject to review,  
2 alteration, or modification by the commission or executive  
3 commissioner before submission to the legislature.

4 Sec. 531.487. COSTS. (a) The inspector general shall  
5 maintain information regarding the cost of reviews.

6 (b) The inspector general may cooperate with appropriate  
7 administrative and prosecutorial agencies, including the office of  
8 the attorney general, in recovering costs incurred under this  
9 subchapter from nongovernmental entities, including contractors or  
10 individuals involved in:

11 (1) violations of applicable state or federal rules or  
12 statutes;

13 (2) abusive or wilful misconduct; or

14 (3) violations of a provider contract or program  
15 policy.

16 Sec. 531.488. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

17 (a) The office may:

18 (1) act for a health and human services agency in the  
19 assessment by the office of administrative or civil penalties the  
20 agency is authorized to assess under applicable law; and

21 (2) request that the attorney general obtain an  
22 injunction to prevent a person from disposing of an asset  
23 identified by the office as potentially subject to recovery by the  
24 office due to the person's fraud, waste, or abuse.

25 (b) If the office imposes an administrative or civil penalty  
26 under Subsection (a) for a health and human services agency:

27 (1) the health and human services agency may not

1 impose an administrative or civil penalty against the same person  
2 for the same violation; and

3 (2) the office shall impose the penalty under  
4 applicable rules of the office, this subchapter, and applicable  
5 laws governing the imposition of a penalty by the health and human  
6 services agency.

7 SECTION 2. Section 531.001, Government Code, is amended by  
8 adding Subdivision (4-a) to read as follows:

9 (4-a) "Inspector general" means the inspector general  
10 appointed under Subchapter M.

11 SECTION 3. Section 531.008(c), Government Code, is amended  
12 to read as follows:

13 (c) The executive commissioner shall establish the  
14 following divisions and offices within the commission:

15 (1) the eligibility services division to make  
16 eligibility determinations for services provided through the  
17 commission or a health and human services agency related to:

18 (A) the child health plan program;

19 (B) the financial assistance program under  
20 Chapter 31, Human Resources Code;

21 (C) the medical assistance program under Chapter  
22 32, Human Resources Code;

23 (D) the nutritional assistance programs under  
24 Chapter 33, Human Resources Code;

25 (E) long-term care services, as defined by  
26 Section 22.0011, Human Resources Code;

27 (F) community-based support services identified

1 or provided in accordance with Section 531.02481; and

2 (G) other health and human services programs, as  
3 appropriate;

4 (2) [~~the office of inspector general to perform fraud~~  
5 ~~and abuse investigation and enforcement functions as provided by~~  
6 ~~Subchapter C and other law;~~

7 [~~3~~] the office of the ombudsman to:

8 (A) provide dispute resolution services for the  
9 commission and the health and human services agencies; and

10 (B) perform consumer protection functions  
11 related to health and human services;

12 (3) [~~4~~] a purchasing division as provided by Section  
13 531.017; and

14 (4) [~~5~~] an internal audit division to conduct a  
15 program of internal auditing in accordance with [~~Government Code,~~  
16 Chapter 2102.

17 SECTION 4. Sections 531.101(a) and (b), Government Code,  
18 are amended to read as follows:

19 (a) The office of inspector general [~~commission~~] may grant  
20 an award to an individual who reports activity that constitutes  
21 fraud, waste, or abuse of funds in the state Medicaid program or  
22 reports overcharges in the program if the office [~~commission~~]  
23 determines that the disclosure results in the recovery of an  
24 administrative penalty imposed under Section 32.039, Human  
25 Resources Code. The office [~~commission~~] may not grant an award to  
26 an individual in connection with a report if the office  
27 [~~commission~~] or attorney general had independent knowledge of the

1 activity reported by the individual.

2 (b) The office of inspector general [~~commission~~] shall  
3 determine the amount of an award. The award may not exceed five  
4 percent of the amount of the administrative penalty imposed under  
5 Section 32.039, Human Resources Code, that resulted from the  
6 individual's disclosure. In determining the amount of the award,  
7 the office [~~commission~~] shall consider how important the disclosure  
8 is in ensuring the fiscal integrity of the program. The office  
9 [~~commission~~] may also consider whether the individual participated  
10 in the fraud, waste, abuse, or overcharge.

11 SECTION 5. Sections 531.103(a), (c), and (d), Government  
12 Code, are amended to read as follows:

13 (a) The [~~commission, acting through the commission's~~]  
14 office of inspector general[~~r~~] and the office of the attorney  
15 general shall enter into a memorandum of understanding to develop  
16 and implement joint written procedures for processing cases of  
17 suspected fraud, waste, or abuse, as those terms are defined by  
18 state or federal law, or other violations of state or federal law  
19 under the state Medicaid program or other program administered by  
20 the commission or a health and human services agency, including the  
21 financial assistance program under Chapter 31, Human Resources  
22 Code, a nutritional assistance program under Chapter 33, Human  
23 Resources Code, and the child health plan program. The memorandum  
24 of understanding shall require:

25 (1) the office of inspector general and the office of  
26 the attorney general to set priorities and guidelines for referring  
27 cases to appropriate state agencies for investigation,

1 prosecution, or other disposition to enhance deterrence of fraud,  
2 waste, abuse, or other violations of state or federal law,  
3 including a violation of Chapter 102, Occupations Code, in the  
4 programs and maximize the imposition of penalties, the recovery of  
5 money, and the successful prosecution of cases;

6 (1-a) the office of inspector general to refer each  
7 case of suspected provider fraud, waste, or abuse to the office of  
8 the attorney general not later than the 20th business day after the  
9 date the office of inspector general determines that the existence  
10 of fraud, waste, or abuse is reasonably indicated;

11 (1-b) the office of the attorney general to take  
12 appropriate action in response to each case referred to the  
13 attorney general, which action may include direct initiation of  
14 prosecution, with the consent of the appropriate local district or  
15 county attorney, direct initiation of civil litigation, referral to  
16 an appropriate United States attorney, a district attorney, or a  
17 county attorney, or referral to a collections agency for initiation  
18 of civil litigation or other appropriate action;

19 (2) the office of inspector general to keep detailed  
20 records for cases processed by that office or the office of the  
21 attorney general, including information on the total number of  
22 cases processed and, for each case:

23 (A) the agency and division to which the case is  
24 referred for investigation;

25 (B) the date on which the case is referred; and

26 (C) the nature of the suspected fraud, waste, or  
27 abuse;

1           (3) the office of inspector general to notify each  
2 appropriate division of the office of the attorney general of each  
3 case referred by the office of inspector general;

4           (4) the office of the attorney general to ensure that  
5 information relating to each case investigated by that office is  
6 available to each division of the office with responsibility for  
7 investigating suspected fraud, waste, or abuse;

8           (5) the office of the attorney general to notify the  
9 office of inspector general of each case the attorney general  
10 declines to prosecute or prosecutes unsuccessfully;

11           (6) representatives of the office of inspector general  
12 and of the office of the attorney general to meet not less than  
13 quarterly to share case information and determine the appropriate  
14 agency and division to investigate each case; and

15           (7) the office of inspector general and the office of  
16 the attorney general to submit information requested by the  
17 comptroller about each resolved case for the comptroller's use in  
18 improving fraud detection.

