

1-1 By: Deuell, et al. S.B. No. 750  
1-2 (In the Senate - Filed February 19, 2007; March 7, 2007,  
1-3 read first time and referred to Committee on Government  
1-4 Organization; April 16, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 April 16, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 750 By: Whitmire

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the creation of the Office of State Inspector General.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. Subtitle B, Title 4, Government Code, is amended  
1-13 by adding Chapter 422 to read as follows:

1-14 CHAPTER 422. OFFICE OF STATE INSPECTOR GENERAL  
1-15 SUBCHAPTER A. GENERAL PROVISIONS

1-16 Sec. 422.001. DEFINITIONS. In this chapter:

1-17 (1) "Covered entity" means a person, entity, or  
1-18 representative that has an employment, agency, contractual,  
1-19 financial, or fiduciary relationship with a state agency that  
1-20 administers or implements state or federally funded programs. The  
1-21 term includes a provider.

1-22 (2) "Fraud" means an intentional deception or  
1-23 misrepresentation made by a person with the knowledge that the  
1-24 deception could result in some unauthorized benefit to that person  
1-25 or some other person. The term includes any act that constitutes  
1-26 fraud under applicable federal or state law.

1-27 (3) "Furnished," in reference to items or services:

1-28 (A) means items or services provided directly by,  
1-29 provided under the direct supervision of, or ordered by:

1-30 (i) a practitioner or other individual,  
1-31 either as an employee or in the individual's own capacity;

1-32 (ii) a covered entity; or

1-33 (iii) another supplier of services; and

1-34 (B) does not include services ordered by one  
1-35 party but billed for and provided by or under the supervision of  
1-36 another.

1-37 (4) "Hold on payment" means the temporary denial of  
1-38 payment or reimbursement for items or services furnished by a  
1-39 covered entity. The term includes the temporary denial of  
1-40 reimbursement under a state or federal program for items or  
1-41 services furnished by a specified provider.

1-42 (5) "Office" means the office of state inspector  
1-43 general established under this chapter.

1-44 (6) "Practitioner" means a physician or other  
1-45 individual licensed under state law to practice the individual's  
1-46 profession.

1-47 (7) "Program exclusion" means the suspension of a  
1-48 covered entity's authorization under a state or federal program to  
1-49 request payment for, or reimbursement of, items or services  
1-50 furnished by that entity.

1-51 (8) "Provider" means a person, firm, partnership,  
1-52 corporation, agency, association, institution, or other entity  
1-53 that was or is approved by the Health and Human Services Commission  
1-54 to provide:

1-55 (A) medical assistance under contract or  
1-56 provider agreement with the commission; or

1-57 (B) third-party billing vendor services under a  
1-58 contract or provider agreement with the commission.

1-59 (9) "State inspector general" means the state  
1-60 inspector general appointed under Section 422.052.

1-61 Sec. 422.002. APPLICATION OF SUNSET ACT. The office of  
1-62 state inspector general is subject to Chapter 325 (Texas Sunset  
1-63 Act). Unless continued in existence as provided by that chapter,

2-1 the office is abolished and this chapter expires September 1, 2019.

2-2 Sec. 422.003. REFERENCE IN OTHER STATUTES. Notwithstanding  
2-3 any other provision of law, a reference in law or rule to the Health  
2-4 and Human Services Commission's office of investigations and  
2-5 enforcement or the Health and Human Services Commission's office of  
2-6 inspector general means the office of state inspector general  
2-7 established under this chapter.

2-8 [Sections 422.004-422.050 reserved for expansion]

2-9 SUBCHAPTER B. ADMINISTRATION AND COMPLAINTS

2-10 Sec. 422.051. OFFICE OF STATE INSPECTOR GENERAL. (a) The  
2-11 office of state inspector general is an agency of this state.

2-12 (b) The office is under the direction and supervision of the  
2-13 state inspector general.

2-14 (c) The office shall have its principal office and  
2-15 headquarters in Austin.

2-16 Sec. 422.052. STATE INSPECTOR GENERAL: APPOINTMENT BY  
2-17 GOVERNOR; QUALIFICATIONS. (a) The state inspector general is  
2-18 appointed by the governor with the advice and consent of the senate.

2-19 (b) The appointment shall be made without regard to race,  
2-20 color, disability, sex, religion, age, or national origin.

2-21 (c) In making the appointment, the governor shall consider  
2-22 the person's knowledge of laws, experience in the enforcement of  
2-23 law, honesty, integrity, education, training, and executive  
2-24 ability.

2-25 Sec. 422.053. ELIGIBILITY. (a) A person is not eligible  
2-26 for appointment as state inspector general if the person or the  
2-27 person's spouse is an employee, officer, or paid consultant of a  
2-28 trade association in a field under the office's jurisdiction.

2-29 (b) A person who is required to register as a lobbyist under  
2-30 Chapter 305 because of the person's activities for compensation in  
2-31 or on behalf of a profession related to a field under the office's  
2-32 jurisdiction may not serve as state inspector general.

2-33 (c) A person is not eligible for appointment as state  
2-34 inspector general if the person has a financial interest in a  
2-35 corporation, organization, or association receiving state or  
2-36 federal money under contract with this state or a political  
2-37 subdivision of this state.

2-38 Sec. 422.054. TERM. The state inspector general serves a  
2-39 two-year term expiring February 1 of each odd-numbered year.

2-40 Sec. 422.055. MERIT SYSTEM. (a) The office may establish  
2-41 a merit system for its employees.

2-42 (b) The merit system may be maintained in conjunction with  
2-43 other state agencies that are required by federal law to operate  
2-44 under a merit system.

2-45 Sec. 422.056. PUBLIC INTEREST INFORMATION AND COMPLAINTS.  
2-46 (a) The office shall develop and implement policies that provide  
2-47 the public a reasonable opportunity to appear before the office and  
2-48 to speak on any issue under the office's jurisdiction.

2-49 (b) The office shall prepare information of public interest  
2-50 describing the functions of the office and the office's procedures  
2-51 by which complaints are filed with and resolved by the office. The  
2-52 office shall make the information available to the public and  
2-53 appropriate state agencies.

2-54 (c) The office shall keep an information file about each  
2-55 complaint filed with the office relating to a state agency, license  
2-56 holder, or entity receiving state or federal money and falling  
2-57 under the jurisdiction of the office.

2-58 Sec. 422.057. ANNUAL REPORT. (a) The state inspector  
2-59 general annually shall prepare a complete and detailed written  
2-60 report describing the activities of the office during the fiscal  
2-61 year. The report must separately describe each major  
2-62 investigation, audit, review, fraud prevention effort, and agency  
2-63 assistance effort completed during the fiscal year.

2-64 (b) The annual report must meet the reporting requirements  
2-65 applicable to financial reporting provided in the General  
2-66 Appropriations Act.

2-67 (c) The state inspector general shall deliver a copy of each  
2-68 annual report to:

- 2-69 (1) the governor;

3-1 (2) the lieutenant governor;

3-2 (3) the speaker of the house of representatives;

3-3 (4) the presiding officer of each house and senate  
3-4 committee having jurisdiction over an agency to which this chapter  
3-5 applies;

3-6 (5) the presiding officer of each agency to which this  
3-7 chapter applies; and

3-8 (6) the comptroller.

3-9 (d) Each agency to which this chapter applies shall post the  
3-10 annual report on its agency website.

3-11 (e) The state inspector general shall issue the annual  
3-12 report not later than the 60th day after the last day of each fiscal  
3-13 year.

3-14 [Sections 422.058-422.100 reserved for expansion]

3-15 SUBCHAPTER C. GENERAL POWERS AND DUTIES

3-16 Sec. 422.101. GENERAL RESPONSIBILITIES AND POWERS.

3-17 (a) The office is responsible for the audit, detection,  
3-18 investigation, prevention, and review of fraud, waste, and abuse,  
3-19 as defined in applicable state and federal law, in this state's  
3-20 implementation or administration of all state or federally funded  
3-21 programs, including health and human services programs provided  
3-22 under Chapter 531, and in the enforcement of state law relating to  
3-23 those programs.

3-24 (b) The office shall set clear objectives, priorities, and  
3-25 performance standards for the office that emphasize:

3-26 (1) coordinating investigative efforts to  
3-27 aggressively recover money;

3-28 (2) allocating resources to cases that have the  
3-29 strongest supportive evidence and the greatest potential for  
3-30 recovery of money; and

3-31 (3) maximizing opportunities for referral of cases to  
3-32 the attorney general in accordance with this chapter.

3-33 (c) The office has all the powers necessary or appropriate  
3-34 to carry out its responsibilities and functions under this chapter  
3-35 and other law.

3-36 (d) The state inspector general shall establish policies  
3-37 and procedures to guide the operation of the office and to ensure  
3-38 that the work and practices of the office are in accordance with  
3-39 commonly used and adopted professional standards related to the  
3-40 fields of investigation and auditing in public administration  
3-41 environments.

3-42 (e) An investigation, audit, or review conducted by the  
3-43 office must conform to professional standards and best practices  
3-44 for offices of inspectors general.

3-45 Sec. 422.102. RULEMAKING AUTHORITY. The state inspector  
3-46 general may adopt rules necessary to implement this chapter and to  
3-47 carry out the duties of the office under this chapter and other law.

3-48 Sec. 422.103. INFORMATION AND TECHNOLOGY. The office may  
3-49 obtain any information or technology necessary to enable the office  
3-50 to meet its responsibilities under this chapter or other law.

3-51 Sec. 422.104. OFFICE STAFF; TRAINING. The office shall  
3-52 employ and train office staff to enable the staff to pursue fraud,  
3-53 waste, and abuse cases as necessary.

3-54 Sec. 422.105. STATE AGENCY INSPECTORS GENERAL. (a) The  
3-55 state inspector general, in consultation with the office of the  
3-56 governor and as necessary to implement this chapter, may designate  
3-57 persons to serve as agency inspectors general for state agencies  
3-58 that implement or administer state or federally funded programs. A  
3-59 state agency inspector general may be colocated with a state  
3-60 agency.

3-61 (b) An agency inspector general shall report to and perform  
3-62 duties as directed by the state inspector general.

