

By: Gattis

H.B. No. 2426

Substitute the following for H.B. No. 2426:

By: Solomons

C.S.H.B. No. 2426

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the office of inspector general,
including the required appointment of deputy inspectors general at
the Health and Human Services Commission, Texas Youth Commission,
Texas Department of Criminal Justice, Texas Education Agency, and
Texas Department of Transportation; providing penalties.

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

SECTION 1. Subtitle B, Title 4, Government Code, is amended
by adding Chapter 422 to read as follows:

CHAPTER 422. OFFICE OF INSPECTOR GENERAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 422.001. SHORT TITLE. This chapter may be cited as the
Office of Inspector General Act.

Sec. 422.002. DEFINITIONS. In this chapter:

(1) "Agency" means a board, commission, committee,
department, office, division, or other agency of the executive
branch of state government. The term does not include an
institution of higher education as defined by Section 61.003,
Education Code.

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

(3) "Fraud" means an intentional deception or
misrepresentation made by a person with the knowledge that the
deception could result in some unauthorized benefit to that person

1 or some other person. The term includes any act that constitutes
2 fraud under applicable federal or state law.

3 (4) "Furnished," in reference to items or services:

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

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

9 (ii) a provider; or

10 (iii) another supplier of services; and

11 (B) does not include services ordered by one
12 party but billed for and provided by or under the supervision of
13 another.

14 (5) "Hold on payment" means the temporary denial of
15 reimbursement under a federal program for items or services
16 furnished by a specified provider.

17 (6) "Inspector general" means the inspector general
18 appointed under Section 422.101.

19 (7) "Office" means the office of inspector general
20 established under this chapter.

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

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

27 (A) medical assistance under contract or

1 provider agreement with the commission; or

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

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

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

9 Sec. 422.003. APPLICATION OF SUNSET ACT. The office of
10 inspector general is subject to Chapter 325 (Texas Sunset Act).
11 Unless continued in existence as provided by that chapter, the
12 office is abolished and this chapter expires September 1, 2021.

13 Sec. 422.004. AGENCY ESTABLISHMENT OF INSPECTOR GENERAL
14 OFFICE. An agency may not establish an office of inspector general
15 without specific legislative authorization.

16 Sec. 422.005. REFERENCE IN OTHER LAW. (a) Notwithstanding
17 any other provision of law, a reference in law or rule to an
18 agency's office of inspector general means the office of inspector
19 general established under this chapter.

20 (b) Notwithstanding any other provision of law, a reference
21 in law or rule to the commission's office of investigations and
22 enforcement or the commission's office of inspector general means
23 the office of inspector general established under this chapter.

24 [Sections 422.006-422.050 reserved for expansion]

25 SUBCHAPTER B. ADMINISTRATION

26 Sec. 422.051. OFFICE OF INSPECTOR GENERAL. (a) The office
27 of inspector general is an agency of this state.

1 (b) The office is governed by the inspector general.

2 (c) The office shall have its principal office and
3 headquarters in Austin.

4 (d) The office consists of the inspector general, deputy
5 inspectors general, and other personnel necessary to carry out the
6 duties of the inspector general.

7 Sec. 422.052. INDEPENDENCE OF OFFICE. (a) Except as
8 otherwise provided by this chapter, the office and inspector
9 general operate independently of any other agency.

10 (b) The inspector general, a deputy inspector general, and
11 the office staff are not employees of any other agency.

12 Sec. 422.053. ADMINISTRATIVE ATTACHMENT. A person
13 designated by the inspector general to serve as the deputy
14 inspector general for an agency, together with office staff
15 assigned to the deputy inspector general, are administratively
16 attached to the assigned agency. The assigned agency shall provide
17 to office personnel administrative support services.

18 Sec. 422.054. SERVICE LEVEL AGREEMENT. (a) The office and
19 each agency to which a deputy inspector general is appointed shall
20 enter into a service level agreement that establishes the
21 performance standards and deliverables with regard to
22 administrative support provided to the office by the agency.

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

26 (c) The commission shall provide to the deputy inspector
27 general designated for the commission and that person's staff, for

1 the state fiscal biennium beginning September 1, 2009, the same
2 level of administrative support the commission provided to the
3 office established under former Section 531.102 for the state
4 fiscal biennium beginning September 1, 2007. This subsection
5 expires January 1, 2012.

6 [Sections 422.055-422.100 reserved for expansion]

7 SUBCHAPTER C. INSPECTOR GENERAL AND PERSONNEL

8 Sec. 422.101. APPOINTMENT. (a) From a list of three or
9 more names submitted to the governor by the Legislative Budget
10 Board, the governor, with the advice and consent of the senate,
11 shall appoint an inspector general to serve as director of the
12 office.

13 (b) The appointment shall be made without regard to race,
14 color, disability, sex, religion, age, or national origin.

15 (c) In preparing the list and in making the appointment, the
16 Legislative Budget Board and the governor, respectively, shall
17 consider the person's knowledge of laws, experience in the
18 enforcement of law, honesty, integrity, education, training,
19 executive ability, capability for strong leadership, and
20 demonstrated ability in accounting, auditing, financial analysis,
21 law, management analysis, public administration, investigation,
22 criminal justice administration, or other closely related fields.

23 Sec. 422.102. TERM; VACANCY. (a) The inspector general
24 serves a two-year term that expires on February 1 of each
25 odd-numbered year. The inspector general may be reappointed to one
26 or more subsequent terms.

27 (b) The governor shall fill a vacancy in the office of

1 inspector general for the unexpired term in the same manner as the
2 inspector general is appointed under Section 422.101(a).

3 Sec. 422.103. ELIGIBILITY. (a) A person is not eligible
4 for appointment as inspector general or designation as a deputy
5 inspector general if the person or the person's spouse:

6 (1) is an officer or paid consultant of a business
7 entity or other organization that holds a license, certificate of
8 authority, or other authorization from an agency for which a deputy
9 inspector general is appointed or that receives funds from an
10 agency for which a deputy inspector general is appointed;

11 (2) owns or controls, directly or indirectly, more
12 than a 10 percent interest in a business entity or other
13 organization receiving funds from an agency for which a deputy
14 inspector general is appointed; or

15 (3) uses or receives a substantial amount of tangible
16 goods or funds from an agency for which a deputy inspector general
17 is appointed, other than compensation or reimbursement authorized
18 by law.

19 (b) A person is not eligible to serve as inspector general
20 or deputy inspector general if the person or the person's spouse is
21 required to register as a lobbyist under Chapter 305 because of the
22 person's or spouse's activities for compensation related to the
23 operation of an agency for which a deputy inspector general is
24 appointed.

25 (c) A person who is a former or current executive or manager
26 of an agency may not be appointed as the inspector general or a
27 deputy inspector general for that agency before the fifth

1 anniversary of the person's last day of service with the agency.

2 (d) The inspector general, a deputy inspector general, or an
3 employee of the office may not during the person's term of
4 appointment or employment:

5 (1) become a candidate for any elective office;

6 (2) hold another elected or appointed public office
7 except for an appointment on a governmental advisory board or study
8 commission or as otherwise expressly authorized by law;

9 (3) be actively involved in the affairs of any
10 political party or political organization; or

11 (4) actively participate in any campaign for any
12 elective office.

13 Sec. 422.104. CONFLICT OF INTEREST. (a) The inspector
14 general may not serve as an ex officio member on the governing body
15 of a governmental entity.

16 (b) The inspector general may not have a financial interest
17 in the transactions of the office or an agency.

18 (c) The inspector general and the deputy inspector general
19 designated for the commission may not have a financial interest in
20 the transactions of a provider.

21 Sec. 422.105. REMOVAL. The governor, with the advice and
22 consent of the senate, may remove the inspector general from office
23 as provided by Section 9, Article XV, Texas Constitution.

24 Sec. 422.106. DEPUTY INSPECTORS GENERAL. (a) Subject to
25 available appropriations and as necessary to carry out the powers
26 and duties of the inspector general under this chapter and other
27 laws granting jurisdiction to or applicable to the inspector

1 general, the inspector general may designate a person to serve as
2 the deputy inspector general for any agency or serve as a deputy
3 inspector general for more than one agency.

4 (b) The inspector general shall designate persons to serve
5 as the deputy inspectors general for each of the following
6 agencies:

7 (1) the Health and Human Services Commission;

8 (2) the Texas Youth Commission;

9 (3) the Texas Department of Criminal Justice;

10 (4) the Texas Education Agency; and

11 (5) the Texas Department of Transportation.

12 (c) A deputy inspector general is an at-will employee and
13 may be discharged by the inspector general without a hearing.

14 (d) A deputy inspector general shall report to and perform
15 duties as directed by the inspector general.

16 (e) Each agency to which a deputy inspector general is
17 appointed shall provide to the agency's designated deputy inspector
18 general facilities and support services, including suitable office
19 space, furniture, computer and communications equipment,
20 administrative support, and salary and benefits as provided by the
21 General Appropriations Act.

22 Sec. 422.107. PEACE OFFICERS. (a) The office may employ
23 and commission peace officers to assist the inspector general in
24 carrying out the duties of the office relating to detection,
25 investigation, and prevention of criminal wrongdoing, malfeasance,
26 misfeasance, or fraud, waste, and abuse in programs at an agency or
27 in programs receiving state or federal funds that are implemented,

1 administered, or overseen by or for an agency.