19           (c) The office of inspector general [~~commission~~] and the  
20 office of the attorney general shall jointly prepare and submit a  
21 semiannual report to the governor, lieutenant governor, speaker of  
22 the house of representatives, presiding officers of each house and  
23 senate committee having jurisdiction over health and human services  
24 programs, and comptroller concerning the activities of the office  
25 of the attorney general and the office of inspector general [~~these~~  
26 ~~agencies~~] in detecting and preventing fraud, waste, and abuse under  
27 the state Medicaid program or other program administered by the

1 commission or a health and human services agency. The report may be  
2 consolidated with any other report relating to the same subject  
3 matter the office of inspector general [~~commission~~] or office of  
4 the attorney general is required to submit under other law.

5 (d) The office of inspector general [~~commission~~] and the  
6 office of the attorney general may not assess or collect  
7 investigation and attorney's fees on behalf of any state agency  
8 unless the office of inspector general, the office of the attorney  
9 general, or another [~~other~~] state agency collects a penalty,  
10 restitution, or other reimbursement payment to the state.

11 SECTION 6. Section 531.104(a), Government Code, is amended  
12 to read as follows:

13 (a) The office of inspector general [~~commission~~] and the  
14 attorney general shall execute a memorandum of understanding under  
15 which the office [~~commission~~] shall provide investigative support  
16 as required to the attorney general in connection with cases under  
17 Subchapter B, Chapter 36, Human Resources Code. Under the  
18 memorandum of understanding, the office [~~commission~~] shall assist  
19 in performing preliminary investigations and ongoing  
20 investigations for actions prosecuted by the attorney general under  
21 Subchapter C, Chapter 36, Human Resources Code.

22 SECTION 7. Section 531.105, Government Code, is amended to  
23 read as follows:

24 Sec. 531.105. FRAUD DETECTION TRAINING. (a) The office of  
25 inspector general [~~commission~~] shall develop and implement a  
26 program to provide annual training to contractors who process  
27 Medicaid claims and appropriate staff of the health and human



1 services agencies [~~Texas Department of Health and the Texas~~  
2 ~~Department of Human Services~~] in identifying potential cases of  
3 fraud, waste, or abuse under the state Medicaid program. The  
4 training provided to the contractors and staff must include clear  
5 criteria that specify:

6 (1) the circumstances under which a person should  
7 refer a potential case to the office [~~commission~~]; and

8 (2) the time by which a referral should be made.

9 (b) The [~~Texas~~] Department of State Health Services and the  
10 [~~Texas~~] Department of Aging and Disability [~~Human~~] Services, in  
11 cooperation with the office of inspector general [~~commission~~],  
12 shall periodically set a goal of the number of potential cases of  
13 fraud, waste, or abuse under the state Medicaid program that each  
14 agency will attempt to identify and refer to the office  
15 [~~commission~~]. The office [~~commission~~] shall include information on  
16 the agencies' goals and the success of each agency in meeting the  
17 agency's goal in the report required by Section 531.103(c).

18 SECTION 8. Sections 531.106(a), (b), (d), (e), (f), and  
19 (g), Government Code, are amended to read as follows:

20 (a) The office of inspector general [~~commission~~] shall use  
21 learning or neural network technology to identify and deter fraud,  
22 waste, and abuse in the Medicaid program throughout this state.

23 (b) The office of inspector general [~~commission~~] shall  
24 contract with a private or public entity to develop and implement  
25 the technology. The office [~~commission~~] may require the entity it  
26 contracts with to install and operate the technology at locations  
27 specified by the office [~~commission, including commission~~]

1 offices].

2 (d) The office of inspector general [~~commission~~] shall  
3 require each health and human services agency that performs any  
4 aspect of the state Medicaid program to participate in the  
5 implementation and use of the technology.

6 (e) The office of inspector general [~~commission~~] shall  
7 maintain all information necessary to apply the technology to  
8 claims data covering a period of at least two years.

9 (f) Cases [~~The commission shall refer cases~~] identified by  
10 the technology shall be referred to the [~~commission's~~] office of  
11 inspector general [~~investigations and enforcement~~] or the office of  
12 the attorney general, as appropriate.

13 (g) Each month, the learning or neural network technology  
14 implemented under this section must match bureau of vital  
15 statistics death records with Medicaid claims filed by a provider.  
16 If the commission or the office of inspector general determines  
17 that a provider has filed a claim for services provided to a person  
18 after the person's date of death, as determined by the bureau of  
19 vital statistics death records, [~~the commission shall refer~~] the  
20 case shall be referred for investigation to the office of inspector  
21 general or the office of the attorney general, as appropriate [~~to~~  
22 ~~the commission's office of investigations and enforcement~~].

23 SECTION 9. Section 531.1061, Government Code, is amended to  
24 read as follows:

25 Sec. 531.1061. FRAUD INVESTIGATION TRACKING SYSTEM. (a)  
26 The office of inspector general [~~commission~~] shall use an automated  
27 fraud investigation tracking system [~~through the commission's~~

1 ~~office of investigations and enforcement]~~ to monitor the progress  
2 of an investigation of suspected fraud, waste, abuse, or  
3 insufficient quality of care under the state Medicaid program.

4 (b) For each case of suspected fraud, waste, abuse, or  
5 insufficient quality of care identified by the learning or neural  
6 network technology required under Section 531.106, the automated  
7 fraud investigation tracking system must:

8 (1) receive electronically transferred records  
9 relating to the identified case from the learning or neural network  
10 technology;

11 (2) record the details and monitor the status of an  
12 investigation of the identified case, including maintaining a  
13 record of the beginning and completion dates for each phase of the  
14 case investigation;

15 (3) generate documents and reports related to the  
16 status of the case investigation; and

17 (4) generate standard letters to a provider regarding  
18 the status or outcome of an investigation.

19 (c) The office of inspector general may ~~[commission shall]~~  
20 require each health and human services agency that performs any  
21 aspect of the state Medicaid program to participate in the  
22 implementation and use of the automated fraud investigation  
23 tracking system.

24 SECTION 10. Section 531.1062(a), Government Code, is  
25 amended to read as follows:

26 (a) The office of inspector general ~~[commission]~~ shall use  
27 an automated recovery monitoring system to monitor the collections

1 process for a settled case of fraud, waste, abuse, or insufficient  
2 quality of care under the state Medicaid program.

3 SECTION 11. Sections 531.107(a), (b), and (f), Government  
4 Code, are amended to read as follows:

5 (a) The Medicaid and Public Assistance Fraud Oversight Task  
6 Force advises and assists the [~~commission and the commission's~~]  
7 office of inspector general [~~investigations and enforcement~~] in  
8 improving the efficiency of fraud investigations and collections.