3-63 (c) A state agency shall provide facilities and support  
3-64 services including suitable office space, furniture, computer  
3-65 equipment, communications equipment, and administrative support,  
3-66 to each state agency inspector general colocated at the agency and  
3-67 the state agency inspector general's staff.

3-68 (d) The office and each state agency that has a designated  
3-69 state agency inspector general shall execute a service level

4-1 agreement to establish performance standards regarding the  
 4-2 facilities and support services provided by the agency. The  
 4-3 agreement must be reviewed at least annually to ensure that  
 4-4 facilities and support services are provided in accordance with the  
 4-5 agreement.

4-6 Sec. 422.106. PEACE OFFICERS. (a) The office may employ  
 4-7 and commission peace officers, in a number not to exceed 10 percent  
 4-8 of the total number of employees of the office, to assist the state  
 4-9 inspector general in carrying out the duties of the office under  
 4-10 this chapter or other law.

4-11 (b) A commissioned peace officer or other designated law  
 4-12 enforcement officer employed by the office is not entitled to  
 4-13 supplemental benefits from the law enforcement and custodial  
 4-14 officer supplemental retirement fund under Title 8.

4-15 Sec. 422.107. AWARD FOR REPORTING FRAUD, WASTE, ABUSE, OR  
 4-16 OVERCHARGES. (a) If the office determines that the report results  
 4-17 in the recovery of an administrative or civil penalty imposed by  
 4-18 law, the office may grant an award to an individual who reports:

4-19 (1) activity that constitutes fraud, waste, or abuse  
 4-20 of money related to any state or federally funded program  
 4-21 implemented or administered by a state agency; or

4-22 (2) overcharges in a program described by Subdivision  
 4-23 (1).

4-24 (b) The office may not grant an award to an individual in  
 4-25 connection with a report if the office or attorney general had  
 4-26 independent knowledge of the activity reported by the individual.

4-27 (c) The office shall determine the amount of an award  
 4-28 granted under this section. The amount may not exceed five percent  
 4-29 of the amount of the administrative or civil penalty imposed by law  
 4-30 that resulted from the individual's report.

4-31 (d) In determining the amount of an award granted under this  
 4-32 section, the office:

4-33 (1) shall consider the importance of the report in  
 4-34 ensuring the fiscal integrity of the program; and

4-35 (2) may consider whether the individual participated  
 4-36 in the reported fraud, waste, abuse, or overcharge.

4-37 (e) A person who brings an action under Subchapter C,  
 4-38 Chapter 36, Human Resources Code, is not eligible for an award under  
 4-39 this section.

4-40 Sec. 422.108. STATE AUDITOR AUDITS, INVESTIGATIONS, AND  
 4-41 ACCESS TO INFORMATION NOT IMPAIRED. This chapter or other law  
 4-42 related to the operation of the state inspector general or a state  
 4-43 agency inspector general does not prohibit the state auditor from  
 4-44 conducting an audit, investigation, or other review or from having  
 4-45 full and complete access to all records and other information,  
 4-46 including witnesses and electronic data, that the state auditor  
 4-47 considers necessary for the audit, investigation, or other review.

4-48 Sec. 422.109. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY  
 4-49 AUDITS NOT IMPAIRED. This chapter or other law related to the  
 4-50 operation of the state inspector general or a state agency  
 4-51 inspector general does not take precedence over the authority of  
 4-52 the state auditor to conduct an audit under Chapter 321 or other  
 4-53 law.

4-54 [Sections 422.110-422.150 reserved for expansion]

4-55 SUBCHAPTER D. INVESTIGATIONS AND ENFORCEMENT ACTIONS

4-56 Sec. 422.151. AGENCY COOPERATION. Each state agency shall  
 4-57 provide assistance as necessary for the office to perform the  
 4-58 office's duties relating to the investigation of fraud, waste, and  
 4-59 abuse in the implementation or administration of state or federally  
 4-60 funded programs. The office is entitled to access any information  
 4-61 maintained by a state agency or by any covered entity, including  
 4-62 internal records, relevant to the functions of the office.

4-63 Sec. 422.152. CRITERIA FOR INVESTIGATIONS. The office by  
 4-64 rule shall set specific criteria, including claims criteria, that  
 4-65 when met require the office to begin an investigation.

4-66 Sec. 422.153. INTEGRITY REVIEWS. (a) If the office  
 4-67 receives a complaint of fraud, waste, or abuse from any source, the  
 4-68 office shall conduct an integrity review to determine whether there  
 4-69 is sufficient basis to warrant a full investigation.

5-1 (b) The office shall begin the integrity review not later  
 5-2 than the 30th day after the date the office receives a complaint or  
 5-3 has reason to believe that fraud, waste, or abuse has occurred. An  
 5-4 integrity review must be completed not later than the 90th day after  
 5-5 the date the review began.

5-6 (c) If the findings of an integrity review give the office  
 5-7 reason to believe that fraud, waste, or abuse involving possible  
 5-8 criminal conduct has occurred in the administration or  
 5-9 implementation of a state or federally funded program, the office  
 5-10 shall take the following action:

5-11 (1) if a covered entity is suspected of fraud, waste,  
 5-12 or abuse involving criminal conduct, the office shall refer the  
 5-13 case to the appropriate state or local official having jurisdiction  
 5-14 to prosecute the criminal conduct; or

5-15 (2) if there is reason to believe that a recipient has  
 5-16 defrauded a federally funded program, the office may conduct a full  
 5-17 investigation of the suspected fraud.

5-18 (d) A criminal referral by the office does not preclude the  
 5-19 office from continuing its investigation of the covered entity and  
 5-20 imposing appropriate administrative or civil penalties.

5-21 Sec. 422.154. WITHHELD, CONCEALED, OR DESTROYED RECORDS;  
 5-22 HOLD ON PAYMENT OF CLAIMS. (a) If the office learns or has reason  
 5-23 to suspect that a covered entity's records are being withheld,  
 5-24 concealed, destroyed, fabricated, or in any way falsified, the  
 5-25 office shall immediately refer the case to the appropriate state or  
 5-26 local official having jurisdiction to prosecute criminal conduct.

5-27 (b) A criminal referral by the office does not preclude the  
 5-28 office from continuing its investigation of the covered entity and  
 5-29 imposing appropriate administrative or civil penalties.

5-30 (c) In addition to any hold on payment of claims authorized  
 5-31 under other state or federal law, the office shall impose, without  
 5-32 prior notice, a hold on payment of money owed or claimed to be owed,  
 5-33 including a claim for reimbursement, submitted to a state agency by  
 5-34 a covered entity:

5-35 (1) to compel production of records; or

5-36 (2) on request by the appropriate state or local  
 5-37 official having jurisdiction to prosecute a case under this  
 5-38 section.

5-39 (d) The office shall notify the covered entity of the hold  
 5-40 not later than the fifth working day after the date the hold is  
 5-41 imposed.

5-42 Sec. 422.155. ADMINISTRATIVE HEARING ON PAYMENT CLAIM HOLD.  
 5-43 (a) On timely written request by a covered entity subject to a hold  
 5-44 on payment of claims under Section 422.154, other than a hold  
 5-45 requested under that section by an appropriate state or local  
 5-46 official having jurisdiction to prosecute, the office shall file a  
 5-47 request with the State Office of Administrative Hearings for an  
 5-48 expedited administrative hearing regarding the hold.

5-49 (b) The state inspector general shall adopt rules that allow  
 5-50 a covered entity subject to a hold under Section 422.154, other than  
 5-51 a hold requested under that section by the appropriate state or  
 5-52 local official having jurisdiction to prosecute, to seek an  
 5-53 informal resolution of the issues identified by the office in the  
 5-54 notice provided by the office.

5-55 (c) A covered entity subject to a hold shall seek an  
 5-56 expedited hearing under Subsection (a) or an informal resolution  
 5-57 under Subsection (b) not later than the 10th day after the date the  
 5-58 entity receives notice of the hold from the office.

5-59 (d) A covered entity's decision to seek an informal  
 5-60 resolution under Subsection (b) does not extend the time by which  
 5-61 the entity must request an expedited administrative hearing under  
 5-62 Subsection (a). An expedited hearing initiated under Subsection  
 5-63 (a) shall be stayed at the office's request until the informal  
 5-64 resolution process is completed.

5-65 Sec. 422.156. GUIDELINES FOR IMPOSING PAYMENT CLAIM HOLDS  
 5-66 OR PROGRAM EXCLUSIONS. The office shall establish guidelines under  
 5-67 which holds on payment of claims or program exclusions:

5-68 (1) may discretionally be imposed on a covered entity;  
 5-69 or

6-1                   (2) shall automatically be imposed on a covered  
6-2 entity.

6-3                   Sec. 422.157. ASSESSMENT OF ADMINISTRATIVE PENALTIES;  
6-4 INJUNCTIONS; AUDITS AND INVESTIGATIONS. In addition to performing  
6-5 functions and duties otherwise provided by law, the office may:

6-6                   (1) assess administrative penalties authorized by law  
6-7 on behalf of the state agency implementing or administering the  
6-8 state or federally funded program and retain from amounts collected  
6-9 money sufficient to cover investigative and collection costs;

6-10                  (2) request the attorney general to obtain an  
6-11 injunction to prevent a person from disposing of an asset  
6-12 identified by the office as potentially subject to recovery by the  
6-13 office due to the person's fraud, waste, or abuse;

6-14                  (3) provide for coordination between the office and  
6-15 special investigative units formed by managed care organizations  
6-16 under Section 531.113 or entities with which managed care  
6-17 organizations contract under that section;

6-18                  (4) audit the use and effectiveness of state or  
6-19 federal money, including contract and grant money, administered by  
6-20 a person or state agency receiving the money from a state agency;

6-21                  (5) conduct reviews, investigations, and inspections  
6-22 relating to the money described by Subdivision (4);

6-23                  (6) recommend policies promoting economical and  
6-24 efficient administration of the money described by Subdivision (4)  
6-25 and the prevention and detection of fraud, waste, and abuse in the  
6-26 administration of that money; and

6-27                  (7) conduct internal affairs investigations in  
6-28 instances of fraud, waste, and abuse and in instances of misconduct  
6-29 by employees, contractors, subcontractors, and vendors.