2 (b) A commissioned peace officer or otherwise designated
3 law enforcement officer employed by the office is not entitled to
4 supplemental benefits from the law enforcement and custodial
5 officer supplemental retirement fund unless the officer transfers
6 from a position, without a break in service, that qualifies for
7 supplemental retirement benefits from the fund.

8 Sec. 422.108. IN-HOUSE GENERAL COUNSEL. The inspector
9 general shall employ an in-house general counsel. The general
10 counsel must:

11 (1) be an attorney licensed to practice law in this
12 state;

13 (2) be in good standing with the State Bar of Texas;
14 and

15 (3) have at least five years of continuing experience
16 in advising senior executive management in the public or private
17 sector on contracts and contract management.

18 Sec. 422.109. EXPERTS. Subject to the availability of
19 funds, the inspector general and deputy inspectors general may
20 contract with certified public accountants, qualified management
21 consultants, or other professional experts as necessary to
22 independently perform the functions of the office.

23 Sec. 422.110. EMPLOYEES; TRAINING. (a) The inspector
24 general may appoint, employ, promote, and remove personnel as the
25 inspector general considers necessary for the efficient and
26 effective administration of the office.

27 (b) The inspector general shall train office personnel to

pursue, efficiently and as necessary, fraud, waste, and abuse cases in programs at an agency or in other state or federally funded programs implemented, administered, or overseen by or for the agency.

Sec. 422.111. ASSISTANCE BY AGENCY EMPLOYEES. (a) The inspector general may require employees of an agency to provide information, resources, or other assistance to the office as the inspector general considers necessary to fulfill the duties and responsibilities imposed on the office under this chapter and other law in connection with the investigation of fraud, waste, and abuse in the provision of services for programs at an agency or in state or federally funded programs implemented, administered, or overseen by or for the agency.

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

Sec. 422.112. MERIT SYSTEM. (a) The office may establish a merit system for its employees.

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

[Sections 422.113-422.150 reserved for expansion]

SUBCHAPTER D. GENERAL POWERS AND DUTIES

Sec. 422.151. GENERAL RESPONSIBILITIES. (a) The office is responsible for:

(1) the investigation of any matter pertaining to or involving an agency that receives state or federal funds; and

1 (2) the investigation, prevention, and detection of
2 criminal misconduct and wrongdoing and of fraud, waste, and abuse,
3 as defined in applicable state and federal law, in the provision or
4 funding of services by or for an agency or under a program
5 implemented, administered, or overseen by or for the agency.

6 (b) The inspector general shall set clear objectives,
7 priorities, and performance standards for the office that
8 emphasize:

9 (1) coordinating investigative efforts to
10 aggressively recover money;

11 (2) allocating resources to cases that have the
12 strongest supportive evidence and the greatest potential for
13 recovery of money; and

14 (3) maximizing opportunities for referral of cases to
15 the office of the attorney general in accordance with this chapter
16 and other applicable law.

17 (c) The inspector general shall investigate allegations of
18 fraud, waste, abuse, misconduct, nonfeasance, misfeasance, and
19 malfeasance, and violations of this chapter or other law.

20 (d) The office may:

21 (1) conduct criminal, civil, and administrative
22 investigations and initiate reviews of an agency as considered
23 appropriate by the inspector general; and

24 (2) receive and investigate complaints from any source
25 on its own initiative.

26 (e) The inspector general shall perform all other duties and
27 exercise all other powers granted to the inspector general's office

1 by this chapter or another law.

2 Sec. 422.152. GENERAL POWERS. The office has all the powers
3 necessary or appropriate to carry out its responsibilities and
4 functions under this chapter and other law. In addition to
5 performing functions and duties otherwise provided by law, the
6 office may:

7 (1) audit the use and effectiveness of state or
8 federal funds, including contract and grant funds, administered by
9 a person or an agency;

10 (2) conduct reviews, investigations, and inspections
11 relating to the funds described by Subdivision (1);

12 (3) recommend policies promoting economical and
13 efficient administration of the funds described by Subdivision (1)
14 and the prevention and detection of fraud, waste, and abuse in
15 administration of those funds; and

16 (4) conduct internal affairs investigations in
17 instances of fraud, waste, and abuse and in instances of misconduct
18 by employees, contractors, subcontractors, and vendors.

19 Sec. 422.153. RULEMAKING BY INSPECTOR GENERAL. (a)
20 Notwithstanding Section 531.0055(e) and any other law, the
21 inspector general shall adopt the rules necessary to administer the
22 functions of the office, including rules to address the imposition
23 of sanctions and penalties for violations and due process
24 requirements for imposing sanctions and penalties.

25 (b) A rule, standard, or form adopted by an agency that is
26 necessary to accomplish the duties of the office is considered to
27 also be a rule, standard, or form of the office and remains in

1 effect as a rule, standard, or form of the office until changed by
2 the inspector general.

3 (c) The rules must include standards for the office that
4 emphasize:

5 (1) coordinating investigative efforts to
6 aggressively recover money;

7 (2) allocating resources to cases that have the
8 strongest supportive evidence and the greatest potential for
9 recovery of money; and

10 (3) maximizing opportunities for referral of cases to
11 the office of the attorney general.

12 Sec. 422.154. STATE AUDITOR AUDITS, INVESTIGATIONS, AND
13 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law
14 related to the operation of the inspector general does not:

15 (1) take precedence over the authority of the state
16 auditor to conduct audits under Chapter 321 or other law; or

17 (2) prohibit the state auditor from conducting an
18 audit, investigation, or other review or from having full and
19 complete access to all records and other information, including
20 witnesses and electronic data, that the state auditor considers
21 necessary for the audit, investigation, or other review.

22 Sec. 422.155. PUBLIC PAMPHLET. (a) The office shall
23 provide information of public interest in the form of a pamphlet
24 that describes:

25 (1) the functions of the office, including the
26 functions of the inspector general;

27 (2) the matters or issues that may be subject to an

1 investigation or review performed by the office; and

2 (3) the manner in which a person may report an
3 allegation of fraud, abuse, or criminal wrongdoing to the office.

4 (b) The office shall make the information described by
5 Subsection (a) available to state officers and employees and to the
6 public.

7 Sec. 422.156. INTERNET WEBSITE. (a) The office shall
8 maintain an Internet website accessible to the public.

9 (b) The office shall post in a conspicuous place on the
10 office's Internet website the public interest pamphlet prepared
11 under Section 422.155.

12 (c) The office shall ensure that the office's Internet
13 website allows a person to report to the office an allegation of
14 fraud, abuse, or criminal wrongdoing related to an agency. A report
15 submitted through the office's Internet website, in person, or
16 through another means of communication may be anonymous.

17 Sec. 422.157. SEAL. The seal of the office shall be a
18 five-pointed star in the center with the words "Office of Inspector
19 General, State of Texas" engraved around the margin. The seal shall
20 be used to authenticate official documents issued by the office.

21 Sec. 422.158. EXECUTIVE ORDERS. (a) The governor may issue
22 executive orders directing agencies to implement recommendations
23 issued by the office for corrective or remedial actions promoting
24 the economical and efficient administration of money and the
25 detection of fraud.

26 (b) The governor shall submit to the lieutenant governor,
27 the speaker of the house of representatives, the state auditor, and

1 the comptroller a report of the executive orders issued under this
2 chapter and the compliance by agencies with those orders.

3 Sec. 422.159. DEFENSE BY ATTORNEY GENERAL. The attorney
4 general shall defend any action brought against the inspector
5 general, a deputy inspector general, or an employee or officer of
6 the office as a result of that person's official act or omission,
7 whether or not the person has terminated service with the office at
8 the time the action is instituted.

9 Sec. 422.160. INTERAGENCY COORDINATION. (a) The office
10 and the attorney general shall enter into a memorandum of
11 understanding to develop and implement joint written procedures for
12 processing cases of suspected fraud, waste, or abuse, as those
13 terms are defined by state or federal law, or other violations of
14 state or federal law under programs at an agency for which a deputy
15 inspector general is appointed or in programs at any agency
16 receiving state or federal funds that are implemented,
17 administered, or overseen by the agency.

18 (b) The memorandum of understanding shall require:

19 (1) the office and the attorney general to set
20 priorities and guidelines for referring cases to appropriate
21 agencies or other entities for investigation, prosecution, or other
22 disposition to enhance deterrence of fraud, waste, abuse, or other
23 violations of state or federal law, including a violation of
24 Chapter 102, Occupations Code, in programs and to maximize the
25 imposition of penalties, the recovery of money, and the successful
26 prosecution of cases;

27 (2) the office to refer each case of suspected fraud,

waste, or abuse to the attorney general not later than the 20th business day after the date the office determines that the existence of fraud, waste, or abuse is reasonably indicated;

(3) the attorney general to take appropriate action in response to each case referred to the attorney general, which action may include direct initiation of prosecution, with the consent of the appropriate local district or county attorney, direct initiation of civil litigation, referral to an appropriate United States attorney, a district attorney, or a county attorney, or referral to a collection agency for initiation of civil litigation or other appropriate action;

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

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

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

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

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

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

1 (7) the attorney general to notify the office of each
2 case the attorney general declines to prosecute or prosecutes
3 unsuccessfully;

4 (8) representatives of the office and the attorney
5 general to meet not less than quarterly to share case information
6 and determine the appropriate agency and division to investigate
7 each case; and

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

11 (c) An exchange of information under this section between
12 the attorney general and the office or any other agency does not
13 affect whether the information is subject to disclosure under
14 Chapter 552.