9 (b) The task force is composed of a representative of the:

10 (1) attorney general's office, appointed by the  
11 attorney general;

12 (2) comptroller's office, appointed by the  
13 comptroller;

14 (3) Department of Public Safety, appointed by the  
15 public safety director;

16 (4) state auditor's office, appointed by the state  
17 auditor;

18 (5) office of inspector general [~~commission~~],  
19 appointed by the inspector general [~~commissioner of health and~~  
20 ~~human services~~];

21 (6) [~~Texas~~] Department of Aging and Disability [~~Human~~]  
22 Services, appointed by the commissioner of aging and disability  
23 [~~human~~] services;

24 (7) Texas Department of Insurance, appointed by the  
25 commissioner of insurance; and

26 (8) [~~Texas~~] Department of State Health Services,  
27 appointed by the commissioner of state [~~public~~] health services.

1 (f) At least once each fiscal quarter, the ~~[commission's]~~  
2 office of inspector general ~~[investigations and enforcement]~~ shall  
3 provide to the task force:

4 (1) information detailing:

5 (A) the number of fraud referrals made to the  
6 office and the origin of each referral;

7 (B) the time spent investigating each case;

8 (C) the number of cases investigated each month,  
9 by program and region;

10 (D) the dollar value of each fraud case that  
11 results in a criminal conviction; and

12 (E) the number of cases the office rejects and  
13 the reason for rejection, by region; and

14 (2) any additional information the task force  
15 requires.

16 SECTION 12. Sections 531.108 and 531.109, Government Code,  
17 are amended to read as follows:

18 Sec. 531.108. FRAUD PREVENTION. (a) The ~~[commission's]~~  
19 office of inspector general ~~[investigations and enforcement]~~ shall  
20 compile and disseminate accurate information and statistics  
21 relating to:

22 (1) fraud prevention; and

23 (2) post-fraud referrals received and accepted or  
24 rejected from the office's ~~[commission's]~~ case management system or  
25 the case management system of a health and human services agency.

26 (b) The office of inspector general ~~[commission]~~ shall:

27 (1) aggressively publicize successful fraud

1 prosecutions and fraud-prevention programs through all available  
2 means, including the use of statewide press releases [~~issued in~~  
3 ~~coordination with the Texas Department of Human Services~~]; and

4 (2) ensure that a toll-free hotline for reporting  
5 suspected fraud in programs administered by the office, the  
6 commission, or a health and human services agency is maintained and  
7 promoted[~~, either~~] by the office, the commission, or [~~by~~] a health  
8 and human services agency.

9 (c) The office of inspector general [~~commission~~] shall  
10 develop a cost-effective method of identifying applicants for  
11 public assistance in counties bordering other states and in  
12 metropolitan areas selected by the office [~~commission~~] who are  
13 already receiving benefits in other states. If economically  
14 feasible, the office [~~commission~~] may develop a computerized  
15 matching system.

16 (d) The office of inspector general [~~commission~~] shall:

17 (1) verify automobile information that is used as  
18 criteria for eligibility; and

19 (2) establish a computerized matching system with the  
20 Texas Department of Criminal Justice to prevent an incarcerated  
21 individual from illegally receiving public assistance benefits  
22 administered by the commission.

23 (e) The office of inspector general [~~commission~~] shall  
24 submit to the governor and Legislative Budget Board a semiannual  
25 report on the results of computerized matching of office and  
26 commission information with information from neighboring states,  
27 if any, and information from the Texas Department of Criminal

1 Justice. The report may be consolidated with any other report  
2 relating to the same subject matter the office [~~commission~~] is  
3 required to submit under other law.

4 Sec. 531.109. SELECTION AND REVIEW OF CLAIMS. (a) The  
5 office of inspector general [~~commission~~] shall annually select and  
6 review a random, statistically valid sample of all claims for  
7 reimbursement under the state Medicaid program, including the  
8 vendor drug program, for potential cases of fraud, waste, or abuse.

9 (b) In conducting the annual review of claims under  
10 Subsection (a), the office of inspector general [~~commission~~] may  
11 directly contact a recipient by telephone or in person, or both, to  
12 verify that the services for which a claim for reimbursement was  
13 submitted by a provider were actually provided to the recipient.

14 (c) Based on the results of the annual review of claims, the  
15 office of inspector general and the commission shall determine the  
16 types of claims at which office and commission resources for fraud,  
17 waste, and abuse detection should be primarily directed.

18 SECTION 13. Sections 531.110(a), (c), (d), (e), and (f),  
19 Government Code, are amended to read as follows:

20 (a) The office of inspector general [~~commission~~] shall  
21 conduct electronic data matches for a recipient of assistance under  
22 the state Medicaid program at least quarterly to verify the  
23 identity, income, employment status, and other factors that affect  
24 the eligibility of the recipient.

25 (c) The commission and the [~~Texas~~] Department of Aging and  
26 Disability [~~Human~~] Services shall cooperate with the office of  
27 inspector general [~~commission~~] by providing data or any other

1 assistance necessary to conduct the electronic data matches  
2 required by this section.

3 (d) The office of inspector general [~~commission~~] may  
4 contract with a public or private entity to conduct the electronic  
5 data matches required by this section.

6 (e) The office of inspector general [~~commission~~], or a  
7 health and human services agency designated by the office  
8 [~~commission~~], by rule shall establish procedures to verify the  
9 electronic data matches conducted by the office [~~commission~~] under  
10 this section. Not later than the 20th day after the date the  
11 electronic data match is verified, the commission or the [~~Texas~~]  
12 Department of Aging and Disability [~~Human~~] Services shall remove  
13 from eligibility a recipient who is determined to be ineligible for  
14 assistance under the state Medicaid program.

15 (f) The office of inspector general [~~commission~~] shall  
16 report biennially to the legislature the results of the electronic  
17 data matching program. The report must include a summary of the  
18 number of applicants who were removed from eligibility for  
19 assistance under the state Medicaid program as a result of an  
20 electronic data match conducted under this section.

21 SECTION 14. Section 531.111, Government Code, is amended to  
22 read as follows:

23 Sec. 531.111. FRAUD DETECTION TECHNOLOGY. The office of  
24 inspector general [~~commission~~] may contract with a contractor who  
25 specializes in developing technology capable of identifying  
26 patterns of fraud exhibited by Medicaid recipients to:

27 (1) develop and implement the fraud detection



1 technology; and

2 (2) determine if a pattern of fraud by Medicaid  
3 recipients is present in the recipients' eligibility files  
4 maintained by the commission or the ~~[Texas]~~ Department of Aging and  
5 Disability ~~[Human]~~ Services.