6-30                  Sec. 422.158. FINAL REPORTS; CONFIDENTIALITY. (a) The  
6-31 office shall prepare a final report on each audit or investigation  
6-32 conducted under this chapter. The final report must include:

6-33                  (1) a summary of the activities performed by the  
6-34 office in conducting the audit or investigation;

6-35                  (2) a statement regarding whether the audit or  
6-36 investigation resulted in a finding of any wrongdoing; and

6-37                  (3) a description of any finding of wrongdoing.

6-38                  (b) A final report on an audit or investigation is subject  
6-39 to required disclosure under Chapter 552. All information and  
6-40 material compiled during the audit or investigation remains  
6-41 confidential and is not subject to disclosure, except as provided  
6-42 by Section 422.162.

6-43                  (c) Unless otherwise prohibited by this chapter or other  
6-44 law, the state inspector general shall deliver a copy of each final  
6-45 report that concerns the implementation or administration of a  
6-46 state or federally funded program to:

6-47                   (1) the presiding officer of the subject agency;

6-48                   (2) the governor;

6-49                   (3) the lieutenant governor; and

6-50                   (4) the speaker of the house of representatives.

6-51                  Sec. 422.159. AGENCY RESPONSE. (a) Not later than the  
6-52 60th day after the date a state inspector general or state agency  
6-53 inspector general report that identifies deficiencies or  
6-54 recommends specified corrective measures in the operations of a  
6-55 state agency is issued, the agency shall file with the office a  
6-56 response that includes:

6-57                   (1) an implementation plan and timeline for  
6-58 implementing corrective measures; or

6-59                   (2) the agency's rationale for declining to implement  
6-60 corrective measures for the identified deficiencies or to implement  
6-61 the state inspector general's or state agency inspector general's  
6-62 recommended corrective measures.

6-63                  (b) The office by rule shall specify the format and  
6-64 requirements of a state agency response.

6-65                  (c) A state agency to which this chapter applies shall adopt  
6-66 rules to respond to reports and recommendations from the state  
6-67 inspector general or a state agency inspector general.

6-68                  Sec. 422.160. FRAUD PREVENTION INFORMATION. (a) The  
6-69 office shall compile and disseminate accurate information and

7-1 statistics relating to:

7-2 (1) fraud prevention; and

7-3 (2) post-fraud referrals received and accepted or  
7-4 rejected from the office's case management system or the case  
7-5 management system of a state agency.

7-6 (b) The office shall:

7-7 (1) aggressively publicize successful fraud  
7-8 prosecutions and fraud-prevention programs through all available  
7-9 means, including the use of statewide press releases; and

7-10 (2) maintain and promote a toll-free hotline for  
7-11 reporting suspected fraud in state or federally funded programs  
7-12 implemented or administered by an agency.

7-13 Sec. 422.161. ADMINISTRATIVE SUBPOENA. (a) The office may  
7-14 issue an administrative subpoena in connection with an  
7-15 investigation conducted by the office to compel the attendance of a  
7-16 relevant witness or the production, for inspection or copying, of  
7-17 relevant evidence that is in this state.

7-18 (b) A subpoena may be served personally or by certified  
7-19 mail.

7-20 (c) If a person fails to comply with a subpoena, the office,  
7-21 acting through the attorney general, may file suit to enforce the  
7-22 subpoena in a district court in this state.

7-23 (d) On finding that good cause exists for issuing the  
7-24 subpoena, the court shall order the person to comply with the  
7-25 subpoena. The court may punish a person who fails to obey the court  
7-26 order.

7-27 (e) The reimbursement of the expenses of a witness whose  
7-28 attendance is compelled under this section is governed by Section  
7-29 2001.103.

7-30 Sec. 422.162. CONFIDENTIALITY. (a) Information and  
7-31 material subpoenaed or compiled by the office in connection with an  
7-32 audit or investigation is confidential and not subject to  
7-33 disclosure under Chapter 552. The information and material is not  
7-34 subject to disclosure, discovery, subpoena, or other means of legal  
7-35 compulsion for release to anyone other than the office or its  
7-36 employees or agents involved in the audit or investigation  
7-37 conducted by the office, except that the information may be  
7-38 disclosed to the attorney general, the state auditor's office, and  
7-39 law enforcement agencies.

7-40 (b) A person who receives information under Subsection (a)  
7-41 may disclose the information only in accordance with Subsection (a)  
7-42 and in a manner that is consistent with the authorized purpose for  
7-43 which the person received the information.

7-44 Sec. 422.163. INTERAGENCY COORDINATION. (a) The office  
7-45 and the attorney general shall enter into a memorandum of  
7-46 understanding to develop and implement joint written procedures for  
7-47 processing cases of suspected fraud, waste, or abuse, as those  
7-48 terms are defined by state or federal law, or other violations of  
7-49 state or federal law under any state or federally funded program  
7-50 implemented or administered by a state agency.

7-51 (b) The memorandum of understanding must require:

7-52 (1) the office and the attorney general to set  
7-53 priorities and guidelines for referring cases to appropriate state  
7-54 agencies for investigation, prosecution, or other disposition to  
7-55 enhance deterrence of fraud, waste, abuse, or other violations of  
7-56 state or federal law, including a violation of Chapter 102,  
7-57 Occupations Code, in the programs and maximize the imposition of  
7-58 penalties, the recovery of money, and the successful prosecution of  
7-59 cases;

7-60 (2) the office to refer each case of suspected covered  
7-61 entity fraud, waste, or abuse to the attorney general not later than  
7-62 the 20th business day after the date the office determines that the  
7-63 existence of fraud, waste, or abuse is reasonably indicated;

7-64 (3) the attorney general to take appropriate action in  
7-65 response to each case referred to the attorney general, including  
7-66 the direct initiation of prosecution with the consent of the  
7-67 appropriate local district or county attorney, direct initiation of  
7-68 civil litigation, referral to an appropriate United States  
7-69 attorney, district attorney, or county attorney, and referral to a

8-1 collections agency for initiation of civil litigation or other  
 8-2 appropriate action;

8-3 (4) the office to keep detailed records for cases  
 8-4 processed by the office or the attorney general, including  
 8-5 information on the total number of cases processed and, for each  
 8-6 case:

8-7 (A) the agency and division to which the case is  
 8-8 referred for investigation;

8-9 (B) the date on which the case is referred; and

8-10 (C) the nature of the suspected fraud, waste, or  
 8-11 abuse;

8-12 (5) the office to notify each appropriate division of  
 8-13 the attorney general's office of each case referred by the office;

8-14 (6) the attorney general to ensure that information  
 8-15 relating to each case investigated by the attorney general is  
 8-16 available to each division of the attorney general's office with  
 8-17 responsibility for investigating suspected fraud, waste, or abuse;

8-18 (7) the attorney general to notify the office of each  
 8-19 case the attorney general declines to prosecute or prosecutes  
 8-20 unsuccessfully;

8-21 (8) representatives of the office and of the attorney  
 8-22 general to meet not less than quarterly to share case information  
 8-23 and determine the appropriate agency and division to investigate  
 8-24 each case; and

8-25 (9) the office and the attorney general to submit  
 8-26 information requested by the comptroller about each resolved case  
 8-27 for the comptroller's use in improving fraud detection.

8-28 (c) With respect to Medicaid fraud, in addition to the  
 8-29 requirements under Subsection (b), the memorandum of understanding  
 8-30 must:

8-31 (1) ensure that barriers to direct fraud referrals to  
 8-32 the office of the attorney general's Medicaid fraud control unit or  
 8-33 unreasonable impediments to communication between Medicaid agency  
 8-34 employees and the Medicaid fraud control unit are not imposed; and

8-35 (2) include procedures to facilitate the referral of  
 8-36 cases directly to the attorney general.

8-37 Sec. 422.164. EXCHANGE OF INFORMATION. An exchange of  
 8-38 information under this subchapter between the attorney general and  
 8-39 the office or any other state agency does not affect whether the  
 8-40 information is subject to disclosure under Chapter 552.

8-41 Sec. 422.165. SEMIANNUAL REPORT. (a) The office and the  
 8-42 attorney general shall jointly prepare and submit a semiannual  
 8-43 report to the governor, lieutenant governor, speaker of the house  
 8-44 of representatives, state auditor, and comptroller on:

8-45 (1) the activities of the attorney general and the  
 8-46 office in detecting and preventing fraud, waste, and abuse under  
 8-47 any state or federally funded program implemented or administered  
 8-48 by a state agency that is reviewed by the office under this chapter;  
 8-49 and

8-50 (2) the activities of the office during the fiscal  
 8-51 year, including separate descriptions of each major investigation,  
 8-52 audit, review, fraud prevention effort, and agency assistance  
 8-53 effort completed during the fiscal year.

8-54 (b) The report may be consolidated with any other report  
 8-55 relating to the same subject matter the office or the attorney  
 8-56 general is required to submit under other law.

8-57 Sec. 422.166. ASSESSMENT AND COLLECTION OF CERTAIN FEES AND  
 8-58 COSTS. (a) The office and the attorney general may not assess or  
 8-59 collect investigation or attorney's fees on behalf of any state  
 8-60 agency unless the attorney general or other state agency collects a  
 8-61 penalty, restitution, or other reimbursement payment to this state.

8-62 (b) A district attorney, county attorney, municipal  
 8-63 attorney, or private collection agency may collect and retain:

8-64 (1) costs associated with a case referred to the  
 8-65 government attorney or private collection agency in accordance with  
 8-66 procedures adopted under this section; and

8-67 (2) 20 percent of the amount of the penalty,  
 8-68 restitution, or other reimbursement payment collected.

8-69 Sec. 422.167. ASSISTING INVESTIGATIONS BY ATTORNEY



9-1 GENERAL. (a) The office and the attorney general shall execute a  
9-2 memorandum of understanding under which the office shall provide  
9-3 investigative support, as required, to the attorney general in  
9-4 connection with cases under Subchapter B, Chapter 36, Human  
9-5 Resources Code. Under the memorandum of understanding, the office  
9-6 shall assist in performing preliminary investigations and ongoing  
9-7 investigations for actions involving the attorney general under  
9-8 Chapter 36, Human Resources Code.