15 (d) With respect to Medicaid fraud, in addition to the
16 provisions required by Subsection (b), the memorandum of
17 understanding required by this section must also ensure that no
18 barriers to direct fraud referrals to the attorney general's
19 Medicaid fraud control unit or unreasonable impediments to
20 communication between Medicaid agency employees and the Medicaid
21 fraud control unit are imposed and must include procedures to
22 facilitate the referral of cases directly to the attorney general.

23 Sec. 422.161. INFORMATION AND TECHNOLOGY. The office may
24 obtain information or technology necessary to enable the office to
25 meet its responsibilities under this chapter or other law.

26 [Sections 422.162-422.200 reserved for expansion]

SUBCHAPTER E. REVIEWS, INVESTIGATIONS, AND AUDITS

Sec. 422.201. REVIEW, INVESTIGATION, AND AUDIT AUTHORITY.

(a) The inspector general may evaluate any activity or operation of:

(1) an agency;

(2) a provider, in connection with an activity listed in Section 422.002(9) or in connection with the provider's relationship with the commission or a health and human services agency as defined by Section 531.001; or

(3) a person in this state in relation to the investigation, detection, or prevention of fraud, waste, abuse, or employee misconduct in a program at an agency or in a state or federally funded program implemented, administered, or overseen by or for the agency.

(b) A review may include an investigation or other inquiry into a specific act or allegation of, or a specific financial transaction or practice that may involve, impropriety, malfeasance, or nonfeasance in the obligation, spending, receipt, or other use of state or federal money.

(c) The office shall conduct reviews and inspections to protect the public and detect and prevent fraud, waste, and abuse in the provision or funding of services or programs by or for an agency.

(d) An agency or the governing body or governing officer of an agency may not impair or prohibit the inspector general from initiating or completing a review.

(e) With respect to an agency, the inspector general may

1 audit and review the use and effectiveness of state or federal
2 funds, including contract and grant funds, administered by a person
3 or agency receiving the funds in connection with an agency or state
4 or federally funded program implemented, administered, or overseen
5 by or for the agency.

6 Sec. 422.202. CLAIMS CRITERIA FOR INVESTIGATIONS. The
7 office by rule shall set specific claims criteria that, when met,
8 require the office to begin an investigation.

9 Sec. 422.203. INITIATION OF REVIEW. The inspector general
10 may initiate a review:

11 (1) on the inspector general's own initiative;
12 (2) at the request of an agency or the governing body
13 or governing officer of the agency; or
14 (3) based on a complaint from any source concerning a
15 matter described by Section 422.201.

16 Sec. 422.204. ACCESS TO INFORMATION. (a) To further a
17 review conducted by the office, the inspector general or a deputy
18 inspector general is entitled to access all books, records,
19 accounts, documents, reports, vouchers, databases, systems, or
20 other information, including confidential information, electronic
21 data, and internal records relevant to the functions of the office
22 that are maintained by or for a person, agency, or provider, if
23 applicable, in connection with an agency or a state or federally
24 funded program implemented, administered, or overseen by or for the
25 agency. The inspector general's authority under this subsection
26 supersedes any claim of privilege.

27 (b) The inspector general or deputy inspector general may

1 not access data or other information the release of which is
2 restricted under federal law unless the appropriate federal agency
3 approves the release to the office or its agent.

4 Sec. 422.205. COOPERATION REQUIRED. To further a review
5 conducted by the inspector general's office, the inspector general
6 or deputy inspector general may require medical or other
7 professional assistance from an agency or an auditor, accountant,
8 or other employee of the agency.

9 Sec. 422.206. EMPLOYEE REPORTS. The inspector general may
10 require employees at an agency to report to the office information
11 regarding fraud, waste, misuse or abuse of funds or resources,
12 corruption, or illegal acts.

13 Sec. 422.207. SUBPOENAS. (a) The inspector general may
14 issue a subpoena to compel the attendance of a relevant witness at a
15 hearing or deposition under this chapter or to compel the
16 production, for inspection or copying, of books, papers, records,
17 documents, or other relevant materials, including electronic data,
18 in connection with a review, hearing, or deposition conducted under
19 this chapter. The inspector general may issue a subpoena for the
20 records of any person receiving any funds from an agency under a
21 contract for the delivery of goods or services to this state.

22 (b) The inspector general may delegate the authority to
23 issue subpoenas to a deputy inspector general.

24 (c) A subpoena may be served personally or by certified
25 mail. If a person fails to comply with a subpoena, the inspector
26 general, acting through the attorney general, may file suit to
27 enforce the subpoena in a district court in this state.

1 (d) On finding that good cause exists for issuing the
2 subpoena, the court shall order the person to comply with the
3 subpoena. The court may hold in contempt a person who fails to obey
4 the court order.

5 (e) The reimbursement of the expenses of a witness whose
6 attendance is compelled under this section is governed by Section
7 2001.103.

8 (f) Nothing in this section limits or alters a person's
9 rights under state or federal law.

10 Sec. 422.208. INTERNAL AUDITOR. (a) In this section,
11 "internal auditor" means a person appointed under Section 2102.006.

12 (b) The internal auditor for an agency shall provide the
13 inspector general with a copy of the agency's internal audit plan
14 to:

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

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

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

21 (1) part or division of the agency;

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

23 (3) program conducted by the agency.

24 Sec. 422.209. COOPERATION WITH LAW ENFORCEMENT OFFICIALS
25 AND OTHER ENTITIES. (a) The inspector general may provide
26 information and evidence relating to criminal acts to the state
27 auditor's office and appropriate law enforcement officials.

1 (b) The inspector general may refer matters for further
2 civil, criminal, and administrative action to appropriate
3 administrative and prosecutorial agencies, including the attorney
4 general.

5 (c) The inspector general may enter into a memorandum of
6 understanding with a law enforcement or prosecutorial agency,
7 including the attorney general, to assist in conducting a review
8 under this chapter.

9 (d) The office may conduct joint investigations with the
10 attorney general or law enforcement agencies.

11 (e) The attorney general or prosecutor shall inform the
12 inspector general on whether an investigation is ongoing with
13 regard to any matter referred by the inspector general.

14 (f) The attorney general or a prosecutor that decides not to
15 investigate or prosecute a complaint alleging criminal conduct
16 referred to the attorney general or prosecutor by the inspector
17 general shall promptly notify the inspector general of that
18 decision.

19 Sec. 422.210. COOPERATION AND COORDINATION WITH STATE
20 AUDITOR. (a) The state auditor may, on request of the inspector
21 general, provide appropriate information or other assistance to the
22 inspector general or office, as determined by the state auditor.

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

26 (c) The state auditor is entitled to access all information
27 maintained by the inspector general, including vouchers,

electronic data, internal records, and information obtained under Section 422.204 or subject to Section 422.253.

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

Sec. 422.211. PREVENTION. (a) The inspector general may recommend to an agency or the presiding officer of the agency policies on:

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

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

(b) The inspector general may provide training or other education regarding the prevention of fraud, waste, and abuse to employees of an agency. The training or education provided must be approved by the presiding officer of the agency.

Sec. 422.212. AWARD FOR REPORTING FRAUD, WASTE, ABUSE, OR OVERCHARGES. (a) If the office determines that the report results in the recovery of an administrative or civil penalty imposed by law, the office may grant an award to an individual who reports:

(1) activity that constitutes fraud, waste, or abuse of money related to any agency programs or in programs receiving state or federal funds that are implemented, administered, or overseen by the agency; or

(2) overcharges in a program described by Subdivision (1).

1 (b) The office may not grant an award to an individual in
2 connection with a report if the office or attorney general had
3 independent knowledge of the activity reported by the individual.

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

8 (d) In determining the amount of an award granted under this
9 section, the office:

10 (1) shall consider the importance of the report in
11 ensuring the fiscal integrity of the program; and

12 (2) may consider whether the individual participated
13 in the reported fraud, waste, abuse, or overcharge.

14 (e) A person who brings an action under Subchapter C,
15 Chapter 36, Human Resources Code, is not eligible for an award under
16 this section.

17 Sec. 422.213. RULEMAKING BY PRESIDING OFFICER OF AGENCY.
18 An agency may adopt rules governing the agency's response to
19 reports and referrals from the inspector general on issues
20 identified by the inspector general related to the agency or a
21 contractor of the agency.

22 Sec. 422.214. ALLEGATIONS OF MISCONDUCT AGAINST PRESIDING
23 OFFICER. If a review by the inspector general involves allegations
24 that a presiding officer of the governing body of an agency, or if
25 applicable the single state officer who governs the agency, has
26 engaged in misconduct, the inspector general shall report to the
27 governor during the review until the report is completed or the

1 review is closed without a finding.

2 Sec. 422.215. RIGHT TO DECLINE INVESTIGATION. The
3 inspector general may decline to investigate a complaint that the
4 inspector general determines:

5 (1) is trivial, frivolous, or vexatious;

6 (2) was not made in good faith;

7 (3) is based on a situation for which too much time has
8 passed to justify an investigation;

9 (4) may not be adequately investigated with the
10 resources available, considering established priorities; or

11 (5) addresses a matter that is not within the
12 inspector general's investigatory authority.