6 SECTION 15. Section 531.113, Government Code, is amended to  
7 read as follows:

8 Sec. 531.113. MANAGED CARE ORGANIZATIONS: SPECIAL  
9 INVESTIGATIVE UNITS OR CONTRACTS. (a) Each managed care  
10 organization that provides or arranges for the provision of health  
11 care services to an individual under a government-funded program,  
12 including the Medicaid program and the child health plan program,  
13 shall:

14 (1) establish and maintain a special investigative  
15 unit within the managed care organization to investigate fraudulent  
16 claims and other types of program waste or abuse by recipients and  
17 service providers; or

18 (2) contract with another entity for the investigation  
19 of fraudulent claims and other types of program waste or abuse by  
20 recipients and service providers.

21 (b) Each managed care organization subject to this section  
22 shall adopt a plan to prevent and reduce fraud, waste, and abuse and  
23 annually file that plan with the ~~[commission's]~~ office of inspector  
24 general for approval. The plan must include:

25 (1) a description of the managed care organization's  
26 procedures for detecting and investigating possible acts of fraud,  
27 waste, or abuse;

1           (2) a description of the managed care organization's  
2 procedures for the mandatory reporting of possible acts of fraud,  
3 waste, or abuse to the [~~commission's~~] office of inspector general;

4           (3) a description of the managed care organization's  
5 procedures for educating and training personnel to prevent fraud,  
6 waste, and abuse;

7           (4) the name, address, telephone number, and fax  
8 number of the individual responsible for carrying out the plan;

9           (5) a description or chart outlining the  
10 organizational arrangement of the managed care organization's  
11 personnel responsible for investigating and reporting possible  
12 acts of fraud, waste, or abuse;

13           (6) a detailed description of the results of  
14 investigations of fraud, waste, and abuse conducted by the managed  
15 care organization's special investigative unit or the entity with  
16 which the managed care organization contracts under Subsection  
17 (a)(2); and

18           (7) provisions for maintaining the confidentiality of  
19 any patient information relevant to an investigation of fraud,  
20 waste, or abuse.

21           (c) If a managed care organization contracts for the  
22 investigation of fraudulent claims and other types of program waste  
23 or abuse by recipients and service providers under Subsection  
24 (a)(2), the managed care organization shall file with the  
25 [~~commission's~~] office of inspector general:

26           (1) a copy of the written contract;

27           (2) the names, addresses, telephone numbers, and fax

1 numbers of the principals of the entity with which the managed care  
2 organization has contracted; and

3 (3) a description of the qualifications of the  
4 principals of the entity with which the managed care organization  
5 has contracted.

6 (d) The ~~[commission's]~~ office of inspector general may  
7 review the records of a managed care organization to determine  
8 compliance with this section.

9 (e) The inspector general ~~[commissioner]~~ shall adopt rules  
10 as necessary to accomplish the purposes of this section.

11 SECTION 16. Sections 531.114(b) and (g), Government Code,  
12 are amended to read as follows:

13 (b) If after an investigation the office of inspector  
14 general ~~[commission]~~ determines that a person violated Subsection  
15 (a), the office ~~[commission]~~ shall:

16 (1) notify the person of the alleged violation not  
17 later than the 30th day after the date the office ~~[commission]~~  
18 completes the investigation and provide the person with an  
19 opportunity for a hearing on the matter; or

20 (2) refer the matter to the appropriate prosecuting  
21 attorney for prosecution.

22 (g) The inspector general ~~[commission]~~ shall adopt rules as  
23 necessary to implement this section.

24 SECTION 17. Section 531.115, Government Code, is amended to  
25 read as follows:

26 Sec. 531.115. FEDERAL FELONY MATCH. The office of  
27 inspector general ~~[commission]~~ shall develop and implement a system

1 to cross-reference data collected for the programs listed under  
2 Section 531.008(c) with the list of fugitive felons maintained by  
3 the federal government.

4 SECTION 18. Section 533.001, Government Code, is amended by  
5 adding Subdivision (5-a) to read as follows:

6 (5-a) "Office of inspector general" means the office  
7 of inspector general established under Subchapter M, Chapter 531.

8 SECTION 19. Section 533.005(a), Government Code, is amended  
9 to read as follows:

10 (a) A contract between a managed care organization and the  
11 commission for the organization to provide health care services to  
12 recipients must contain:

13 (1) procedures to ensure accountability to the state  
14 for the provision of health care services, including procedures for  
15 financial reporting, quality assurance, utilization review, and  
16 assurance of contract and subcontract compliance;

17 (2) capitation rates that ensure the cost-effective  
18 provision of quality health care;

19 (3) a requirement that the managed care organization  
20 provide ready access to a person who assists recipients in  
21 resolving issues relating to enrollment, plan administration,  
22 education and training, access to services, and grievance  
23 procedures;

24 (4) a requirement that the managed care organization  
25 provide ready access to a person who assists providers in resolving  
26 issues relating to payment, plan administration, education and  
27 training, and grievance procedures;

1           (5) a requirement that the managed care organization  
2 provide information and referral about the availability of  
3 educational, social, and other community services that could  
4 benefit a recipient;

5           (6) procedures for recipient outreach and education;

6           (7) a requirement that the managed care organization  
7 make payment to a physician or provider for health care services  
8 rendered to a recipient under a managed care plan not later than the  
9 45th day after the date a claim for payment is received with  
10 documentation reasonably necessary for the managed care  
11 organization to process the claim, or within a period, not to exceed  
12 60 days, specified by a written agreement between the physician or  
13 provider and the managed care organization;

14           (8) a requirement that the commission, on the date of a  
15 recipient's enrollment in a managed care plan issued by the managed  
16 care organization, inform the organization of the recipient's  
17 Medicaid certification date;

18           (9) a requirement that the managed care organization  
19 comply with Section 533.006 as a condition of contract retention  
20 and renewal;

21           (10) a requirement that the managed care organization  
22 provide the information required by Section 533.012 and otherwise  
23 comply and cooperate with the [~~commission's~~] office of inspector  
24 general;

25           (11) a requirement that the managed care  
26 organization's usages of out-of-network providers or groups of  
27 out-of-network providers may not exceed limits for those usages

1 relating to total inpatient admissions, total outpatient services,  
2 and emergency room admissions determined by the commission;

3 (12) if the commission finds that a managed care  
4 organization has violated Subdivision (11), a requirement that the  
5 managed care organization reimburse an out-of-network provider for  
6 health care services at a rate that is equal to the allowable rate  
7 for those services, as determined under Sections 32.028 and  
8 32.0281, Human Resources Code;

9 (13) a requirement that the organization use advanced  
10 practice nurses in addition to physicians as primary care providers  
11 to increase the availability of primary care providers in the  
12 organization's provider network;

13 (14) a requirement that the managed care organization  
14 reimburse a federally qualified health center or rural health  
15 clinic for health care services provided to a recipient outside of  
16 regular business hours, including on a weekend day or holiday, at a  
17 rate that is equal to the allowable rate for those services as  
18 determined under Section 32.028, Human Resources Code, if the  
19 recipient does not have a referral from the recipient's primary  
20 care physician; and

21 (15) a requirement that the managed care organization  
22 develop, implement, and maintain a system for tracking and  
23 resolving all provider appeals related to claims payment, including  
24 a process that will require:

25 (A) a tracking mechanism to document the status  
26 and final disposition of each provider's claims payment appeal;

27 (B) the contracting with physicians who are not

1 network providers and who are of the same or related specialty as  
2 the appealing physician to resolve claims disputes related to  
3 denial on the basis of medical necessity that remain unresolved  
4 subsequent to a provider appeal; and

5 (C) the determination of the physician resolving  
6 the dispute to be binding on the managed care organization and  
7 provider.