9-9 (b) The memorandum of understanding must:

9-10 (1) specify the type, scope, and format of the  
9-11 investigative support provided to the attorney general under this  
9-12 section; and

9-13 (2) ensure that barriers to direct fraud referrals to  
9-14 the state's Medicaid fraud control unit by Medicaid agencies or  
9-15 unreasonable impediments to communication between Medicaid agency  
9-16 employees and this state's Medicaid fraud control unit are not  
9-17 imposed.

9-18 Sec. 422.168. COOPERATION AND COORDINATION WITH STATE  
9-19 AUDITOR. (a) The state auditor may, on request of the state  
9-20 inspector general or a state agency inspector general, provide  
9-21 appropriate information or other assistance to the state inspector  
9-22 general or office, as determined by the state auditor.

9-23 (b) The state inspector general or a state agency inspector  
9-24 general may meet with the state auditor's office to coordinate a  
9-25 review conducted under this subchapter, share information, or  
9-26 schedule work plans.

9-27 (c) The state auditor is entitled to access all information  
9-28 maintained by the state inspector general or a state agency  
9-29 inspector general, including vouchers, electronic data, internal  
9-30 records, and information obtained from a state agency or covered  
9-31 entity subject to Section 422.162.

9-32 (d) Any information obtained or provided by the state  
9-33 auditor under this section is confidential and not subject to  
9-34 disclosure under Chapter 552.

9-35 Sec. 422.169. PERIODIC REPORTING TO STATE AUDITOR AND  
9-36 GOVERNOR REQUIRED. The state inspector general shall timely inform  
9-37 the state auditor and the governor of the initiation of a review of  
9-38 a state agency program by the state inspector general or a state  
9-39 agency inspector general and the ongoing status of each review by  
9-40 the state inspector general or a state agency inspector general.

9-41 Sec. 422.170. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The  
9-42 state inspector general or a state agency inspector general shall  
9-43 immediately report to the governor's general counsel and the state  
9-44 auditor a particularly serious or flagrant problem relating to the  
9-45 administration of a program, operation of a state agency program,  
9-46 or interference with a review by the state inspector general or a  
9-47 state agency inspector general.

9-48 SECTION 2. Section 531.001, Government Code, is amended by  
9-49 adding Subdivision (4-a) to read as follows:

9-50 (4-a) "Office of state inspector general" means the  
9-51 office of state inspector general established under Chapter 422.

9-52 SECTION 3. Subsection (c), Section 531.008, Government  
9-53 Code, is amended to read as follows:

9-54 (c) The executive commissioner shall establish the  
9-55 following divisions and offices within the commission:

9-56 (1) the eligibility services division to make  
9-57 eligibility determinations for services provided through the  
9-58 commission or a health and human services agency related to:

9-59 (A) the child health plan program;

9-60 (B) the financial assistance program under  
9-61 Chapter 31, Human Resources Code;

9-62 (C) the medical assistance program under Chapter  
9-63 32, Human Resources Code;

9-64 (D) the nutritional assistance programs under  
9-65 Chapter 33, Human Resources Code;

9-66 (E) long-term care services, as defined by  
9-67 Section 22.0011, Human Resources Code;

9-68 (F) community-based support services identified  
9-69 or provided in accordance with Section 531.02481; and

10-1 (G) other health and human services programs, as  
 10-2 appropriate;

10-3 (2) ~~[the office of inspector general to perform fraud~~  
 10-4 ~~and abuse investigation and enforcement functions as provided by~~  
 10-5 ~~Subchapter C and other law;~~

10-6 [~~3~~] the office of the ombudsman to:

10-7 (A) provide dispute resolution services for the  
 10-8 commission and the health and human services agencies; and

10-9 (B) perform consumer protection functions  
 10-10 related to health and human services;

10-11 (3) [~~4~~] a purchasing division as provided by Section  
 10-12 531.017; and

10-13 (4) [~~5~~] an internal audit division to conduct a  
 10-14 program of internal auditing in accordance with [~~Government Code,~~  
 10-15 Chapter 2102.

10-16 SECTION 4. Section 531.105, Government Code, is amended to  
 10-17 read as follows:

10-18 Sec. 531.105. FRAUD DETECTION TRAINING. (a) The office of  
 10-19 state inspector general [~~commission~~] shall develop and implement a  
 10-20 program to provide annual training to contractors who process  
 10-21 Medicaid claims and appropriate staff of the commission and other  
 10-22 health and human services agencies [~~the Texas Department of Health~~  
 10-23 ~~and the Texas Department of Human Services~~] in identifying  
 10-24 potential cases of fraud, waste, or abuse under the state Medicaid  
 10-25 program. The training provided to the contractors and staff must  
 10-26 include clear criteria that specify:

10-27 (1) the circumstances under which a person should  
 10-28 refer a potential case to the office [~~commission~~]; and

10-29 (2) the time by which a referral should be made.

10-30 (b) The commission and other health and human services  
 10-31 agencies [~~The Texas Department of Health and the Texas Department~~  
 10-32 ~~of Human Services~~], in cooperation with the office of state  
 10-33 inspector general [~~commission~~], shall periodically set a goal of  
 10-34 the number of potential cases of fraud, waste, or abuse under the  
 10-35 state Medicaid program that each agency will attempt to identify  
 10-36 and refer to the office [~~commission~~]. The office [~~commission~~]  
 10-37 shall include information on the agencies' goals and the success of  
 10-38 each agency in meeting the agency's goal in the report required by  
 10-39 Section 422.165 [~~531.103(c)~~].

10-40 SECTION 5. Subsections (a), (b), and (d) through (g),  
 10-41 Sections 531.106, Government Code, are amended to read as follows:

10-42 (a) The office of state inspector general [~~commission~~]  
 10-43 shall use learning or neural network technology to identify and  
 10-44 deter fraud in the Medicaid program throughout this state.

10-45 (b) The office of state inspector general [~~commission~~]  
 10-46 shall contract with a private or public entity to develop and  
 10-47 implement the technology. The office [~~commission~~] may require the  
 10-48 entity it contracts with to install and operate the technology at  
 10-49 locations specified by the office [~~commission~~], including the  
 10-50 office of state inspector general's [~~commission~~] offices.

10-51 (d) The office of state inspector general [~~commission~~]  
 10-52 shall require each health and human services agency that performs  
 10-53 any aspect of the state Medicaid program to participate in the  
 10-54 implementation and use of the technology.

10-55 (e) The office of state inspector general [~~commission~~]  
 10-56 shall maintain all information necessary to apply the technology to  
 10-57 claims data covering a period of at least two years.

10-58 (f) The office of state inspector general [~~commission~~]  
 10-59 shall investigate [~~refer~~] cases identified by the technology and  
 10-60 shall refer cases to the [~~commission's office of investigations and~~  
 10-61 ~~enforcement or the office of the~~] attorney general for prosecution,  
 10-62 as appropriate.

10-63 (g) Each month, the learning or neural network technology  
 10-64 implemented under this section must match bureau of vital  
 10-65 statistics death records with Medicaid claims filed by a provider.  
 10-66 If the office of state inspector general [~~commission~~] determines  
 10-67 that a provider has filed a claim for services provided to a person  
 10-68 after the person's date of death, as determined by the bureau of  
 10-69 vital statistics death records, the office [~~commission~~] shall

11-1 investigate [~~refer~~] the case [~~for investigation to the commission's~~  
11-2 ~~office of investigations and enforcement~~].

11-3 SECTION 6. Section 531.1061, Government Code, is amended to  
11-4 read as follows:

11-5 Sec. 531.1061. FRAUD INVESTIGATION TRACKING SYSTEM.  
11-6 (a) The office of state inspector general [~~commission~~] shall use  
11-7 an automated fraud investigation tracking system [~~through the~~  
11-8 ~~commission's office of investigations and enforcement~~] to monitor  
11-9 the progress of an investigation of suspected fraud, waste, abuse,  
11-10 or insufficient quality of care under the state Medicaid program.

11-11 (b) For each case of suspected fraud, waste, abuse, or  
11-12 insufficient quality of care identified by the learning or neural  
11-13 network technology required under Section 531.106, the automated  
11-14 fraud investigation tracking system must:

11-15 (1) receive electronically transferred records  
11-16 relating to the identified case from the learning or neural network  
11-17 technology;

11-18 (2) record the details and monitor the status of an  
11-19 investigation of the identified case, including maintaining a  
11-20 record of the beginning and completion dates for each phase of the  
11-21 case investigation;

11-22 (3) generate documents and reports related to the  
11-23 status of the case investigation; and

11-24 (4) generate standard letters to a provider regarding  
11-25 the status or outcome of an investigation.

11-26 (c) The office of state inspector general [~~commission~~]  
11-27 shall require each health and human services agency that performs  
11-28 any aspect of the state Medicaid program to participate in the  
11-29 implementation and use of the automated fraud investigation  
11-30 tracking system.

11-31 SECTION 7. Subsection (a), Section 531.1062, Government  
11-32 Code, is amended to read as follows:

11-33 (a) The office of state inspector general [~~commission~~]  
11-34 shall use an automated recovery monitoring system to monitor the  
11-35 collections process for a settled case of fraud, waste, abuse, or  
11-36 insufficient quality of care under the state Medicaid program.

11-37 SECTION 8. Subsections (a), (b), and (f), Section 531.107,  
11-38 Government Code, are amended to read as follows:

11-39 (a) The Medicaid and Public Assistance Fraud Oversight Task  
11-40 Force advises and assists the [~~commission and the commission's~~]  
11-41 office of state inspector general [~~of investigations and~~  
11-42 ~~enforcement~~] in improving the efficiency of fraud investigations  
11-43 and collections.