13 [Sections 422.216-422.250 reserved for expansion]

14 SUBCHAPTER F. REPORTS

15 Sec. 422.251. REPORTING OFFICE FINDINGS. Unless the
16 findings would compromise an ongoing investigation by the attorney
17 general or law enforcement, the inspector general shall report the
18 findings of the office in connection with a review conducted under
19 this chapter to:

20 (1) the presiding officer of the governing body of the
21 agency, or if applicable the single state officer who governs the
22 agency;

23 (2) the governor;

24 (3) the lieutenant governor;

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

26 (5) the comptroller;

27 (6) the state auditor; and

1 (7) the attorney general.

2 Sec. 422.252. FLAGRANT VIOLATIONS. The inspector general
3 may report to the presiding officer of the governing body of the
4 agency associated with the review, or if applicable the single
5 state officer who governs the agency, the governor, and the state
6 auditor a particularly serious or flagrant problem relating to the
7 administration of a program, operation of the agency, or
8 interference with an inspector general review.

9 Sec. 422.253. INFORMATION CONFIDENTIAL. (a) Except as
10 provided by this chapter, all information and material compiled by
11 the inspector general during a review under this chapter is:

12 (1) confidential and not subject to disclosure under
13 Chapter 552; and

14 (2) not subject to disclosure, discovery, subpoena, or
15 other means of legal compulsion for release to anyone other than the
16 state auditor's office, the agency that is the subject of a review,
17 or the office or its agents involved in the review related to that
18 information or material.

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

21 (1) a law enforcement agency;

22 (2) the attorney general;

23 (3) the state auditor; or

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

25 (c) A person that receives information under Subsection (b)
26 may not disclose the information except to the extent that
27 disclosure is consistent with the authorized purpose for which the

1 person received the information.

2 Sec. 422.254. DRAFT OF FINAL REVIEW REPORT; AGENCY
3 RESPONSE. (a) Except in cases in which the office has determined
4 that potential fraud, waste, or abuse exists, the office shall
5 provide a draft of the final review report of any investigation,
6 audit, or review of the operations of an agency to the presiding
7 officer of the governing body of the agency, or if applicable to the
8 single state officer who governs the agency, before publishing the
9 office's final review report.

10 (b) The agency may provide a response to the office's draft
11 report in the manner prescribed by the office not later than the
12 10th day after the date the draft report is received by the agency.
13 The inspector general by rule shall specify the format of and
14 requirements for the agency response.

15 (c) Notwithstanding Subsection (a), the office may not
16 provide a draft report to the presiding officer of the governing
17 body of the agency, or if applicable to the single state officer who
18 governs the agency, if in the inspector general's opinion providing
19 the draft report could negatively affect any anticipated civil or
20 criminal proceedings.

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

23 Sec. 422.255. FINAL REVIEW REPORTS; AGENCY RESPONSE. (a)
24 The inspector general shall prepare a final report for each review
25 conducted under this chapter. The final report must include:

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

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

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

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

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

9 (d) Not later than the 60th day after the date the office
10 issues a final report that identifies deficiencies or
11 inefficiencies in, or recommends corrective measures in the
12 operations of, an agency, the agency shall file a response that
13 includes:

14 (1) an implementation plan and timeline for
15 implementing corrective measures; or

16 (2) the agency's rationale for declining to implement
17 corrective measures for the identified deficiencies or
18 inefficiencies or the office's recommended corrective measures, as
19 applicable.

20 Sec. 422.256. COSTS. (a) The inspector general shall
21 maintain information regarding the cost of reviews.

22 (b) The inspector general may cooperate with appropriate
23 administrative and prosecutorial agencies, including the attorney
24 general, in recovering costs incurred under this chapter from
25 nongovernmental entities, including contractors or individuals
26 involved in:

27 (1) violations of applicable state or federal rules or

1 statutes;

2 (2) abusive or wilful misconduct; or

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

5 Sec. 422.257. SEMIANNUAL REPORT; LEGISLATIVE REPORT. (a)
6 The office shall prepare and submit a semiannual report to the
7 governor, the lieutenant governor, the speaker of the house of
8 representatives, the state auditor, the comptroller, and each
9 member of the legislature concerning:

10 (1) any completed final review; and

11 (2) the activities of the office and the attorney
12 general in detecting and preventing fraud, waste, and abuse under
13 any agency programs or in programs receiving state or federal funds
14 that are implemented, administered, or overseen by an agency that
15 is reviewed by the office under this chapter.

16 (b) Not later than December 1 of each even-numbered year,
17 the office shall issue to each member of the legislature a report
18 that contains the information required under Subsection (a) for the
19 two years immediately preceding the legislative session. The
20 office shall make the report available to the public.

21 [Sections 422.258-422.300 reserved for expansion]

22 SUBCHAPTER G. HEALTH AND HUMAN SERVICES POWERS AND DUTIES

23 Sec. 422.301. GENERAL HEALTH AND HUMAN SERVICES POWERS.
24 The office has all the powers necessary or appropriate to carry out
25 its responsibilities and functions under this chapter and other law
26 in relation to health and human services matters. In addition to
27 performing functions and duties otherwise provided by law, the

office may provide for coordination between the office and special investigative units formed by managed care organizations under Section 531.113 or entities with which managed care organizations contract under that section.

Sec. 422.302. HEALTH AND HUMAN SERVICES RESPONSIBILITIES.
The office is responsible for:

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

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

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

Sec. 422.303. INTEGRITY REVIEW FOR MEDICAID PROGRAM. (a)
The deputy inspector general designated for the commission shall conduct an integrity review to determine whether there is sufficient basis to warrant a full investigation on receipt of any complaint of fraud, waste, or abuse of funds in the state Medicaid program from any source.

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

(c) If the findings of an integrity review give the office reason to believe that an incident of fraud involving possible criminal conduct has occurred in the state Medicaid program, the office must take the following action, as appropriate, not later

1 than the 30th day after the completion of the integrity review:

2 (1) if a provider is suspected of fraud involving
3 criminal conduct, the office must refer the case to the state's
4 Medicaid fraud control unit, provided that the criminal referral
5 does not preclude the office from continuing its investigation of
6 the provider or preclude the imposition of appropriate
7 administrative or civil sanctions; or

8 (2) if there is reason to believe that a recipient of
9 funds has defrauded the Medicaid program, the office may conduct a
10 full investigation of the suspected fraud.

11 Sec. 422.304. REFERRAL TO STATE MEDICAID FRAUD CONTROL
12 UNIT. (a) At the time the office learns or has reason to suspect
13 that a health or human services provider's records related to
14 participation in the state Medicaid program are being withheld,
15 concealed, destroyed, fabricated, or in any way falsified, the
16 office shall immediately refer the case to the state's Medicaid
17 fraud control unit.

18 (b) A criminal referral under Subsection (a) does not
19 preclude the office from continuing its investigation of a health
20 or human services provider or the imposition of appropriate
21 administrative or civil sanctions.

22 Sec. 422.305. HOLD ON CLAIM REIMBURSEMENT PAYMENT;
23 EXCLUSION FROM PROGRAMS. (a) In addition to other instances
24 authorized under state or federal law, the office shall impose
25 without prior notice a hold on payment of claims for reimbursement
26 submitted by a health or human services provider to compel
27 production of records related to participation in the state

1 Medicaid program or on request of the state's Medicaid fraud
2 control unit, as applicable.

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

6 (c) The office shall, in consultation with the state's
7 Medicaid fraud control unit, establish guidelines under which holds
8 on payment or exclusions from a health and human services program:

9 (1) may permissively be imposed on a health or human
10 services provider; or

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

12 (d) A health or human services provider subject to a hold on
13 payment or excluded from a program under this section is entitled to
14 a hearing on the hold or exclusion. A hearing under this subsection
15 is a contested case hearing under Chapter 2001. The State Office of
16 Administrative Hearings shall conduct the hearing. After the
17 hearing, the office, subject to judicial review, shall make a final
18 determination. The commission, a health and human services agency,
19 and the attorney general are entitled to intervene as parties in the
20 contested case.

21 Sec. 422.306. REQUEST FOR EXPEDITED HEARING. (a) On timely
22 written request by a health or human services provider subject to a
23 hold on payment under Section 422.305, other than a hold requested
24 by the state's Medicaid fraud control unit, the office shall file a
25 request with the State Office of Administrative Hearings for an
26 expedited administrative hearing regarding the hold.

27 (b) The health or human services provider must request an

1 expedited hearing not later than the 10th day after the date the
2 provider receives notice from the office under Section 422.305(b).

3 Sec. 422.307. INFORMAL RESOLUTION. (a) The inspector
4 general shall adopt rules that allow a health or human services
5 provider subject to a hold on payment under Section 422.305, other
6 than a hold requested by the state's Medicaid fraud control unit, to
7 seek an informal resolution of the issues identified by the office
8 in the notice provided under that section.

9 (b) A health or human services provider that seeks an
10 informal resolution must do so not later than the 10th day after the
11 date the provider receives notice from the office under Section
12 422.305(b).

13 (c) A health or human services provider's decision to seek
14 an informal resolution does not extend the time by which the
15 provider must request an expedited administrative hearing under
16 Section 422.306.