8 SECTION 20. Section 533.012(c), Government Code, is amended  
9 to read as follows:

10 (c) The [~~commission's~~] office of inspector general  
11 [~~investigations and enforcement~~] shall review the information  
12 submitted under this section as appropriate in the investigation of  
13 fraud in the Medicaid managed care program. The comptroller may  
14 review the information in connection with the health care fraud  
15 study conducted by the comptroller.

16 SECTION 21. Section 2054.376(b), Government Code, is  
17 amended to read as follows:

18 (b) This subchapter does not apply to:

19 (1) the Department of Public Safety's use for criminal  
20 justice or homeland security purposes of a federal database or  
21 network;

22 (2) a Texas equivalent of a database or network  
23 described by Subdivision (1) that is managed by the Department of  
24 Public Safety;

25 (3) the uniform statewide accounting system, as that  
26 term is used in Subchapter C, Chapter 2101;

27 (4) the state treasury cash and treasury management

1 system; [~~or~~]

2 (5) a database or network managed by the comptroller  
3 to:

4 (A) collect and process multiple types of taxes  
5 imposed by the state; or

6 (B) manage or administer fiscal, financial,  
7 revenue, and expenditure activities of the state under Chapter 403  
8 and Chapter 404; or

9 (6) the use of a federal or state database or network  
10 by the office of inspector general established under Subchapter M,  
11 Chapter 531, or by the Health and Human Services Commission for  
12 criminal justice purposes or to maintain information that is  
13 confidential by statute or under federal regulations.

14 SECTION 22. Section 32.003, Human Resources Code, is  
15 amended by adding Subdivision (5) to read as follows:

16 (5) "Office of inspector general" means the office  
17 established under Subchapter M, Chapter 531, Government Code, that  
18 is responsible for the investigation, review, and audit of possible  
19 fraud, waste, and abuse in the provision of health and human  
20 services and the enforcement of state law relating to the provision  
21 of those services.

22 SECTION 23. Section 32.0291, Human Resources Code, is  
23 amended to read as follows:

24 Sec. 32.0291. PREPAYMENT REVIEWS AND POSTPAYMENT HOLDS.

25 (a) Notwithstanding any other law, the office of inspector general  
26 or department may:

27 (1) perform a prepayment review of a claim for



1 reimbursement under the medical assistance program to determine  
2 whether the claim involves fraud, waste, or abuse; and

3 (2) as necessary to perform that review, withhold  
4 payment of the claim for not more than five working days without  
5 notice to the person submitting the claim.

6 (b) Notwithstanding any other law, the office of inspector  
7 general [~~department~~] may impose a postpayment hold on payment of  
8 future claims submitted by a provider if the office [~~department~~]  
9 has reliable evidence that the provider has committed fraud, waste,  
10 abuse, or wilful misrepresentation regarding a claim for  
11 reimbursement under the medical assistance program. The office  
12 [~~department~~] must notify the provider of the postpayment hold not  
13 later than the fifth working day after the date the hold is imposed.

14 (c) On timely written request by a provider subject to a  
15 postpayment hold under Subsection (b), the office of inspector  
16 general [~~department~~] shall file a request with the State Office of  
17 Administrative Hearings or the hearings division of the Health and  
18 Human Services Commission for an expedited administrative hearing  
19 regarding the hold. The provider must request an expedited hearing  
20 under this subsection not later than the 10th day after the date the  
21 provider receives notice from the office of inspector general  
22 [~~department~~] under Subsection (b). The office of inspector general  
23 [~~department~~] shall discontinue the hold unless the office  
24 [~~department~~] makes a prima facie showing at the hearing that the  
25 evidence relied on by the office of inspector general [~~department~~]  
26 in imposing the hold is relevant, credible, and material to the  
27 issue of fraud, waste, abuse, or wilful misrepresentation.

1           (d) The inspector general [~~department~~] shall adopt rules  
2 that allow a provider subject to a postpayment hold under  
3 Subsection (b) to seek an informal resolution of the issues  
4 identified by the office of inspector general [~~department~~] in the  
5 notice provided under that subsection. A provider must seek an  
6 informal resolution under this subsection not later than the  
7 deadline prescribed by Subsection (c). A provider's decision to  
8 seek an informal resolution under this subsection does not extend  
9 the time by which the provider must request an expedited  
10 administrative hearing under Subsection (c). However, a hearing  
11 initiated under Subsection (c) shall be stayed at the office's  
12 [~~department's~~] request until the informal resolution process is  
13 completed.

14           SECTION 24. Section 32.032, Human Resources Code, is  
15 amended to read as follows:

16           Sec. 32.032. PREVENTION AND DETECTION OF FRAUD, WASTE, AND  
17 ABUSE. The inspector general [~~department~~] shall adopt reasonable  
18 rules for minimizing the opportunity for fraud, waste, and abuse,  
19 for establishing and maintaining methods for detecting and  
20 identifying situations in which a question of fraud, waste, or  
21 abuse in the program may exist, and for referring cases where fraud,  
22 waste, or abuse appears to exist to the appropriate law enforcement  
23 agencies for prosecution.

24           SECTION 25. Sections 32.0321(a) through (d), Human  
25 Resources Code, are amended to read as follows:

26           (a) The office of inspector general [~~department~~] by rule may  
27 recommend to the department and the department by rule may require

1 that each provider of medical assistance in a provider type that has  
2 demonstrated significant potential for fraud, waste, or abuse to  
3 file with the department a surety bond in a reasonable amount. The  
4 office and the department by rule shall each require a provider of  
5 medical assistance to file with the department a surety bond in a  
6 reasonable amount if the office [~~department~~] identifies a pattern  
7 of suspected fraud, waste, or abuse involving criminal conduct  
8 relating to the provider's services under the medical assistance  
9 program that indicates the need for protection against potential  
10 future acts of fraud, waste, or abuse.

11 (b) The bond under Subsection (a) must be payable to the  
12 department to compensate the department for damages resulting from  
13 or penalties or fines imposed in connection with an act of fraud,  
14 waste, or abuse committed by the provider under the medical  
15 assistance program.

16 (c) Subject to Subsection (d) or (e), the office of  
17 inspector general and the department by rule may require each  
18 provider of medical assistance that establishes a resident's trust  
19 fund account to post a surety bond to secure the account. The bond  
20 must be payable to the department to compensate residents of the  
21 bonded provider for trust funds that are lost, stolen, or otherwise  
22 unaccounted for if the provider does not repay any deficiency in a  
23 resident's trust fund account to the person legally entitled to  
24 receive the funds.