11-44 (b) The task force is composed of a representative of the:

11-45 (1) attorney general's office, appointed by the  
11-46 attorney general;

11-47 (2) comptroller's office, appointed by the  
11-48 comptroller;

11-49 (3) Department of Public Safety, appointed by the  
11-50 public safety director;

11-51 (4) state auditor's office, appointed by the state  
11-52 auditor;

11-53 (5) office of state inspector general, appointed by  
11-54 the state inspector general [~~commission, appointed by the~~  
11-55 ~~commissioner of health and human services~~];

11-56 (6) [~~Texas~~] Department of Aging and Disability [~~Human~~]  
11-57 Services, appointed by the commissioner of aging and disability  
11-58 [~~human~~] services;

11-59 (7) Texas Department of Insurance, appointed by the  
11-60 commissioner of insurance; and

11-61 (8) [~~Texas~~] Department of State Health Services,  
11-62 appointed by the commissioner of state [~~public~~] health services.

11-63 (f) At least once each fiscal quarter, the [~~commission's~~]  
11-64 office of state inspector general [~~of investigations and~~  
11-65 ~~enforcement~~] shall provide to the task force:

11-66 (1) information detailing:

11-67 (A) the number of fraud referrals made to the  
11-68 office and the origin of each referral;

11-69 (B) the time spent investigating each case;

12-1 (C) the number of cases investigated each month,  
12-2 by program and region;

12-3 (D) the dollar value of each fraud case that  
12-4 results in a criminal conviction; and

12-5 (E) the number of cases the office rejects and  
12-6 the reason for rejection, by region; and

12-7 (2) any additional information the task force  
12-8 requires.

12-9 SECTION 9. Section 531.108, Government Code, is amended to  
12-10 read as follows:

12-11 Sec. 531.108. FRAUD PREVENTION. (a) ~~[The commission's~~  
12-12 ~~office of investigations and enforcement shall compile and~~  
12-13 ~~disseminate accurate information and statistics relating to:~~

12-14 ~~[(1) fraud prevention; and~~

12-15 ~~[(2) post-fraud referrals received and accepted or~~  
12-16 ~~rejected from the commission's case management system or the case~~  
12-17 ~~management system of a health and human services agency.~~

12-18 ~~[(b) The commission shall:~~

12-19 ~~[(1) aggressively publicize successful fraud~~  
12-20 ~~prosecutions and fraud-prevention programs through all available~~  
12-21 ~~means, including the use of statewide press releases issued in~~  
12-22 ~~coordination with the Texas Department of Human Services; and~~

12-23 ~~[(2) ensure that a toll-free hotline for reporting~~  
12-24 ~~suspected fraud in programs administered by the commission or a~~  
12-25 ~~health and human services agency is maintained and promoted, either~~  
12-26 ~~by the commission or by a health and human services agency.~~

12-27 ~~[(c)]~~ The office of state inspector general ~~[commission]~~  
12-28 shall develop a cost-effective method of identifying applicants for  
12-29 public assistance in counties bordering other states and in  
12-30 metropolitan areas selected by the office ~~[commission]~~ who are  
12-31 already receiving benefits in other states. If economically  
12-32 feasible, the office ~~[commission]~~ may develop a computerized  
12-33 matching system.

12-34 (b) ~~[(a)]~~ The office of state inspector general  
12-35 ~~[commission]~~ shall:

12-36 (1) verify automobile information that is used as  
12-37 criteria for eligibility; and

12-38 (2) establish a computerized matching system with the  
12-39 Texas Department of Criminal Justice to prevent an incarcerated  
12-40 individual from illegally receiving public assistance benefits  
12-41 administered by the commission.

12-42 (c) ~~[(e)]~~ The office of state inspector general  
12-43 ~~[commission]~~ shall submit to the governor and Legislative Budget  
12-44 Board a semiannual report on the results of computerized matching  
12-45 of office ~~[commission]~~ information with information from  
12-46 neighboring states, if any, and information from the Texas  
12-47 Department of Criminal Justice. The report may be consolidated  
12-48 with any other report relating to the same subject matter the office  
12-49 ~~[commission]~~ is required to submit under other law.

12-50 SECTION 10. Section 531.109, Government Code, is amended to  
12-51 read as follows:

12-52 Sec. 531.109. SELECTION AND REVIEW OF CLAIMS. (a) The  
12-53 office of state inspector general ~~[commission]~~ shall annually  
12-54 select and review a random, statistically valid sample of all  
12-55 claims for reimbursement under the state Medicaid program,  
12-56 including the vendor drug program, for potential cases of fraud,  
12-57 waste, or abuse.

12-58 (b) In conducting the annual review of claims under  
12-59 Subsection (a), the office of state inspector general ~~[commission]~~  
12-60 may directly contact a recipient by telephone or in person, or both,  
12-61 to verify that the services for which a claim for reimbursement was  
12-62 submitted by a provider were actually provided to the recipient.

12-63 (c) Based on the results of the annual review of claims, the  
12-64 office of state inspector general ~~[commission]~~ shall determine the  
12-65 types of claims at which office ~~[commission]~~ resources for fraud,  
12-66 waste, and abuse detection should be primarily directed.

12-67 SECTION 11. Subsections (a) and (c) through (f), Section  
12-68 531.110, Government Code, are amended to read as follows:

12-69 (a) The office of state inspector general ~~[commission]~~

13-1 shall conduct electronic data matches for a recipient of assistance  
13-2 under the state Medicaid program at least quarterly to verify the  
13-3 identity, income, employment status, and other factors that affect  
13-4 the eligibility of the recipient.

13-5 (c) The commission and other health and human services  
13-6 agencies [~~Texas Department of Human Services~~] shall cooperate with  
13-7 the office of state inspector general [~~commission~~] by providing  
13-8 data or any other assistance necessary to conduct the electronic  
13-9 data matches required by this section.

13-10 (d) The office of state inspector general [~~commission~~] may  
13-11 contract with a public or private entity to conduct the electronic  
13-12 data matches required by this section.

13-13 (e) The office of state inspector general [~~commission, or a~~  
13-14 ~~health and human services agency designated by the commission,~~] by  
13-15 rule shall establish procedures to verify the electronic data  
13-16 matches conducted by the office [~~commission~~] under this section.  
13-17 Not later than the 20th day after the date the electronic data match  
13-18 is verified, the commission and other health and human services  
13-19 agencies [~~Texas Department of Human Services~~] shall remove from  
13-20 eligibility a recipient who is determined to be ineligible for  
13-21 assistance under the state Medicaid program.

13-22 (f) The office of state inspector general [~~commission~~]  
13-23 shall report biennially to the legislature the results of the  
13-24 electronic data matching program. The report must include a  
13-25 summary of the number of applicants who were removed from  
13-26 eligibility for assistance under the state Medicaid program as a  
13-27 result of an electronic data match conducted under this section.

13-28 SECTION 12. Section 531.111, Government Code, is amended to  
13-29 read as follows:

13-30 Sec. 531.111. FRAUD DETECTION TECHNOLOGY. The office of  
13-31 state inspector general [~~commission~~] may contract with a contractor  
13-32 who specializes in developing technology capable of identifying  
13-33 patterns of fraud exhibited by Medicaid recipients to:

13-34 (1) develop and implement the fraud detection  
13-35 technology; and

13-36 (2) determine if a pattern of fraud by Medicaid  
13-37 recipients is present in the recipients' eligibility files  
13-38 maintained by the commission and other health and human services  
13-39 agencies [~~Texas Department of Human Services~~].

13-40 SECTION 13. Section 531.113, Government Code, is amended to  
13-41 read as follows:

13-42 Sec. 531.113. MANAGED CARE ORGANIZATIONS: SPECIAL  
13-43 INVESTIGATIVE UNITS OR CONTRACTS. (a) Each managed care  
13-44 organization that provides or arranges for the provision of health  
13-45 care services to an individual under a government-funded program,  
13-46 including the Medicaid program and the child health plan program,  
13-47 shall:

13-48 (1) establish and maintain a special investigative  
13-49 unit within the managed care organization to investigate fraudulent  
13-50 claims and other types of program waste or abuse by recipients and  
13-51 service providers; or

13-52 (2) contract with another entity for the investigation  
13-53 of fraudulent claims and other types of program waste or abuse by  
13-54 recipients and service providers.

13-55 (b) Each managed care organization subject to this section  
13-56 shall adopt a plan to prevent and reduce fraud, waste, and abuse and  
13-57 annually file that plan with the [~~commission's~~] office of inspector  
13-58 general for approval. The plan must include:

13-59 (1) a description of the managed care organization's  
13-60 procedures for detecting and investigating possible acts of fraud,  
13-61 waste, or abuse;

13-62 (2) a description of the managed care organization's  
13-63 procedures for the mandatory reporting of possible acts of fraud,  
13-64 waste, or abuse to the [~~commission's~~] office of inspector general;

13-65 (3) a description of the managed care organization's  
13-66 procedures for educating and training personnel to prevent fraud,  
13-67 waste, and abuse;

13-68 (4) the name, address, telephone number, and fax  
13-69 number of the individual responsible for carrying out the plan;

14-1 (5) a description or chart outlining the  
 14-2 organizational arrangement of the managed care organization's  
 14-3 personnel responsible for investigating and reporting possible  
 14-4 acts of fraud, waste, or abuse;

14-5 (6) a detailed description of the results of  
 14-6 investigations of fraud, waste, and abuse conducted by the managed  
 14-7 care organization's special investigative unit or the entity with  
 14-8 which the managed care organization contracts under Subsection  
 14-9 (a)(2); and

14-10 (7) provisions for maintaining the confidentiality of  
 14-11 any patient information relevant to an investigation of fraud,  
 14-12 waste, or abuse.

14-13 (c) If a managed care organization contracts for the  
 14-14 investigation of fraudulent claims and other types of program waste  
 14-15 or abuse by recipients and service providers under Subsection  
 14-16 (a)(2), the managed care organization shall file with the  
 14-17 ~~[commission's]~~ office of inspector general:

14-18 (1) a copy of the written contract;

14-19 (2) the names, addresses, telephone numbers, and fax  
 14-20 numbers of the principals of the entity with which the managed care  
 14-21 organization has contracted; and

14-22 (3) a description of the qualifications of the  
 14-23 principals of the entity with which the managed care organization  
 14-24 has contracted.

14-25 (d) The ~~[commission's]~~ office of inspector general may  
 14-26 review the records of a managed care organization to determine  
 14-27 compliance with this section.