17 (d) A hearing initiated under Section 422.305 shall be
18 stayed at the office's request until the informal resolution
19 process is completed.

20 [Sections 422.308-422.450 reserved for expansion]

21 SUBCHAPTER J. PENALTIES

22 Sec. 422.451. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

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

27 (b) The office may act for an agency in assessing

administrative or civil penalties the agency is authorized to assess under applicable law if:

(1) the inspector general is required to designate a deputy inspector general for the agency under Section 422.106;

(2) the agency is a health and human services agency as defined by Section 531.001; or

(3) the penalty is imposed in connection with fraud, waste, or abuse in the use of state or federal funds.

(c) If the office imposes an administrative or civil penalty under Subsection (b) for an agency:

(1) the agency may not impose an administrative or civil penalty against the same person for the same violation; and

(2) the office shall impose the penalty under applicable rules of the office, this chapter, and applicable laws governing the imposition of a penalty by the agency.

SECTION 2. Chapter 321, Government Code, is amended by adding Section 321.024 to read as follows:

Sec. 321.024. FEDERAL STIMULUS MONEY RESPONSIBILITIES. (a) The state auditor has oversight responsibility for any federal stimulus funds the state receives under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5). The state auditor may audit any matter relating to or involving a department that receives federal stimulus funds.

(b) The state auditor may request assistance of the office of inspector general established under Chapter 422 for an audit conducted under this section.

SECTION 3. Section 493.019, Government Code, is amended to

1 read as follows:

2 Sec. 493.019. ENFORCEMENT OFFICERS. In accordance with
3 Section 422.107, the ~~[The]~~ inspector general appointed under
4 Chapter 422 may appoint employees who are certified by the
5 Commission on Law Enforcement Officer Standards and Education as
6 qualified to be peace officers to serve under the direction of the
7 inspector general and assist the inspector general in performing
8 the enforcement duties of the department.

9 SECTION 4. Section 493.026, Government Code, as added by
10 Chapter 263 (S.B. 103), Acts of the 80th Legislature, Regular
11 Session, 2007, is renumbered as Section 493.028, Government Code,
12 and amended to read as follows:

13 Sec. 493.028 ~~[493.026]~~. INSPECTOR GENERAL REPORT ON
14 CRIMINAL OFFENSES. (a) In this section, "special prosecution
15 unit" means the special prosecution unit established under
16 Subchapter E, Chapter 41.

17 (b) The inspector general appointed under Chapter 422 ~~[of~~
18 ~~the department]~~ shall on a quarterly basis prepare and deliver to
19 the board of directors of the special prosecution unit a report
20 concerning any alleged criminal offense concerning the department
21 and described by Article 104.003(a), Code of Criminal Procedure,
22 that occurred during the preceding calendar quarter.

23 SECTION 5. Section 501.174, Government Code, is amended to
24 read as follows:

25 Sec. 501.174. DEPARTMENT TO ADOPT POLICY. The department
26 shall adopt a policy providing for:

27 (1) a designated administrator at each correctional

1 facility to post information throughout the facility describing how
2 an inmate may confidentially contact the ombudsperson regarding a
3 sexual assault;

4 (2) an inmate to write a confidential letter to the
5 ombudsperson regarding a sexual assault;

6 (3) employees at correctional facilities, on
7 notification of the occurrence of a sexual assault, to immediately:

8 (A) contact the ombudsperson and the office of
9 the inspector general; and

10 (B) ensure that the alleged victim is safe;

11 (4) the office of the inspector general established
12 under Chapter 422, at the time the office is notified of the sexual
13 assault, to arrange for a medical examination of the alleged victim
14 to be conducted in accordance with Article 56.06, Code of Criminal
15 Procedure, or, if an appropriate employee of the office of the
16 inspector general is not available at the time the office is
17 notified of the sexual assault, a qualified employee at the
18 correctional facility to conduct a medical examination of the
19 alleged victim in accordance with Article 56.06, Code of Criminal
20 Procedure;

21 (5) a grievance proceeding under Section 501.008 based
22 on an alleged sexual assault to be exempt from any deadline
23 applicable to grievances initiated under that section; and

24 (6) each correctional facility to collect statistics
25 on all alleged sexual assaults against inmates confined in the
26 facility and to report the statistics to the ombudsperson.

27 SECTION 6. Section 501.176(b), Government Code, is amended

1 to read as follows:

2 (b) The report must include public information regarding:

3 (1) each investigation and monitoring activity
4 relating to sexual assault completed during the fiscal year by the
5 ombudsperson and the inspector general appointed under Chapter 422;
6 and

7 (2) statistics collected by the ombudsperson
8 regarding allegations of sexual assault.

9 SECTION 7. Section 501.177, Government Code, is amended to
10 read as follows:

11 Sec. 501.177. STATE AUDITOR AUDITS, INVESTIGATIONS, AND
12 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law
13 related to the operation of the ombudsperson or related to the
14 office of the inspector general established under Chapter 422 does
15 not prohibit the state auditor from conducting an audit,
16 investigation, or other review or from having full and complete
17 access to all records and other information, including witnesses
18 and electronic data, that the state auditor considers necessary for
19 the audit, investigation, or other review.

20 SECTION 8. Section 501.178, Government Code, is amended to
21 read as follows:

22 Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY
23 AUDITS NOT IMPAIRED. This subchapter or other law related to the
24 operation of the ombudsperson or of the office of the inspector
25 general established under Chapter 422 does not take precedence over
26 the authority of the state auditor to conduct an audit under Chapter
27 321 or other law.

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

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

SECTION 10. Section 531.008(c), Government Code, is amended to read as follows:

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

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

(A) the child health plan program;

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

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

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

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

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

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

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

1 ~~[(3)]~~ the office of the ombudsman to:

2 (A) provide dispute resolution services for the
3 commission and the health and human services agencies; and

4 (B) perform consumer protection functions
5 related to health and human services;

6 (3) ~~[(4)]~~ a purchasing division as provided by Section
7 531.017; and

8 (4) ~~[(5)]~~ an internal audit division to conduct a
9 program of internal auditing in accordance with ~~[Government Code,~~
10 Chapter 2102.

11 SECTION 11. Section 531.1031(a)(2), Government Code, is
12 amended to read as follows:

13 (2) "Participating agency" means:

14 (A) the Medicaid fraud enforcement divisions of
15 the office of the attorney general; ~~[and]~~

16 (B) each board or agency with authority to
17 license, register, regulate, or certify a health care professional
18 or managed care organization that may participate in the state
19 Medicaid program; and

20 (C) the office of inspector general.

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

23 (a) The office of inspector general ~~[commission]~~ and the
24 attorney general shall execute a memorandum of understanding under
25 which the office ~~[commission]~~ shall provide investigative support
26 as required to the attorney general in connection with cases under
27 Subchapter B, Chapter 36, Human Resources Code. Under the

1 memorandum of understanding, the office [~~commission~~] shall assist
2 in performing preliminary investigations and ongoing
3 investigations for actions prosecuted by the attorney general under
4 Subchapter C, Chapter 36, Human Resources Code.

5 SECTION 13. Section 531.105, Government Code, is amended to
6 read as follows:

7 Sec. 531.105. FRAUD DETECTION TRAINING. (a) The office of
8 inspector general [~~commission~~] shall develop and implement a
9 program to provide annual training to contractors who process
10 Medicaid claims and appropriate staff of the health and human
11 services agencies [~~Texas Department of Health and the Texas~~
12 ~~Department of Human Services~~] in identifying potential cases of
13 fraud, waste, or abuse under the state Medicaid program. The
14 training provided to the contractors and staff must include clear
15 criteria that specify:

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

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

19 (b) The commission and other health and human services
20 agencies [~~Texas Department of Health and the Texas Department of~~
21 ~~Human Services~~], in cooperation with the office of inspector
22 general [~~commission~~], shall periodically set a goal of the number
23 of potential cases of fraud, waste, or abuse under the state
24 Medicaid program that each agency will attempt to identify and
25 refer to the office [~~commission~~]. [~~The commission shall include~~
26 ~~information on the agencies' goals and the success of each agency in~~
27 ~~meeting the agency's goal in the report required by Section~~

1 ~~531.103(c).~~]

2 SECTION 14. Sections 531.106(a), (b), (d), (e), (f), and
3 (g), Government Code, are amended to read as follows:

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

7 (b) The office of inspector general ~~[commission]~~ shall
8 contract with a private or public entity to develop and implement
9 the technology. The office ~~[commission]~~ may require the entity it
10 contracts with to install and operate the technology at locations
11 specified by the office ~~[commission, including commission~~
12 ~~offices]~~.

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

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

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

24 (g) Each month, the learning or neural network technology
25 implemented under this section must match bureau of vital
26 statistics death records with Medicaid claims filed by a provider.
27 If the commission or the office of inspector general determines

1 that a provider has filed a claim for services provided to a person
2 after the person's date of death, as determined by the bureau of
3 vital statistics death records, ~~[the commission shall refer]~~ the
4 case shall be referred for investigation to the office of inspector
5 general or the office of the attorney general, as appropriate ~~[to~~
6 ~~the commission's office of investigations and enforcement]~~.