25 (d) The office of inspector general and the department may  
26 not require the amount of a surety bond posted for a single facility  
27 provider under Subsection (c) to exceed the average of the total

1 average monthly balance of all the provider's resident trust fund  
2 accounts for the 12-month period preceding the bond issuance or  
3 renewal date.

4 SECTION 26. Section 32.0322, Human Resources Code, is  
5 amended to read as follows:

6 Sec. 32.0322. CRIMINAL HISTORY RECORD INFORMATION. (a)  
7 The office of inspector general and the department may obtain from  
8 any law enforcement or criminal justice agency the criminal history  
9 record information that relates to a provider under the medical  
10 assistance program or a person applying to enroll as a provider  
11 under the medical assistance program.

12 (b) The office of inspector general [~~department~~] by rule  
13 shall establish criteria for revoking a provider's enrollment or  
14 denying a person's application to enroll as a provider under the  
15 medical assistance program based on the results of a criminal  
16 history check.

17 SECTION 27. Sections 32.033(d) through (h), Human Resources  
18 Code, are amended to read as follows:

19 (d) A separate and distinct cause of action in favor of the  
20 state is hereby created, and the office of inspector general  
21 [~~department~~] may, without written consent, take direct civil action  
22 in any court of competent jurisdiction. A suit brought under this  
23 section need not be ancillary to or dependent upon any other action.

24 (e) The [~~department's~~] right of recovery of the office of  
25 inspector general is limited to the amount of the cost of medical  
26 care services paid by the department. Other subrogation rights  
27 granted under this section are limited to the cost of the services

1 provided.

2 (f) The inspector general [~~commissioner~~] may waive the  
3 [~~department's~~] right of recovery of the office of inspector general  
4 in whole or in part when the inspector general [~~commissioner~~] finds  
5 that enforcement would tend to defeat the purpose of public  
6 assistance.

7 (g) The office of inspector general [~~department~~] may  
8 designate an agent to collect funds the office [~~department~~] has a  
9 right to recover from third parties under this section. The  
10 department shall use any funds collected to pay costs of  
11 administering the medical assistance program.

12 (h) The inspector general [~~department~~] may adopt rules for  
13 the enforcement of the office's [~~its~~] right of recovery.

14 SECTION 28. Sections 32.039(c) through (r) and (u) through  
15 (x), Human Resources Code, are amended to read as follows:

16 (c) A person who commits a violation under Subsection (b) is  
17 liable to the department for:

18 (1) the amount paid, if any, as a result of the  
19 violation and interest on that amount determined at the rate  
20 provided by law for legal judgments and accruing from the date on  
21 which the payment was made; and

22 (2) payment of an administrative penalty, assessed by  
23 the office of inspector general, in [~~of~~] an amount not to exceed  
24 twice the amount paid, if any, as a result of the violation, plus an  
25 amount:

26 (A) not less than \$5,000 or more than \$15,000 for  
27 each violation that results in injury to an elderly person, as

1 defined by Section 48.002(a)(1) [~~48.002(1)~~], a disabled person, as  
2 defined by Section 48.002(a)(8)(A) [~~48.002(8)(A)~~], or a person  
3 younger than 18 years of age; or

4 (B) not more than \$10,000 for each violation that  
5 does not result in injury to a person described by Paragraph (A).

6 (d) Unless the provider submitted information to the  
7 department for use in preparing a voucher that the provider knew or  
8 should have known was false or failed to correct information that  
9 the provider knew or should have known was false when provided an  
10 opportunity to do so, this section does not apply to a claim based  
11 on the voucher if the department calculated and printed the amount  
12 of the claim on the voucher and then submitted the voucher to the  
13 provider for the provider's signature. In addition, the provider's  
14 signature on the voucher does not constitute fraud. The inspector  
15 general [~~department~~] shall adopt rules that establish a grace  
16 period during which errors contained in a voucher prepared by the  
17 department may be corrected without penalty to the provider.

18 (e) In determining the amount of the penalty to be assessed  
19 under Subsection (c)(2), the office of inspector general  
20 [~~department~~] shall consider:

21 (1) the seriousness of the violation;

22 (2) whether the person had previously committed a  
23 violation; and

24 (3) the amount necessary to deter the person from  
25 committing future violations.

26 (f) If after an examination of the facts the office of  
27 inspector general [~~department~~] concludes that the person committed

1 a violation, the office [~~department~~] may issue a preliminary report  
2 stating the facts on which it based its conclusion, recommending  
3 that an administrative penalty under this section be imposed and  
4 recommending the amount of the proposed penalty.

5 (g) The office of inspector general [~~department~~] shall give  
6 written notice of the report to the person charged with committing  
7 the violation. The notice must include a brief summary of the  
8 facts, a statement of the amount of the recommended penalty, and a  
9 statement of the person's right to an informal review of the alleged  
10 violation, the amount of the penalty, or both the alleged violation  
11 and the amount of the penalty.

12 (h) Not later than the 10th day after the date on which the  
13 person charged with committing the violation receives the notice,  
14 the person may either give the office of inspector general  
15 [~~department~~] written consent to the report, including the  
16 recommended penalty, or make a written request for an informal  
17 review by the office [~~department~~].

18 (i) If the person charged with committing the violation  
19 consents to the penalty recommended by the office of inspector  
20 general [~~department~~] or fails to timely request an informal review,  
21 the office [~~department~~] shall assess the penalty. The office  
22 [~~department~~] shall give the person written notice of its action.  
23 The person shall pay the penalty not later than the 30th day after  
24 the date on which the person receives the notice.

25 (j) If the person charged with committing the violation  
26 requests an informal review as provided by Subsection (h), the  
27 office of inspector general [~~department~~] shall conduct the review.

1 The office [~~department~~] shall give the person written notice of the  
2 results of the review.

3 (k) Not later than the 10th day after the date on which the  
4 person charged with committing the violation receives the notice  
5 prescribed by Subsection (j), the person may make to the office of  
6 inspector general [~~department~~] a written request for a hearing.  
7 The hearing must be conducted in accordance with Chapter 2001,  
8 Government Code.

9 (l) If, after informal review, a person who has been ordered  
10 to pay a penalty fails to request a formal hearing in a timely  
11 manner, the office of inspector general [~~department~~] shall assess  
12 the penalty. The office [~~department~~] shall give the person written  
13 notice of its action. The person shall pay the penalty not later  
14 than the 30th day after the date on which the person receives the  
15 notice.

16 (m) Within 30 days after the date on which the inspector  
17 general's [~~board's~~] order issued after a hearing under Subsection  
18 (k) becomes final as provided by Section 2001.144, Government Code,  
19 the person shall:

20 (1) pay the amount of the penalty;

21 (2) pay the amount of the penalty and file a petition  
22 for judicial review contesting the occurrence of the violation, the  
23 amount of the penalty, or both the occurrence of the violation and  
24 the amount of the penalty; or

25 (3) without paying the amount of the penalty, file a  
26 petition for judicial review contesting the occurrence of the  
27 violation, the amount of the penalty, or both the occurrence of the



1 violation and the amount of the penalty.