14-28 (e) The state inspector general ~~[commissioner]~~ shall adopt  
 14-29 rules as necessary to accomplish the purposes of this section.

14-30 SECTION 14. Subsections (b) and (g), Section 531.114,  
 14-31 Government Code, are amended to read as follows:

14-32 (b) If after an investigation the office of state inspector  
 14-33 general ~~[commission]~~ determines that a person violated Subsection  
 14-34 (a), the office ~~[commission]~~ shall:

14-35 (1) notify the person of the alleged violation not  
 14-36 later than the 30th day after the date the office ~~[commission]~~  
 14-37 completes the investigation and provide the person with an  
 14-38 opportunity for a hearing on the matter; or

14-39 (2) refer the matter to the appropriate prosecuting  
 14-40 attorney for prosecution.

14-41 (g) The office of state inspector general ~~[commission]~~  
 14-42 shall adopt rules as necessary to implement this section.

14-43 SECTION 15. Section 533.001, Government Code, is amended by  
 14-44 adding Subdivision (8) to read as follows:

14-45 (8) "State inspector general" means the state  
 14-46 inspector general appointed under Chapter 422.

14-47 SECTION 16. Subsection (a), Section 533.005, Government  
 14-48 Code, is amended to read as follows:

14-49 (a) A contract between a managed care organization and the  
 14-50 commission for the organization to provide health care services to  
 14-51 recipients must contain:

14-52 (1) procedures to ensure accountability to the state  
 14-53 for the provision of health care services, including procedures for  
 14-54 financial reporting, quality assurance, utilization review, and  
 14-55 assurance of contract and subcontract compliance;

14-56 (2) capitation rates that ensure the cost-effective  
 14-57 provision of quality health care;

14-58 (3) a requirement that the managed care organization  
 14-59 provide ready access to a person who assists recipients in  
 14-60 resolving issues relating to enrollment, plan administration,  
 14-61 education and training, access to services, and grievance  
 14-62 procedures;

14-63 (4) a requirement that the managed care organization  
 14-64 provide ready access to a person who assists providers in resolving  
 14-65 issues relating to payment, plan administration, education and  
 14-66 training, and grievance procedures;

14-67 (5) a requirement that the managed care organization  
 14-68 provide information and referral about the availability of  
 14-69 educational, social, and other community services that could

15-1 benefit a recipient;

15-2 (6) procedures for recipient outreach and education;

15-3 (7) a requirement that the managed care organization  
15-4 make payment to a physician or provider for health care services  
15-5 rendered to a recipient under a managed care plan not later than the  
15-6 45th day after the date a claim for payment is received with  
15-7 documentation reasonably necessary for the managed care  
15-8 organization to process the claim, or within a period, not to exceed  
15-9 60 days, specified by a written agreement between the physician or  
15-10 provider and the managed care organization;

15-11 (8) a requirement that the commission, on the date of a  
15-12 recipient's enrollment in a managed care plan issued by the managed  
15-13 care organization, inform the organization of the recipient's  
15-14 Medicaid certification date;

15-15 (9) a requirement that the managed care organization  
15-16 comply with Section 533.006 as a condition of contract retention  
15-17 and renewal;

15-18 (10) a requirement that the managed care organization  
15-19 provide the information required by Section 533.012 and otherwise  
15-20 comply and cooperate with the [~~commission's~~] office of state  
15-21 inspector general;

15-22 (11) a requirement that the managed care  
15-23 organization's usages of out-of-network providers or groups of  
15-24 out-of-network providers may not exceed limits for those usages  
15-25 relating to total inpatient admissions, total outpatient services,  
15-26 and emergency room admissions determined by the commission;

15-27 (12) if the commission finds that a managed care  
15-28 organization has violated Subdivision (11), a requirement that the  
15-29 managed care organization reimburse an out-of-network provider for  
15-30 health care services at a rate that is equal to the allowable rate  
15-31 for those services, as determined under Sections 32.028 and  
15-32 32.0281, Human Resources Code;

15-33 (13) a requirement that the organization use advanced  
15-34 practice nurses in addition to physicians as primary care providers  
15-35 to increase the availability of primary care providers in the  
15-36 organization's provider network;

15-37 (14) a requirement that the managed care organization  
15-38 reimburse a federally qualified health center or rural health  
15-39 clinic for health care services provided to a recipient outside of  
15-40 regular business hours, including on a weekend day or holiday, at a  
15-41 rate that is equal to the allowable rate for those services as  
15-42 determined under Section 32.028, Human Resources Code, if the  
15-43 recipient does not have a referral from the recipient's primary  
15-44 care physician; and

15-45 (15) a requirement that the managed care organization  
15-46 develop, implement, and maintain a system for tracking and  
15-47 resolving all provider appeals related to claims payment, including  
15-48 a process that will require:

15-49 (A) a tracking mechanism to document the status  
15-50 and final disposition of each provider's claims payment appeal;

15-51 (B) the contracting with physicians who are not  
15-52 network providers and who are of the same or related specialty as  
15-53 the appealing physician to resolve claims disputes related to  
15-54 denial on the basis of medical necessity that remain unresolved  
15-55 subsequent to a provider appeal; and

15-56 (C) the determination of the physician resolving  
15-57 the dispute to be binding on the managed care organization and  
15-58 provider.

15-59 SECTION 17. Subsections (a), (b), (c), and (e), Section  
15-60 533.012, Government Code, are amended to read as follows:

15-61 (a) Each managed care organization contracting with the  
15-62 commission under this chapter shall submit to the office of state  
15-63 inspector general [~~commission~~]:

15-64 (1) a description of any financial or other business  
15-65 relationship between the organization and any subcontractor  
15-66 providing health care services under the contract;

15-67 (2) a copy of each type of contract between the  
15-68 organization and a subcontractor relating to the delivery of or  
15-69 payment for health care services;

16-1 (3) a description of the fraud control program used by  
16-2 any subcontractor that delivers health care services; and

16-3 (4) a description and breakdown of all funds paid to  
16-4 the managed care organization, including a health maintenance  
16-5 organization, primary care case management, and an exclusive  
16-6 provider organization, necessary for the office [commission] to  
16-7 determine the actual cost of administering the managed care plan.

16-8 (b) The information submitted under this section must be  
16-9 submitted in the form required by the office of state inspector  
16-10 general [commission] and be updated as required by the office  
16-11 [commission].

16-12 (c) The office [commission's office] of state inspector  
16-13 general [investigations and enforcement] shall review the  
16-14 information submitted under this section as appropriate in the  
16-15 investigation of fraud in the Medicaid managed care program. The  
16-16 comptroller may review the information in connection with the  
16-17 health care fraud study conducted by the comptroller.

16-18 (e) Information submitted to the office of state inspector  
16-19 general [commission] under Subsection (a)(1) is confidential and  
16-20 not subject to disclosure under Chapter 552[, ~~Government Code~~].

16-21 SECTION 18. Subsection (b), Section 2054.376, Government  
16-22 Code, is amended to read as follows:

16-23 (b) This subchapter does not apply to:

16-24 (1) the Department of Public Safety's use for criminal  
16-25 justice or homeland security purposes of a federal database or  
16-26 network;

16-27 (2) a Texas equivalent of a database or network  
16-28 described by Subdivision (1) that is managed by the Department of  
16-29 Public Safety;

16-30 (3) the uniform statewide accounting system, as that  
16-31 term is used in Subchapter C, Chapter 2101;

16-32 (4) the state treasury cash and treasury management  
16-33 system; ~~or~~

16-34 (5) a database or network managed by the comptroller  
16-35 to:

16-36 (A) collect and process multiple types of taxes  
16-37 imposed by the state; or

16-38 (B) manage or administer fiscal, financial,  
16-39 revenue, and expenditure activities of the state under Chapter 403  
16-40 and Chapter 404; or

16-41 (6) the office of state inspector general's use, for  
16-42 criminal justice and statutorily mandated confidentiality  
16-43 purposes, of a federal or state database or network.

16-44 SECTION 19. Subsection (b), Section 21.014, Human Resources  
16-45 Code, is amended to read as follows:

16-46 (b) The ~~[person employed by the department as]~~ inspector  
16-47 general shall make reports to and consult with the chairman of the  
16-48 board regarding:

16-49 (1) the selection of internal audit topics;

16-50 (2) the establishment of internal audit priorities;  
16-51 and

16-52 (3) the findings of each regular or special internal  
16-53 audit initiative.

16-54 SECTION 20. Section 32.003, Human Resources Code, is  
16-55 amended by adding Subdivision (5) to read as follows:

16-56 (5) "Office of state inspector general" means the  
16-57 office of state inspector general established under Chapter 422,  
16-58 Government Code.

16-59 SECTION 21. Section 32.0291, Human Resources Code, is  
16-60 amended to read as follows:

16-61 Sec. 32.0291. PREPAYMENT REVIEWS AND POST PAYMENT HOLDS.

16-62 (a) Notwithstanding any other law, the office of state inspector  
16-63 general [department] may:

16-64 (1) perform a prepayment review of a claim for  
16-65 reimbursement under the medical assistance program to determine  
16-66 whether the claim involves fraud, waste, or abuse; and

16-67 (2) as necessary to perform that review, withhold  
16-68 payment of the claim for not more than five working days without  
16-69 notice to the person submitting the claim.



17-1 (b) Notwithstanding any other law, the office of state  
 17-2 inspector general [~~department~~] may impose a postpayment hold on  
 17-3 payment of future claims submitted by a provider if the office  
 17-4 [~~department~~] has reliable evidence that the provider has committed  
 17-5 fraud, waste, abuse, or wilful misrepresentation regarding a claim  
 17-6 for reimbursement under the medical assistance program. The office  
 17-7 [~~department~~] must notify the provider of the postpayment hold not  
 17-8 later than the fifth working day after the date the hold is imposed.

17-9 (c) On timely written request by a provider subject to a  
 17-10 postpayment hold under Subsection (b), the office of state  
 17-11 inspector general [~~department~~] shall file a request with the State  
 17-12 Office of Administrative Hearings for an expedited administrative  
 17-13 hearing regarding the hold. The provider must request an expedited  
 17-14 hearing under this subsection not later than the 10th day after the  
 17-15 date the provider receives notice from the office [~~department~~]  
 17-16 under Subsection (b). The office [~~department~~] shall discontinue  
 17-17 the hold unless the office [~~department~~] makes a prima facie showing  
 17-18 at the hearing that the evidence relied on by the office  
 17-19 [~~department~~] in imposing the hold is relevant, credible, and  
 17-20 material to the issue of fraud, waste, abuse, or wilful  
 17-21 misrepresentation.