7 SECTION 15. Section 531.1061, Government Code, is amended
8 to read as follows:

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

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

19 (1) receive electronically transferred records
20 relating to the identified case from the learning or neural network
21 technology;

22 (2) record the details and monitor the status of an
23 investigation of the identified case, including maintaining a
24 record of the beginning and completion dates for each phase of the
25 case investigation;

26 (3) generate documents and reports related to the
27 status of the case investigation; and

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

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

8 SECTION 16. Section 531.1062(a), Government Code, is
9 amended to read as follows:

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

14 SECTION 17. Sections 531.107(a), (b), and (f), Government
15 Code, are amended to read as follows:

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

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

21 (1) attorney general's office, appointed by the
22 attorney general;

23 (2) comptroller's office, appointed by the
24 comptroller;

25 (3) Department of Public Safety, appointed by the
26 public safety director;

27 (4) state auditor's office, appointed by the state

auditor;

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

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

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

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

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

(1) information detailing:

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

(B) the time spent investigating each case;

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

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

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

(2) any additional information the task force
requires.

SECTION 18. Sections 531.108 and 531.109, Government Code,

are amended to read as follows:

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

~~[(1) fraud prevention; and~~

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

~~[(b) The commission shall:~~

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

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

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

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

(1) verify automobile information that is used as

criteria for eligibility; and

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

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

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

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

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

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

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

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

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

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

(f) The office of inspector general ~~[commission]~~ shall report biennially to the legislature the results of the electronic data matching program. The report must include a summary of the

1 number of applicants who were removed from eligibility for
2 assistance under the state Medicaid program as a result of an
3 electronic data match conducted under this section.

4 SECTION 20. Section 531.111, Government Code, is amended to
5 read as follows:

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

10 (1) develop and implement the fraud detection
11 technology; and

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

16 SECTION 21. Section 531.1112, Government Code, is amended
17 to read as follows:

18 Sec. 531.1112. STUDY CONCERNING INCREASED USE OF TECHNOLOGY
19 TO STRENGTHEN FRAUD DETECTION AND DETERRENCE; IMPLEMENTATION. (a)
20 The commission and the [~~commission's~~] office of inspector general
21 shall jointly study the feasibility of increasing the use of
22 technology to strengthen the detection and deterrence of fraud in
23 the state Medicaid program. The study must include the
24 determination of the feasibility of using technology to verify a
25 person's citizenship and eligibility for coverage.

26 (b) The commission shall implement any methods the
27 commission and the [~~commission's~~] office of inspector general

1 determine are effective at strengthening fraud detection and
2 deterrence.

3 SECTION 22. Section 531.113, Government Code, is amended to
4 read as follows:

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

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

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

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

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

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

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

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

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

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

15 (7) provisions for maintaining the confidentiality of
16 any patient information relevant to an investigation of fraud,
17 waste, or abuse.

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

23 (1) a copy of the written contract;

24 (2) the names, addresses, telephone numbers, and fax
25 numbers of the principals of the entity with which the managed care
26 organization has contracted; and

27 (3) a description of the qualifications of the

1 principals of the entity with which the managed care organization
2 has contracted.

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

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

8 SECTION 23. Sections 531.114(b) and (g), Government Code,
9 are amended to read as follows:

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

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

17 (2) refer the matter to the appropriate prosecuting
18 attorney for prosecution.

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

21 SECTION 24. Section 533.001, Government Code, is amended by
22 adding Subdivision (3-a) to read as follows:

23 (3-a) "Inspector general" means the inspector general
24 appointed under Chapter 422.

25 SECTION 25. Section 533.005(a), Government Code, is amended
26 to read as follows:

27 (a) A contract between a managed care organization and the

1 commission for the organization to provide health care services to
2 recipients must contain:

3 (1) procedures to ensure accountability to the state
4 for the provision of health care services, including procedures for
5 financial reporting, quality assurance, utilization review, and
6 assurance of contract and subcontract compliance;

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

9 (3) a requirement that the managed care organization
10 provide ready access to a person who assists recipients in
11 resolving issues relating to enrollment, plan administration,
12 education and training, access to services, and grievance
13 procedures;

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

18 (5) a requirement that the managed care organization
19 provide information and referral about the availability of
20 educational, social, and other community services that could
21 benefit a recipient;

22 (6) procedures for recipient outreach and education;

23 (7) a requirement that the managed care organization
24 make payment to a physician or provider for health care services
25 rendered to a recipient under a managed care plan not later than the
26 45th day after the date a claim for payment is received with
27 documentation reasonably necessary for the managed care

1 organization to process the claim, or within a period, not to exceed
2 60 days, specified by a written agreement between the physician or
3 provider and the managed care organization;

4 (8) a requirement that the commission, on the date of a
5 recipient's enrollment in a managed care plan issued by the managed
6 care organization, inform the organization of the recipient's
7 Medicaid certification date;

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

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

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

20 (12) if the commission finds that a managed care
21 organization has violated Subdivision (11), a requirement that the
22 managed care organization reimburse an out-of-network provider for
23 health care services at a rate that is equal to the allowable rate
24 for those services, as determined under Sections 32.028 and
25 32.0281, Human Resources Code;

26 (13) a requirement that the organization use advanced
27 practice nurses in addition to physicians as primary care providers

1 to increase the availability of primary care providers in the
2 organization's provider network;

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

11 (15) a requirement that the managed care organization
12 develop, implement, and maintain a system for tracking and
13 resolving all provider appeals related to claims payment, including
14 a process that will require:

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

17 (B) the contracting with physicians who are not
18 network providers and who are of the same or related specialty as
19 the appealing physician to resolve claims disputes related to
20 denial on the basis of medical necessity that remain unresolved
21 subsequent to a provider appeal; and

22 (C) the determination of the physician resolving
23 the dispute to be binding on the managed care organization and
24 provider.

25 SECTION 26. Sections 533.012(a), (b), (c), and (e),
26 Government Code, are amended to read as follows:

27 (a) Each managed care organization contracting with the

commission under this chapter shall submit to the office of
inspector general [~~commission~~]:

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

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

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

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

(b) The information submitted under this section must be
submitted in the form required by the office of inspector general
[~~commission~~] and be updated as required by the office [~~commission~~].

(c) The office [~~commission's office~~] of inspector general
[~~investigations and enforcement~~] shall review the information
submitted under this section as appropriate in the investigation of
fraud in the Medicaid managed care program.

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

SECTION 27. Section 811.001(9), Government Code, is amended
to read as follows:

1 (9) "Law enforcement officer" means a member of the
2 retirement system who:

3 (A) has been commissioned as a law enforcement
4 officer by the Department of Public Safety, the Texas Alcoholic
5 Beverage Commission, the Parks and Wildlife Department, or the
6 office of inspector general at the Texas Youth Commission or its
7 successor in function; and

8 (B) is recognized as a commissioned law
9 enforcement officer by the Commission on Law Enforcement Officer
10 Standards and Education.

11 SECTION 28. Section 814.104(b), Government Code, is amended
12 to read as follows:

13 (b) A member who is at least 55 years old and who has at
14 least 10 years of service credit as a commissioned peace officer
15 engaged in criminal law enforcement activities of the Department of
16 Public Safety, the Texas Alcoholic Beverage Commission, the Parks
17 and Wildlife Department, or the office of inspector general at the
18 Texas Youth Commission or its successor in function, or as a
19 custodial officer, is eligible to retire and receive a service
20 retirement annuity.

21 SECTION 29. Section 815.505, Government Code, is amended to
22 read as follows:

23 Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND
24 CUSTODIAL OFFICERS. Not later than the 12th day of the month
25 following the month in which a person begins or ceases employment as
26 a law enforcement officer or custodial officer, the Public Safety
27 Commission, the Texas Alcoholic Beverage Commission, the Parks and

1 Wildlife Commission, the office of inspector general at the Texas
2 Youth Commission or its successor in function, the Board of Pardons
3 and Paroles, or the Texas Board of Criminal Justice, as applicable,
4 shall certify to the retirement system, in the manner prescribed by
5 the system, the name of the employee and such other information as
6 the system determines is necessary for the crediting of service and
7 financing of benefits under this subtitle.

8 SECTION 30. Section 2054.376(b), Government Code, is
9 amended to read as follows:

10 (b) This subchapter does not apply to:

11 (1) the Department of Public Safety's use for criminal
12 justice or homeland security purposes of a federal database or
13 network;

14 (2) a Texas equivalent of a database or network
15 described by Subdivision (1) that is managed by the Department of
16 Public Safety;

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

19 (4) the state treasury cash and treasury management
20 system; ~~or~~

21 (5) a database or network managed by the comptroller
22 to:

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

25 (B) manage or administer fiscal, financial,
26 revenue, and expenditure activities of the state under Chapter 403
27 and Chapter 404; or

1 (6) the use for criminal justice and statutorily
2 mandated confidentiality purposes of a federal or state database or
3 network by the office of inspector general established under
4 Chapter 422.

5 SECTION 31. Section 21.014(b), Human Resources Code, is
6 amended to read as follows:

7 (b) The [~~person employed by the department as~~] inspector
8 general appointed under Chapter 422, Government Code, shall make
9 reports to and consult with the agency director [~~chairman of the~~
10 ~~board~~] regarding:

11 (1) the selection of internal audit topics;

12 (2) the establishment of internal audit priorities;

13 and

14 (3) the findings of each regular or special internal
15 audit initiative.