2 (n) A person who acts under Subsection (m)(3) within the  
3 30-day period may:

4 (1) stay enforcement of the penalty by:

5 (A) paying the amount of the penalty to the court  
6 for placement in an escrow account; or

7 (B) giving to the court a supersedeas bond that  
8 is approved by the court for the amount of the penalty and that is  
9 effective until all judicial review of the ~~[department's]~~ order of  
10 the inspector general is final; or

11 (2) request the court to stay enforcement of the  
12 penalty by:

13 (A) filing with the court a sworn affidavit of  
14 the person stating that the person is financially unable to pay the  
15 amount of the penalty and is financially unable to give the  
16 supersedeas bond; and

17 (B) giving a copy of the affidavit to the office  
18 of inspector general ~~[commissioner]~~ by certified mail.

19 (o) If the office of inspector general ~~[commissioner]~~  
20 receives a copy of an affidavit under Subsection (n)(2), the office  
21 ~~[commissioner]~~ may file with the court, within five days after the  
22 date the copy is received, a contest to the affidavit. The court  
23 shall hold a hearing on the facts alleged in the affidavit as soon  
24 as practicable and shall stay the enforcement of the penalty on  
25 finding that the alleged facts are true. The person who files an  
26 affidavit has the burden of proving that the person is financially  
27 unable to pay the amount of the penalty and to give a supersedeas

1 bond.

2 (p) If the person charged does not pay the amount of the  
3 penalty and the enforcement of the penalty is not stayed, the office  
4 of inspector general [~~department~~] may forward the matter to the  
5 attorney general for enforcement of the penalty and interest as  
6 provided by law for legal judgments. An action to enforce a penalty  
7 order under this section must be initiated in a court of competent  
8 jurisdiction in Travis County or in the county in which the  
9 violation was committed.

10 (q) Judicial review of an [~~a department~~] order or review by  
11 the office of inspector general under this section assessing a  
12 penalty is under the substantial evidence rule. A suit may be  
13 initiated by filing a petition with a district court in Travis  
14 County, as provided by Subchapter G, Chapter 2001, Government Code.

15 (r) If a penalty is reduced or not assessed, the department  
16 shall remit to the person the appropriate amount plus accrued  
17 interest if the penalty has been paid or the office of inspector  
18 general shall execute a release of the bond if a supersedeas bond  
19 has been posted. The accrued interest on amounts remitted by the  
20 department under this subsection shall be paid at a rate equal to  
21 the rate provided by law for legal judgments and shall be paid for  
22 the period beginning on the date the penalty is paid to the  
23 department under this section and ending on the date the penalty is  
24 remitted.

25 (u) Except as provided by Subsection (w), a person found  
26 liable for a violation under Subsection (c) that resulted in injury  
27 to an elderly person, as defined by Section 48.002(a)(1), a

1 disabled person, as defined by Section 48.002(a)(8)(A), or a person  
2 younger than 18 years of age may not provide or arrange to provide  
3 health care services under the medical assistance program for a  
4 period of 10 years. The inspector general [~~department~~] by rule may  
5 provide for a period of ineligibility longer than 10 years. The  
6 period of ineligibility begins on the date on which the  
7 determination that the person is liable becomes final.

8 (v) Except as provided by Subsection (w), a person found  
9 liable for a violation under Subsection (c) that did not result in  
10 injury to an elderly person, as defined by Section 48.002(a)(1), a  
11 disabled person, as defined by Section 48.002(a)(8)(A), or a person  
12 younger than 18 years of age may not provide or arrange to provide  
13 health care services under the medical assistance program for a  
14 period of three years. The inspector general [~~department~~] by rule  
15 may provide for a period of ineligibility longer than three years.  
16 The period of ineligibility begins on the date on which the  
17 determination that the person is liable becomes final.

18 (w) The inspector general [~~department~~] by rule may  
19 prescribe criteria under which a person described by Subsection (u)  
20 or (v) is not prohibited from providing or arranging to provide  
21 health care services under the medical assistance program. The  
22 criteria may include consideration of:

- 23 (1) the person's knowledge of the violation;
- 24 (2) the likelihood that education provided to the  
25 person would be sufficient to prevent future violations;
- 26 (3) the potential impact on availability of services  
27 in the community served by the person; and

1           (4) any other reasonable factor identified by the  
2 inspector general [~~department~~].

3           (x) Subsections (b)(1-b) through (1-f) do not prohibit a  
4 person from engaging in:

5           (1) generally accepted business practices, as  
6 determined by inspector general [~~department~~] rule, including:

7                   (A) conducting a marketing campaign;

8                   (B) providing token items of minimal value that  
9 advertise the person's trade name; and

10                   (C) providing complimentary refreshments at an  
11 informational meeting promoting the person's goods or services;

12           (2) the provision of a value-added service if the  
13 person is a managed care organization; or

14           (3) other conduct specifically authorized by law,  
15 including conduct authorized by federal safe harbor regulations (42  
16 C.F.R. Section 1001.952).

17           SECTION 29. Section 32.070(d), Human Resources Code, is  
18 amended to read as follows:

19           (d) This section does not apply to a computerized audit  
20 conducted using the Medicaid Fraud Detection Audit System or an  
21 audit or investigation of fraud, waste, and abuse conducted by the  
22 Medicaid fraud control unit of the office of the attorney general,  
23 the office of the state auditor, the office of [~~the~~] inspector  
24 general, or the Office of Inspector General in the United States  
25 Department of Health and Human Services.

26           SECTION 30. Section 33.015(e), Human Resources Code, is  
27 amended to read as follows:

1 (e) The department shall require a person exempted under  
2 this section from making a personal appearance at department  
3 offices to provide verification of the person's entitlement to the  
4 exemption on initial eligibility certification and on each  
5 subsequent periodic eligibility recertification. If the person  
6 does not provide verification and the department considers the  
7 verification necessary to protect the integrity of the food stamp  
8 program, the department shall initiate a fraud referral to the  
9 [~~department's~~] office of inspector general established under  
10 Subchapter M, Chapter 531, Government Code.