17-22 (d) The state inspector general [~~department~~] shall adopt  
 17-23 rules that allow a provider subject to a postpayment hold under  
 17-24 Subsection (b) to seek an informal resolution of the issues  
 17-25 identified by the office [~~department~~] in the notice provided under  
 17-26 that subsection. A provider must seek an informal resolution under  
 17-27 this subsection not later than the deadline prescribed by  
 17-28 Subsection (c). A provider's decision to seek an informal  
 17-29 resolution under this subsection does not extend the time by which  
 17-30 the provider must request an expedited administrative hearing under  
 17-31 Subsection (c). However, a hearing initiated under Subsection (c)  
 17-32 shall be stayed at the office's [~~department's~~] request until the  
 17-33 informal resolution process is completed.

17-34 SECTION 22. Section 32.032, Human Resources Code, is  
 17-35 amended to read as follows:

17-36 Sec. 32.032. PREVENTION AND DETECTION OF FRAUD AND ABUSE.  
 17-37 The state inspector general [~~department~~] shall adopt reasonable  
 17-38 rules for minimizing the opportunity for fraud and abuse, for  
 17-39 establishing and maintaining methods for detecting and identifying  
 17-40 situations in which a question of fraud or abuse in the program may  
 17-41 exist, and for referring cases where fraud or abuse appears to exist  
 17-42 to the appropriate law enforcement agencies for prosecution.

17-43 SECTION 23. Subsections (a) through (d), Section 32.0321,  
 17-44 Human Resources Code, are amended to read as follows:

17-45 (a) The office of state inspector general [~~department~~] by  
 17-46 rule may require each provider of medical assistance in a provider  
 17-47 type that has demonstrated significant potential for fraud or abuse  
 17-48 to file with the office [~~department~~] a surety bond in a reasonable  
 17-49 amount. The office [~~department~~] by rule shall require a provider of  
 17-50 medical assistance to file with the office [~~department~~] a surety  
 17-51 bond in a reasonable amount if the office [~~department~~] identifies a  
 17-52 pattern of suspected fraud or abuse involving criminal conduct  
 17-53 relating to the provider's services under the medical assistance  
 17-54 program that indicates the need for protection against potential  
 17-55 future acts of fraud or abuse.

17-56 (b) The bond under Subsection (a) must be payable to the  
 17-57 office of state inspector general [~~department~~] to compensate the  
 17-58 office [~~department~~] for damages resulting from or penalties or  
 17-59 fines imposed in connection with an act of fraud or abuse committed  
 17-60 by the provider under the medical assistance program.

17-61 (c) Subject to Subsection (d) or (e), the office of state  
 17-62 inspector general [~~department~~] by rule may require each provider of  
 17-63 medical assistance that establishes a resident's trust fund account  
 17-64 to post a surety bond to secure the account. The bond must be  
 17-65 payable to the office [~~department~~] to compensate residents of the  
 17-66 bonded provider for trust funds that are lost, stolen, or otherwise  
 17-67 unaccounted for if the provider does not repay any deficiency in a  
 17-68 resident's trust fund account to the person legally entitled to  
 17-69 receive the funds.

18-1 (d) The office of state inspector general [~~department~~] may  
 18-2 not require the amount of a surety bond posted for a single facility  
 18-3 provider under Subsection (c) to exceed the average of the total  
 18-4 average monthly balance of all the provider's resident trust fund  
 18-5 accounts for the 12-month period preceding the bond issuance or  
 18-6 renewal date.

18-7 SECTION 24. Section 32.0322, Human Resources Code, is  
 18-8 amended to read as follows:

18-9 Sec. 32.0322. CRIMINAL HISTORY RECORD INFORMATION.

18-10 (a) The office of state inspector general and the department may  
 18-11 obtain from any law enforcement or criminal justice agency the  
 18-12 criminal history record information that relates to a provider  
 18-13 under the medical assistance program or a person applying to enroll  
 18-14 as a provider under the medical assistance program.

18-15 (b) The office of state inspector general [~~department~~] by  
 18-16 rule shall establish criteria for revoking a provider's enrollment  
 18-17 or denying a person's application to enroll as a provider under the  
 18-18 medical assistance program based on the results of a criminal  
 18-19 history check.

18-20 SECTION 25. Subsection (d), Section 32.070, Human Resources  
 18-21 Code, is amended to read as follows:

18-22 (d) This section does not apply to a computerized audit  
 18-23 conducted using the Medicaid Fraud Detection Audit System or an  
 18-24 audit or investigation of fraud and abuse conducted by the Medicaid  
 18-25 fraud control unit of the office of the attorney general, the office  
 18-26 of the state auditor, the office of state [~~the~~] inspector general,  
 18-27 or the Office of Inspector General in the United States Department  
 18-28 of Health and Human Services.

18-29 SECTION 26. Subsection (e), Section 33.015, Human Resources  
 18-30 Code, is amended to read as follows:

18-31 (e) The department shall require a person exempted under  
 18-32 this section from making a personal appearance at department  
 18-33 offices to provide verification of the person's entitlement to the  
 18-34 exemption on initial eligibility certification and on each  
 18-35 subsequent periodic eligibility recertification. If the person  
 18-36 does not provide verification and the department considers the  
 18-37 verification necessary to protect the integrity of the food stamp  
 18-38 program, the department shall initiate a fraud referral to the  
 18-39 [~~department's~~] office of state inspector general.

18-40 SECTION 27. Section 20.038, Business & Commerce Code, is  
 18-41 amended to read as follows:

18-42 Sec. 20.038. EXEMPTION FROM SECURITY FREEZE. A security  
 18-43 freeze does not apply to a consumer report provided to:

18-44 (1) a state or local governmental entity, including a  
 18-45 law enforcement agency or court or private collection agency, if  
 18-46 the entity, agency, or court is acting under a court order, warrant,  
 18-47 subpoena, or administrative subpoena;

18-48 (2) a child support agency as defined by Section  
 18-49 101.004, Family Code, acting to investigate or collect child  
 18-50 support payments or acting under Title IV-D of the Social Security  
 18-51 Act (42 U.S.C. Section 651 et seq.);

18-52 (3) the office of state inspector general [~~Health and~~  
 18-53 ~~Human Services Commission~~] acting to investigate fraud, waste, or  
 18-54 abuse in state agencies under Chapter 422, Government Code, or  
 18-55 other law [~~under Section 531.102, Government Code~~];

18-56 (4) the comptroller acting to investigate or collect  
 18-57 delinquent sales or franchise taxes;

18-58 (5) a tax assessor-collector acting to investigate or  
 18-59 collect delinquent ad valorem taxes;

18-60 (6) a person for the purposes of prescreening as  
 18-61 provided by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et  
 18-62 seq.), as amended;

18-63 (7) a person with whom the consumer has an account or  
 18-64 contract or to whom the consumer has issued a negotiable  
 18-65 instrument, or the person's subsidiary, affiliate, agent,  
 18-66 assignee, prospective assignee, or private collection agency, for  
 18-67 purposes related to that account, contract, or instrument;

18-68 (8) a subsidiary, affiliate, agent, assignee, or  
 18-69 prospective assignee of a person to whom access has been granted

19-1 under Section 20.037(b);

19-2 (9) a person who administers a credit file monitoring  
19-3 subscription service to which the consumer has subscribed;

19-4 (10) a person for the purpose of providing a consumer  
19-5 with a copy of the consumer's report on the consumer's request;

19-6 (11) a check service or fraud prevention service  
19-7 company that issues consumer reports:

19-8 (A) to prevent or investigate fraud; or

19-9 (B) for purposes of approving or processing  
19-10 negotiable instruments, electronic funds transfers, or similar  
19-11 methods of payment;

19-12 (12) a deposit account information service company  
19-13 that issues consumer reports related to account closures caused by  
19-14 fraud, substantial overdrafts, automated teller machine abuses, or  
19-15 similar negative information regarding a consumer to an inquiring  
19-16 financial institution for use by the financial institution only in  
19-17 reviewing a consumer request for a deposit account with that  
19-18 institution; or

19-19 (13) a consumer reporting agency that:

19-20 (A) acts only to resell credit information by  
19-21 assembling and merging information contained in a database of  
19-22 another consumer reporting agency or multiple consumer reporting  
19-23 agencies; and

19-24 (B) does not maintain a permanent database of  
19-25 credit information from which new consumer reports are produced.