16 SECTION 32. Section 32.003, Human Resources Code, is
17 amended by adding Subdivision (5) to read as follows:

18 (5) "Office of inspector general" means the office of
19 inspector general established under Chapter 422, Government Code.

20 SECTION 33. Section 32.0291, Human Resources Code, is
21 amended to read as follows:

22 Sec. 32.0291. PREPAYMENT REVIEWS AND POSTPAYMENT HOLDS.

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

25 (1) perform a prepayment review of a claim for
26 reimbursement under the medical assistance program to determine
27 whether the claim involves fraud, waste, or abuse; and

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

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

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

25 (d) The inspector general [~~department~~] shall adopt rules
26 that allow a provider subject to a postpayment hold under
27 Subsection (b) to seek an informal resolution of the issues

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

11 SECTION 34. Section 32.032, Human Resources Code, is
12 amended to read as follows:

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

21 SECTION 35. Sections 32.0321(a), (b), (c), and (d), Human
22 Resources Code, are amended to read as follows:

23 (a) The office of inspector general [~~department~~] by rule may
24 require each provider of medical assistance in a provider type that
25 has demonstrated significant potential for fraud or abuse to
26 file with the office [~~department~~] a surety bond in a reasonable
27 amount. The office [~~department~~] by rule shall require a provider of

1 medical assistance to file with the office ~~[department]~~ a surety
2 bond in a reasonable amount if the office ~~[department]~~ identifies a
3 pattern of suspected fraud or abuse involving criminal conduct
4 relating to the provider's services under the medical assistance
5 program that indicates the need for protection against potential
6 future acts of fraud or abuse.

7 (b) The bond under Subsection (a) must be payable to the
8 office of inspector general ~~[department]~~ to compensate the office
9 ~~[department]~~ for damages resulting from or penalties or fines
10 imposed in connection with an act of fraud or abuse committed by the
11 provider under the medical assistance program.

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

21 (d) The office of inspector general ~~[department]~~ may not
22 require the amount of a surety bond posted for a single facility
23 provider under Subsection (c) to exceed the average of the total
24 average monthly balance of all the provider's resident trust fund
25 accounts for the 12-month period preceding the bond issuance or
26 renewal date.

27 SECTION 36. Section 32.0322, Human Resources Code, is

1 amended to read as follows:

2 Sec. 32.0322. CRIMINAL HISTORY RECORD INFORMATION.

3 (a) The office of inspector general and the department may obtain
4 from any law enforcement or criminal justice agency the criminal
5 history record information that relates to a provider under the
6 medical assistance program or a person applying to enroll as a
7 provider under the medical assistance program.

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

13 SECTION 37. Section 32.070(d), Human Resources Code, is
14 amended to read as follows:

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

22 SECTION 38. Section 33.015(e), Human Resources Code, is
23 amended to read as follows:

24 (e) The department shall require a person exempted under
25 this section from making a personal appearance at department
26 offices to provide verification of the person's entitlement to the
27 exemption on initial eligibility certification and on each

1 subsequent periodic eligibility recertification. If the person
2 does not provide verification and the department considers the
3 verification necessary to protect the integrity of the food stamp
4 program, the department shall initiate a fraud referral to the
5 ~~[department's]~~ office of inspector general established under
6 Chapter 422, Government Code.

7 SECTION 39. Section 61.001(7), Human Resources Code, is
8 amended to read as follows:

9 (7) "Office of inspector general" means the office of
10 inspector general established under Chapter 422, Government Code
11 ~~[Section 61.0451]~~.

12 SECTION 40. Sections 61.0451(a), (d), (f), and (g), Human
13 Resources Code, are amended to read as follows:

14 (a) The office of inspector general shall investigate ~~[is~~
15 ~~established at the commission for the purpose of investigating]~~:

16 (1) crimes committed by commission employees,
17 including parole officers employed by or under a contract with the
18 commission; and

19 (2) crimes and delinquent conduct committed at a
20 facility operated by the commission or at a residential facility
21 operated by another entity under a contract with the commission.

22 (d) The office of inspector general may employ and
23 commission inspectors ~~[general]~~ as peace officers in accordance
24 with Section 422.107, Government Code, for the purpose of carrying
25 out the duties described by this section. An inspector ~~[general]~~
26 shall have all of the powers and duties given to peace officers
27 under Article 2.13, Code of Criminal Procedure.

1 (f) If the inspector general is not a commissioned peace
2 officer, the inspector general [~~The executive commissioner~~] shall
3 select a commissioned peace officer as chief inspector [~~general~~].
4 The chief inspector [~~general~~] is subject to the requirements of
5 this section and may only be discharged for cause.

6 (g) The [~~chief~~] inspector general shall on a quarterly basis
7 prepare and deliver a report concerning the operations of the
8 office of inspector general to:

- 9 (1) the executive commissioner;
- 10 (2) the advisory board;
- 11 (3) the governor;
- 12 (4) the lieutenant governor;
- 13 (5) the speaker of the house of representatives;
- 14 (6) the standing committees of the senate and house of
15 representatives with primary jurisdiction over correctional
16 facilities;
- 17 (7) the state auditor; and
- 18 (8) the comptroller.

19 SECTION 41. Sections 61.098(d) and (e), Human Resources
20 Code, are amended to read as follows:

21 (d) Notwithstanding Subsection (c), the office of inspector
22 general shall immediately provide the special prosecution unit with
23 a report concerning an alleged criminal offense or delinquent
24 conduct concerning the commission and described by Article
25 104.003(a), Code of Criminal Procedure, if the [~~chief~~] inspector
26 general reasonably believes the offense or conduct is particularly
27 serious and egregious.

1 (e) The ~~[chief]~~ inspector general of the office of inspector
2 general, at the direction of the board of directors of the special
3 prosecution unit, shall notify the foreman of the appropriate grand
4 jury, in the manner provided by Article 20.09, Code of Criminal
5 Procedure, if:

6 (1) the ~~[chief]~~ inspector general receives credible
7 evidence of illegal or improper conduct by commission officers,
8 employees, or contractors that the inspector general reasonably
9 believes jeopardizes the health, safety, and welfare of children in
10 the custody of the commission;

11 (2) the ~~[chief]~~ inspector general reasonably believes
12 the conduct:

13 (A) could constitute an offense under Article
14 104.003(a), Code of Criminal Procedure; and

15 (B) involves the alleged physical or sexual abuse
16 of a child in the custody of a commission facility or an
17 investigation related to the alleged abuse; and

18 (3) the ~~[chief]~~ inspector general has reason to
19 believe that information concerning the conduct has not previously
20 been presented to the appropriate grand jury.

21 SECTION 42. Section 64.055(b), Human Resources Code, is
22 amended to read as follows:

23 (b) The independent ombudsman shall immediately report to
24 the governor, the lieutenant governor, the speaker of the house of
25 representatives, the state auditor, and the office of the inspector
26 general established under Chapter 422, Government Code, ~~[of the~~
27 ~~commission]~~ any particularly serious or flagrant:

1 (1) case of abuse or injury of a child committed to the
2 commission;

3 (2) problem concerning the administration of a
4 commission program or operation;

5 (3) problem concerning the delivery of services in a
6 facility operated by or under contract with the commission; or

7 (4) interference by the commission with an
8 investigation conducted by the office.

9 SECTION 43. Section 64.056(b), Human Resources Code, is
10 amended to read as follows:

11 (b) The records of the independent ombudsman are
12 confidential, except that the independent ombudsman shall:

13 (1) share with the office of inspector general
14 established under Chapter 422, Government Code, ~~[of the commission]~~
15 a communication with a child that may involve the abuse or neglect
16 of the child; and

17 (2) disclose its nonprivileged records if required by
18 a court order on a showing of good cause.

19 SECTION 44. Section 20.038, Business & Commerce Code, is
20 amended to read as follows:

21 Sec. 20.038. EXEMPTION FROM SECURITY FREEZE. A security
22 freeze does not apply to a consumer report provided to:

23 (1) a state or local governmental entity, including a
24 law enforcement agency or court or private collection agency, if
25 the entity, agency, or court is acting under a court order, warrant,
26 subpoena, or administrative subpoena;

27 (2) a child support agency as defined by Section

1 101.004, Family Code, acting to investigate or collect child
2 support payments or acting under Title IV-D of the Social Security
3 Act (42 U.S.C. Section 651 et seq.);

4 (3) the office of inspector general [~~Health and Human~~
5 ~~Services Commission~~] acting to investigate fraud, waste, or abuse
6 in state agencies under Chapter 422, Government Code, or other law
7 [~~under Section 531.102, Government Code~~];

8 (4) the comptroller acting to investigate or collect
9 delinquent sales or franchise taxes;

10 (5) a tax assessor-collector acting to investigate or
11 collect delinquent ad valorem taxes;

12 (6) a person for the purposes of prescreening as
13 provided by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et
14 seq.), as amended;

15 (7) a person with whom the consumer has an account or
16 contract or to whom the consumer has issued a negotiable
17 instrument, or the person's subsidiary, affiliate, agent,
18 assignee, prospective assignee, or private collection agency, for
19 purposes related to that account, contract, or instrument;

20 (8) a subsidiary, affiliate, agent, assignee, or
21 prospective assignee of a person to whom access has been granted
22 under Section 20.037(b);

23 (9) a person who administers a credit file monitoring
24 subscription service to which the consumer has subscribed;