11 SECTION 31. Article 2.12, Code of Criminal Procedure, is  
12 amended to read as follows:

13 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace  
14 officers:

15 (1) sheriffs, their deputies, and those reserve  
16 deputies who hold a permanent peace officer license issued under  
17 Chapter 1701, Occupations Code;

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

21 (3) marshals or police officers of an incorporated  
22 city, town, or village, and those reserve municipal police officers  
23 who hold a permanent peace officer license issued under Chapter  
24 1701, Occupations Code;

25 (4) rangers and officers commissioned by the Public  
26 Safety Commission and the Director of the Department of Public  
27 Safety;

1           (5) investigators of the district attorneys', criminal  
2 district attorneys', and county attorneys' offices;

3           (6) law enforcement agents of the Texas Alcoholic  
4 Beverage Commission;

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

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

9           (9) officers commissioned by the General Services  
10 Commission;

11           (10) law enforcement officers commissioned by the  
12 Parks and Wildlife Commission;

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

16           (12) airport security personnel commissioned as peace  
17 officers by the governing body of any political subdivision of this  
18 state, other than a city described by Subdivision (11), that  
19 operates an airport that serves commercial air carriers;

20           (13) municipal park and recreational patrolmen and  
21 security officers;

22           (14) security officers and investigators commissioned  
23 as peace officers by the comptroller;

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

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

1 (17) investigators commissioned by the Texas Medical  
2 [~~State~~] Board [~~of Medical Examiners~~];

3 (18) officers commissioned by the board of managers of  
4 the Dallas County Hospital District, the Tarrant County Hospital  
5 District, or the Bexar County Hospital District under Section  
6 281.057, Health and Safety Code;

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

9 (20) investigators employed by the Texas Racing  
10 Commission;

11 (21) officers commissioned under Chapter 554,  
12 Occupations Code;

13 (22) officers commissioned by the governing body of a  
14 metropolitan rapid transit authority under Section 451.108,  
15 Transportation Code, or by a regional transportation authority  
16 under Section 452.110, Transportation Code;

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

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

21 (25) an officer employed by the [~~Texas~~] Department of  
22 State Health Services under Section 431.2471, Health and Safety  
23 Code;

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

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

1 (28) an investigator commissioned by the commissioner  
2 of insurance under Section 701.104 [~~Article 1.10D~~], Insurance Code;

3 (29) apprehension specialists commissioned by the  
4 Texas Youth Commission as officers under Section 61.0931, Human  
5 Resources Code;

6 (30) officers appointed by the executive director of  
7 the Texas Department of Criminal Justice under Section 493.019,  
8 Government Code;

9 (31) investigators commissioned by the Commission on  
10 Law Enforcement Officer Standards and Education under Section  
11 1701.160, Occupations Code;

12 (32) commission investigators commissioned by the  
13 Texas [~~Commission on~~] Private Security Board under Section  
14 1702.061(f), Occupations Code;

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

18 (34) officers commissioned by the State Board of  
19 Dental Examiners under Section 254.013, Occupations Code, subject  
20 to the limitations imposed by that section; and

21 (35) officers commissioned by the office of inspector  
22 general established under Subchapter M, Chapter 531, Government  
23 Code.

24 SECTION 32. Sections 531.102 and 531.1021, Government Code,  
25 are repealed.

26 SECTION 33. (a) The repeal by this Act of Section 531.102,  
27 Government Code, does not affect the validity of a complaint,



1 investigation, or other proceeding initiated under that section  
2 before the effective date of this Act. A complaint, investigation,  
3 or other proceeding initiated under that section is continued in  
4 accordance with the changes in law made by this Act.

5 (b) The repeal by this Act of Section 531.1021, Government  
6 Code, does not affect the validity of a subpoena issued under that  
7 section before the effective date of this Act. A subpoena issued  
8 under that section before the effective date of this Act is governed  
9 by the law that existed when the subpoena was issued, and the former  
10 law is continued in effect for that purpose.

11 SECTION 34. (a) The person serving as inspector general  
12 under Section 531.102(a-1), Government Code, on the effective date  
13 of this Act shall serve as the inspector general appointed under  
14 Subchapter M, Chapter 531, Government Code, as added by this Act,  
15 until February 1, 2009, and may be reappointed under Subchapter M,  
16 Chapter 531, if the person has the qualifications required under  
17 that subchapter.

18 (b) Not later than February 1, 2009, the governor shall  
19 appoint an inspector general for the Office of Inspector General  
20 under Subchapter M, Chapter 531, Government Code, as added by this  
21 Act, to a term expiring February 1, 2011.

22 SECTION 35. A contract or proceeding related to a function  
23 transferred to the Office of Inspector General under this Act is  
24 transferred to the office. The transfer does not affect the status  
25 of a proceeding or the validity of a contract.

26 SECTION 36. (a) All personnel and assets currently  
27 assigned to the inspector general of the Health and Human Services

1 Commission shall be promptly transferred to the Office of Inspector  
2 General along with any equipment, documents, and records currently  
3 assigned to or used by the inspector general of the commission.  
4 Inventory of personnel, equipment, documents, records, and assets  
5 to be transferred under this section shall be accomplished jointly  
6 by the transferring agency and the inspector general of the Health  
7 and Human Services Commission before the effective date of this  
8 Act. All funds previously appropriated or used, from any source, by  
9 the transferring agency in support of the transferred functions,  
10 personnel, equipment, documents, records, or assets shall also be  
11 contemporaneously transferred to the office.

12 (b) For purposes of this section, "currently assigned"  
13 means:

14 (1) all personnel and vacant full-time equivalent  
15 positions assigned to or supporting a transferred function at any  
16 time during the state fiscal biennium beginning September 1, 2005;  
17 and

18 (2) all inventory and equipment assigned to a  
19 transferred function or transferring personnel or that was in the  
20 possession of transferring personnel on or at any time after  
21 October 31, 2006.

22 (c) All state and federal funding, including funding for  
23 overhead costs, support costs, and lease or colocation lease costs,  
24 for the functions to be transferred to the Office of Inspector  
25 General created under Subchapter M, Chapter 531, Government Code,  
26 as added by this Act, shall be reallocated to that office.

27 (d) For purposes of federal single state agency funding

1 requirements, any federal funds that may not be appropriated  
2 directly to the Office of Inspector General shall be transferred  
3 from the single state agency receiving the funds to the Office of  
4 Inspector General if the funds are intended for a function  
5 performed by the office.

6 SECTION 37. On the effective date of this Act:

7 (1) all functions, activities, employees, rules,  
8 forms, money, property, contracts, memorandums of understanding,  
9 records, and obligations of the office of inspector general under  
10 Section 531.102(a-1), Government Code, become functions,  
11 activities, employees, rules, forms, money, property, contracts,  
12 memorandums of understanding, records, and obligations of the  
13 Office of Inspector General appointed under Subchapter M, Chapter  
14 531, Government Code, as added by this Act, without a change in  
15 status; and

16 (2) all money appropriated for the office of inspector  
17 general under Section 531.102(a-1), Government Code, including  
18 money for providing administrative support, is considered  
19 appropriated to the Office of Inspector General appointed under  
20 Subchapter M, Chapter 531, Government Code, as added by this Act.

21 SECTION 38. This Act takes effect immediately if it  
22 receives a vote of two-thirds of all the members elected to each  
23 house, as provided by Section 39, Article III, Texas Constitution.  
24 If this Act does not receive the vote necessary for immediate  
25 effect, this Act takes effect September 1, 2007.