19-26 SECTION 28. Article 2.12, Code of Criminal Procedure, is  
19-27 amended to read as follows:

19-28 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace  
19-29 officers:

19-30 (1) sheriffs, their deputies, and those reserve  
19-31 deputies who hold a permanent peace officer license issued under  
19-32 Chapter 1701, Occupations Code;

19-33 (2) constables, deputy constables, and those reserve  
19-34 deputy constables who hold a permanent peace officer license issued  
19-35 under Chapter 1701, Occupations Code;

19-36 (3) marshals or police officers of an incorporated  
19-37 city, town, or village, and those reserve municipal police officers  
19-38 who hold a permanent peace officer license issued under Chapter  
19-39 1701, Occupations Code;

19-40 (4) rangers and officers commissioned by the Public  
19-41 Safety Commission and the Director of the Department of Public  
19-42 Safety;

19-43 (5) investigators of the district attorneys', criminal  
19-44 district attorneys', and county attorneys' offices;

19-45 (6) law enforcement agents of the Texas Alcoholic  
19-46 Beverage Commission;

19-47 (7) each member of an arson investigating unit  
19-48 commissioned by a city, a county, or the state;

19-49 (8) officers commissioned under Section 37.081,  
19-50 Education Code, or Subchapter E, Chapter 51, Education Code;

19-51 (9) officers commissioned by the General Services  
19-52 Commission;

19-53 (10) law enforcement officers commissioned by the  
19-54 Parks and Wildlife Commission;

19-55 (11) airport police officers commissioned by a city  
19-56 with a population of more than 1.18 million that operates an airport  
19-57 that serves commercial air carriers;

19-58 (12) airport security personnel commissioned as peace  
19-59 officers by the governing body of any political subdivision of this  
19-60 state, other than a city described by Subdivision (11), that  
19-61 operates an airport that serves commercial air carriers;

19-62 (13) municipal park and recreational patrolmen and  
19-63 security officers;

19-64 (14) security officers and investigators commissioned  
19-65 as peace officers by the comptroller;

19-66 (15) officers commissioned by a water control and  
19-67 improvement district under Section 49.216, Water Code;

19-68 (16) officers commissioned by a board of trustees  
19-69 under Chapter 54, Transportation Code;

- 20-1 (17) investigators commissioned by the Texas Medical
- 20-2 [~~State~~] Board [~~of Medical Examiners~~];
- 20-3 (18) officers commissioned by the board of managers of
- 20-4 the Dallas County Hospital District, the Tarrant County Hospital
- 20-5 District, or the Bexar County Hospital District under Section
- 20-6 281.057, Health and Safety Code;
- 20-7 (19) county park rangers commissioned under
- 20-8 Subchapter E, Chapter 351, Local Government Code;
- 20-9 (20) investigators employed by the Texas Racing
- 20-10 Commission;
- 20-11 (21) officers commissioned under Chapter 554,
- 20-12 Occupations Code;
- 20-13 (22) officers commissioned by the governing body of a
- 20-14 metropolitan rapid transit authority under Section 451.108,
- 20-15 Transportation Code, or by a regional transportation authority
- 20-16 under Section 452.110, Transportation Code;
- 20-17 (23) investigators commissioned by the attorney
- 20-18 general under Section 402.009, Government Code;
- 20-19 (24) security officers and investigators commissioned
- 20-20 as peace officers under Chapter 466, Government Code;
- 20-21 (25) an officer employed by the [~~Texas~~] Department of
- 20-22 State Health Services under Section 431.2471, Health and Safety
- 20-23 Code;
- 20-24 (26) officers appointed by an appellate court under
- 20-25 Subchapter F, Chapter 53, Government Code;
- 20-26 (27) officers commissioned by the state fire marshal
- 20-27 under Chapter 417, Government Code;
- 20-28 (28) an investigator commissioned by the commissioner
- 20-29 of insurance under Section 701.104 [~~Article 1.10D~~], Insurance Code;
- 20-30 (29) apprehension specialists commissioned by the
- 20-31 Texas Youth Commission as officers under Section 61.0931, Human
- 20-32 Resources Code;
- 20-33 (30) officers appointed by the executive director of
- 20-34 the Texas Department of Criminal Justice under Section 493.019,
- 20-35 Government Code;
- 20-36 (31) investigators commissioned by the Commission on
- 20-37 Law Enforcement Officer Standards and Education under Section
- 20-38 1701.160, Occupations Code;
- 20-39 (32) ~~commission~~ investigators commissioned by the
- 20-40 Texas [~~Commission on~~] Private Security Board under Section
- 20-41 1702.061(f), Occupations Code;
- 20-42 (33) the fire marshal and any officers, inspectors, or
- 20-43 investigators commissioned by an emergency services district under
- 20-44 Chapter 775, Health and Safety Code; [~~and~~]
- 20-45 (34) officers commissioned by the State Board of
- 20-46 Dental Examiners under Section 254.013, Occupations Code, subject
- 20-47 to the limitations imposed by that section; and
- 20-48 (35) officers commissioned by the office of state
- 20-49 inspector general established under Chapter 422, Government Code.
- 20-50 SECTION 29. The following sections of the Government Code
- 20-51 are repealed:
- 20-52 (1) Section 531.102;
- 20-53 (2) Section 531.1021;
- 20-54 (3) Section 531.103; and
- 20-55 (4) Section 531.104.
- 20-56 SECTION 30. (a) The repeal by this Act of Section 531.102,
- 20-57 Government Code, does not affect the validity of a complaint,
- 20-58 investigation, or other proceeding initiated under that section
- 20-59 before the effective date of this Act. A complaint, investigation,
- 20-60 or other proceeding initiated under that section is continued in
- 20-61 accordance with the changes in law made by this Act.
- 20-62 (b) The repeal by this Act of Section 531.1021, Government
- 20-63 Code, does not affect the validity of a subpoena issued under that
- 20-64 section before the effective date of this Act. A subpoena issued
- 20-65 under that section before the effective date of this Act is governed
- 20-66 by the law that existed when the subpoena was issued, and the former
- 20-67 law is continued in effect for that purpose.
- 20-68 SECTION 31. (a) The office of state inspector general
- 20-69 under Chapter 422, Government Code, as added by this Act, is created

21-1 on the effective date of this Act.

21-2 (b) On January 1, 2008, the office of inspector general of  
21-3 the Health and Human Services Commission created under Section  
21-4 531.102, Government Code, as that section existed before amendment  
21-5 by this Act, is abolished.

21-6 (c) Not later than January 1, 2008:

21-7 (1) all powers, duties, obligations, rights,  
21-8 contracts, records, personal property, unspent appropriations,  
21-9 state and federal funds, including overhead costs, support costs,  
21-10 and lease or colocation costs, of the office of inspector general of  
21-11 the Health and Human Services Commission shall be transferred, as  
21-12 consistent with this Act, to the office of state inspector general;

21-13 (2) all personnel, vacant full-time equivalent  
21-14 positions, and assets assigned, as of the effective date of this  
21-15 Act, to the office of inspector general of the Health and Human  
21-16 Services Commission or engaged in the performance of the functions  
21-17 of that office shall be transferred, as consistent with this Act, to  
21-18 the office of state inspector general;

21-19 (3) each state agency for which a state agency  
21-20 inspector general is designated by the state inspector general on  
21-21 or before October 1, 2007, shall transfer to the office of state  
21-22 inspector general, as consistent with this Act, all personnel,  
21-23 vacant full-time equivalent positions, and assets engaged in the  
21-24 performance of or the support of agency functions relating to the  
21-25 detection, investigation, and prevention of fraud, waste, and abuse  
21-26 in the implementation or administration of state or federally  
21-27 funded programs;

21-28 (4) all state and federal funding, including funding  
21-29 for overhead costs, support costs, and lease or colocation lease  
21-30 costs, for the functions to be transferred to the office of state  
21-31 inspector general shall be reallocated to that office; and

21-32 (5) for purposes of federal single state agency  
21-33 funding requirements, any federal funds that may not be  
21-34 appropriated directly to the office of state inspector general  
21-35 shall be transferred from the single state agency receiving the  
21-36 funds to the office of state inspector general if the funds are  
21-37 intended for a function performed by that office.

21-38 (d) All future federal funding to be allocated to the office  
21-39 of inspector general of the Health and Human Services Commission,  
21-40 including drawing funds and transferring funds, shall be  
21-41 renegotiated by the state inspector general for reallocation to the  
21-42 office of state inspector general.

21-43 (e) A state agency for which a state agency inspector  
21-44 general is designated by the state inspector general after October  
21-45 1, 2007, shall, not later than the 90th day after the date of the  
21-46 designation, transfer to the office of state inspector general, as  
21-47 consistent with this Act, all personnel, vacant full-time  
21-48 equivalent positions, and assets engaged in the performance of or  
21-49 the support of agency functions relating to the detection,  
21-50 investigation, and prevention of fraud, waste, and abuse in the  
21-51 implementation or administration of state or federally funded  
21-52 programs.

21-53 SECTION 32. (a) The Health and Human Services Commission  
21-54 shall take all action necessary to provide for the orderly transfer  
21-55 of the assets and responsibilities of the commission's office of  
21-56 inspector general to the office of state inspector general. In the  
21-57 event a transfer is not completed by the date required under this  
21-58 Act, all possible efforts shall be made to promptly conclude the  
21-59 transfer.

21-60 (b) A rule or form adopted by the office of inspector  
21-61 general of the Health and Human Services Commission is a rule or  
21-62 form of the office of state inspector general and remains in effect  
21-63 until changed by the state inspector general.

21-64 (c) A reference in law or administrative rule to the office  
21-65 of inspector general of the Health and Human Services Commission  
21-66 means the office of state inspector general.

21-67 SECTION 33. (a) This section does not prohibit a person  
21-68 serving as inspector general of the Health and Human Services  
21-69 Commission under Subsection (a-1), Section 531.102, Government

22-1 Code, immediately before the effective date of this Act, from being  
22-2 appointed under Chapter 422, Government Code, as added by this Act,  
22-3 if the person has the qualifications required under that chapter.

22-4 (b) As soon as possible after the earlier of the expiration  
22-5 date of the term of the inspector general of the Health and Human  
22-6 Services Commission under Section 531.102, Government Code, or the  
22-7 date the position of inspector general under that law otherwise  
22-8 becomes vacant, the governor shall appoint the state inspector  
22-9 general under Chapter 422, Government Code, as added by this Act, to  
22-10 an initial term expiring February 1, 2009.

22-11 SECTION 34. The abolition by this Act of the office of  
22-12 inspector general of the Health and Human Services Commission under  
22-13 Section 531.102, Government Code, as that section existed before  
22-14 repeal by this Act, does not affect the validity of an action taken  
22-15 by that office before it is abolished.

22-16 SECTION 35. If, before implementing any provision of this  
22-17 Act, a state agency or the state inspector general appointed under  
22-18 Chapter 422, Government Code, as added by this Act, determines that  
22-19 a waiver or authorization from a federal agency is necessary for  
22-20 implementation of that provision, the agency affected by the  
22-21 provision or the state inspector general shall request the waiver  
22-22 or authorization and may delay implementing that provision until  
22-23 the waiver or authorization is granted.

22-24 SECTION 36. This Act takes effect immediately if it  
22-25 receives a vote of two-thirds of all the members elected to each  
22-26 house, as provided by Section 39, Article III, Texas Constitution.  
22-27 If this Act does not receive the vote necessary for immediate  
22-28 effect, this Act takes effect September 1, 2007.

22-29 \* \* \* \* \*