25 (10) a person for the purpose of providing a consumer
26 with a copy of the consumer's report on the consumer's request;

27 (11) a check service or fraud prevention service

company that issues consumer reports:

(A) to prevent or investigate fraud; or

(B) for purposes of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment;

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

(13) a consumer reporting agency that:

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

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

SECTION 45. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

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

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

(2) constables, deputy constables, and those reserve

1 deputy constables who hold a permanent peace officer license issued
2 under Chapter 1701, Occupations Code;

3 (3) marshals or police officers of an incorporated
4 city, town, or village, and those reserve municipal police officers
5 who hold a permanent peace officer license issued under Chapter
6 1701, Occupations Code;

7 (4) rangers and officers commissioned by the Public
8 Safety Commission and the Director of the Department of Public
9 Safety;

10 (5) investigators of the district attorneys', criminal
11 district attorneys', and county attorneys' offices;

12 (6) law enforcement agents of the Texas Alcoholic
13 Beverage Commission;

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

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

18 (9) officers commissioned by the General Services
19 Commission;

20 (10) law enforcement officers commissioned by the
21 Parks and Wildlife Commission;

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

25 (12) airport security personnel commissioned as peace
26 officers by the governing body of any political subdivision of this
27 state, other than a city described by Subdivision (11), that

1 operates an airport that serves commercial air carriers;
2 (13) municipal park and recreational patrolmen and
3 security officers;
4 (14) security officers and investigators commissioned
5 as peace officers by the comptroller;
6 (15) officers commissioned by a water control and
7 improvement district under Section 49.216, Water Code;
8 (16) officers commissioned by a board of trustees
9 under Chapter 54, Transportation Code;
10 (17) investigators commissioned by the Texas Medical
11 Board;
12 (18) officers commissioned by the board of managers of
13 the Dallas County Hospital District, the Tarrant County Hospital
14 District, or the Bexar County Hospital District under Section
15 281.057, Health and Safety Code;
16 (19) county park rangers commissioned under
17 Subchapter E, Chapter 351, Local Government Code;
18 (20) investigators employed by the Texas Racing
19 Commission;
20 (21) officers commissioned under Chapter 554,
21 Occupations Code;
22 (22) officers commissioned by the governing body of a
23 metropolitan rapid transit authority under Section 451.108,
24 Transportation Code, or by a regional transportation authority
25 under Section 452.110, Transportation Code;
26 (23) investigators commissioned by the attorney
27 general under Section 402.009, Government Code;

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

3 (25) an officer employed by the Department of State
4 Health Services under Section 431.2471, Health and Safety Code;

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

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

9 (28) an investigator commissioned by the commissioner
10 of insurance under Section 701.104, Insurance Code;

11 (29) apprehension specialists ~~[and—inspectors~~
12 ~~general]~~ commissioned by the Texas Youth Commission as officers
13 under Section ~~[Sections 61.0451 and]~~ 61.0931, Human Resources Code;

14 (30) ~~[officers appointed by the inspector general of~~
15 ~~the Texas Department of Criminal Justice under Section 493.019,~~
16 ~~Government Code,~~

17 ~~[(31)]~~ investigators commissioned by the Commission
18 on Law Enforcement Officer Standards and Education under Section
19 1701.160, Occupations Code;

20 (31) ~~[(32)]~~ commission investigators commissioned by
21 the Texas Private Security Board under Section 1702.061(f),
22 Occupations Code;

23 (32) ~~[(33)]~~ the fire marshal and any officers,
24 inspectors, or investigators commissioned by an emergency services
25 district under Chapter 775, Health and Safety Code;

26 (33) ~~[(34)]~~ officers commissioned by the State Board
27 of Dental Examiners under Section 254.013, Occupations Code,

1 subject to the limitations imposed by that section; ~~and~~

2 (34) [~~(35)~~] investigators commissioned by the Texas
3 Juvenile Probation Commission as officers under Section 141.055,
4 Human Resources Code; and

5 (35) officers commissioned by the office of inspector
6 general established under Chapter 422, Government Code.

7 SECTION 46. The following sections of the Government Code
8 are repealed:

9 (1) Section 531.102;

10 (2) Section 531.1021; and

11 (3) Section 531.103.

12 SECTION 47. (a) The repeal by this Act of Section 531.102,
13 Government Code, does not affect the validity of a complaint,
14 investigation, or other proceeding initiated under that section
15 before the effective date of this Act. A complaint, investigation,
16 or other proceeding initiated under that section is continued in
17 accordance with the changes in law made by this Act.

18 (b) The repeal by this Act of Section 531.1021, Government
19 Code, does not affect the validity of a subpoena issued under that
20 section before the effective date of this Act. A subpoena issued
21 under that section before the effective date of this Act is governed
22 by the law that existed when the subpoena was issued, and the former
23 law is continued in effect for that purpose.

24 SECTION 48. (a) As soon as practicable after the effective
25 date of this Act, the Legislative Budget Board shall submit to the
26 governor a list with the names of at least three persons who may be
27 appointed as inspector general for the office of inspector general

1 as required by Chapter 422, Government Code, as added by this Act.

2 (b) As soon as practicable after the date the governor
3 receives the list under Subsection (a) of this section, the
4 governor shall appoint an inspector general for the office of
5 inspector general established under Chapter 422, Government Code,
6 as added by this Act, to a term expiring February 1, 2011.

7 (c) A person serving on the effective date of this Act as
8 inspector general for a state agency subject to Chapter 422,
9 Government Code, as added by this Act, shall serve as the deputy
10 inspector general designated for the agency under Chapter 422,
11 Government Code, as added by this Act, unless and until replaced by
12 the inspector general.

13 SECTION 49. A contract or proceeding primarily related to a
14 function transferred to the office of inspector general established
15 under this Act is transferred to the office. The transfer does not
16 affect the status of a proceeding or the validity of a contract.

17 SECTION 50. (a) All personnel and assets currently
18 assigned to the inspector general of an agency subject to Chapter
19 422, Government Code, as added by this Act, shall be promptly
20 transferred to the office of inspector general established under
21 Chapter 422 along with any equipment, documents, and records
22 currently assigned to or used by the inspector general of that
23 agency. Inventory of personnel, equipment, documents, records, and
24 assets to be transferred under this section shall be accomplished
25 jointly by the transferring agency and the inspector general
26 serving under Chapter 422. All funds previously appropriated or
27 used, from any source, by the transferring agency in support of the

1 transferred functions, personnel, equipment, documents, records,
2 or assets shall also be contemporaneously transferred to the
3 office.

4 (b) For purposes of this section, "currently assigned"
5 means:

6 (1) all personnel and vacant full-time equivalent
7 positions assigned to or supporting a transferred function at any
8 time during the state fiscal biennium beginning September 1, 2007;
9 and

10 (2) all inventory and equipment assigned to a
11 transferred function or transferring personnel or that was in the
12 possession of transferring personnel on or at any time after
13 October 31, 2008.

14 (c) All state and federal funding, including funding for
15 overhead costs, support costs, and lease or colocation lease costs,
16 for the functions to be transferred to the office of inspector
17 general established under Chapter 422, Government Code, as added by
18 this Act, shall be reallocated to that office.

19 (d) For purposes of federal single state agency funding
20 requirements, any federal funds for an agency subject to Chapter
21 422, Government Code, as added by this Act, that may not be
22 appropriated directly to the office of inspector general shall be
23 transferred from the single state agency receiving the funds to the
24 office of inspector general established under Chapter 422 if the
25 funds are intended for a function performed by the office.

26 SECTION 51. On the effective date of this Act:

27 (1) all functions, activities, employees, rules,

1 forms, money, property, contracts, memorandums of understanding,
2 records, and obligations of a previously established office of
3 inspector general of an agency subject to Chapter 422, Government
4 Code, as added by this Act, become functions, activities,
5 employees, rules, forms, money, property, contracts, memorandums
6 of understanding, records, and obligations of the office of
7 inspector general established under Chapter 422, without a change
8 in status; and

9 (2) all money appropriated or budgeted for the
10 operations of a previously established office of inspector general
11 at an agency subject to Chapter 422, Government Code, as added by
12 this Act, including money for providing administrative support, is
13 considered appropriated for the use of the office of inspector
14 general established under Chapter 422.

15 SECTION 52. (a) Each agency subject to Chapter 422,
16 Government Code, as added by this Act, shall take all action
17 necessary to provide for the orderly transfer of the assets and
18 responsibilities of any previously established office of inspector
19 general for that agency to the office of inspector general
20 established under Chapter 422.

21 (b) A rule or form adopted by a previously established
22 office of inspector general of an agency subject to Chapter 422,
23 Government Code, as added by this Act, is a rule or form of the
24 office of inspector general established under Chapter 422 and
25 remains in effect until changed by the office of inspector general.

26 (c) A reference in law or administrative rule to a
27 previously established office of inspector general of an agency

1 subject to Chapter 422, Government Code, as added by this Act, means
2 the office of inspector general established under Chapter 422.

3 SECTION 53. If before implementing any provision of this
4 Act a state agency determines that a waiver or authorization from a
5 federal agency is necessary for implementation of that provision,
6 the agency affected by the provision shall request the waiver or
7 authorization and may delay implementing that provision until the
8 waiver or authorization is granted.

9 SECTION 54. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2009.