

By: Herrero

H.B. No. 4665

A BILL TO BE ENTITLED

AN ACT

relating to the office of inspector general for the Health and Human Services Commission.

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

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

SUBCHAPTER R. INSPECTOR GENERAL

Sec. 531.701. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

Sec. 531.702. REFERENCE IN OTHER LAW. Notwithstanding any other provision of law, a reference in law or rule to the commission's office of inspector general or the commission's office of investigations and enforcement means the Office of Inspector

1 General.

2 Sec. 531.703. OFFICE OF INSPECTOR GENERAL; ADMINISTRATIVE  
3 ATTACHMENT. (a) The office of inspector general is responsible  
4 for:

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

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

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

11 (b) The office is part of the single state Medicaid agency  
12 and is administratively attached to the commission. The commission  
13 shall provide to the office administrative support services from  
14 the commission and from health and human services agencies.

15 Sec. 531.704. SERVICE LEVEL AGREEMENT; FUNDS. (a) The  
16 commission and the office shall enter into a service level  
17 agreement that establishes the performance standards and  
18 deliverables with regard to administrative support by the  
19 commission.

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

23 (c) The commission shall request, apply for, and receive for  
24 the office any appropriations or other money from this state or the  
25 federal government, and shall disburse all such funds to the office  
26 as appropriated.

27 (d) The commission shall provide to the office for the state

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

6 Sec. 531.705. DUTIES OF COMMISSION. (a) The commission  
7 shall:

8 (1) provide administrative assistance to the office;

9 and

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

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

16 Sec. 531.706. INDEPENDENCE OF OFFICE. (a) Except as  
17 otherwise provided by this chapter, the office and inspector  
18 general operate independently of the commission.

19 (b) The inspector general, not the executive commissioner,  
20 supervises the office staff and manages the operations of the  
21 office.

22 (c) The inspector general shall have operational authority  
23 over and responsibility for the:

24 (1) management of the daily operations of the office,  
25 including the organization and management of the office and office  
26 operating procedures;

27 (2) allocation of resources within the office;

1           (3) personnel and employment policies;

2           (4) contracting, purchasing, and related policies,  
3 subject to other laws relating to state agency contracting and  
4 purchasing;

5           (5) information resources systems used by the office;

6           (6) location of office facilities;

7           (7) coordination of office activities with activities  
8 of other state agencies, including other health and human services  
9 agencies.

10          Sec. 531.707. INSPECTOR GENERAL; APPOINTMENT AND TERM. (a)  
11 The governor shall appoint an inspector general to serve as  
12 director of the office.

13          (b) The inspector general reports to the governor and serves  
14 a two-year term that expires on February 1 of each odd-numbered  
15 year.

16          (c) The inspector general is a state officer.

17          Section 531.708. CONFLICT OF INTEREST. (a) The inspector  
18 general may not serve as an ex officio member on the governing body  
19 of a governmental entity.

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

23          Section 531.709. RULEMAKING BY INSPECTOR GENERAL. (a)  
24 Notwithstanding Section 531.0055 (e) and any other law, the  
25 inspector general shall adopt the rules necessary to administer the  
26 functions of the office, including rules to address the imposition  
27 of sanctions and penalties for violations and due process

1 requirements for imposing sanctions and penalties, as well as rules  
2 relating to the eligibility of providers and contractors to  
3 participate in health and human services programs.

4 (b) A rule, standard, or form adopted by the executive  
5 commissioner, the commission, or a health and human services agency  
6 that is necessary to accomplish the duties of the office is  
7 considered to also be a rule, standard, or form of the office and  
8 remains in effect as a rule, standard, or form of the office until  
9 changed by the inspector general.

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

13 (d) The rules must include standards for the office that  
14 emphasize:

15 (1) coordinating investigative efforts to  
16 aggressively recover money;

17 (2) allocating resources to cases that have the  
18 strongest supportive evidence and the greatest potential for  
19 recovery of money; and

20 (3) maximizing opportunities for referral of cases to  
21 the office of the attorney general.

22 Sec. 531.710. EMPLOYEES; MEDICAL REVIEW OFFICER; TRAINING.

23 (a) The inspector general may employ personnel as necessary  
24 to implement the duties of the office.

25 (b) The inspector general shall employ a physician as the  
26 medical review officer to perform reviews and provide information  
27 and consultation as appropriate when the matter at issue involves

1 or requires medical expertise.

2 (c) The inspector general shall train office personnel to  
3 pursue priority Medicaid and other health and human services fraud,  
4 waste, and abuse cases efficiently and as necessary.

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

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

15 Sec. 531.711. REVIEW AUTHORITY. (a) The inspector general  
16 may review any activity or operation of a health and human services  
17 agency, health or human services provider, or person in this state  
18 that is related to the investigation, detection, or prevention of  
19 fraud, waste, or abuse, or official or employee misconduct, in a  
20 state or state-funded health or human services program. A review  
21 may include an inspection, investigation, audit, or other similar  
22 activity inquiring into a specific act or allegation of, or a  
23 specific financial transaction or practice that may involve,  
24 impropriety, malfeasance, or nonfeasance in the obligation,  
25 spending, receipt, or other use of state money.

26 (b) The executive commissioner, the commission, or a health  
27 and human services agency of this state may not impair, prohibit, or

1 attempt to influence the inspector general in initiating,  
2 conducting, or completing a review.

3 (c) The inspector general may conduct reviews, including  
4 financial or performance audits regarding the use and effectiveness  
5 of state funds, including contract and grant funds, administered by  
6 a person or state agency receiving the funds in connection with a  
7 state or state-funded health or human services program.

8 Sec. 531.712. INITIATION OF REVIEW. The inspector general  
9 may initiate a review:

- 10 (1) on the inspector general's own initiative;  
11 (2) at the request of the commission or executive  
12 commissioner; or  
13 (3) based on a complaint from any source concerning a  
14 matter described by Section 531.711.

15 Sec. 531.713. INTEGRITY REVIEW. (a) The office shall  
16 conduct an integrity review to determine whether there is  
17 sufficient basis to warrant a full investigation on receipt of any  
18 complaint of fraud, waste, or abuse of funds in the state Medicaid  
19 program from any source.

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

25 (c) If the findings of an integrity review give the office  
26 reason to believe that an incident of fraud involving possible  
27 criminal conduct has occurred in the state Medicaid program, the

1 office must take the following action, as appropriate, not later  
2 than the 30th day after the completion of the integrity review:

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

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

12 Sec. 531.714. ACCESS TO INFORMATION. (a) To further a  
13 review conducted by the office, the inspector general is entitled  
14 to full and unrestricted access to all offices, limited-access or  
15 restricted areas, employees, books, papers, records, documents,  
16 equipment, computers, databases, systems, accounts, reports,  
17 vouchers, or other information, including confidential  
18 information, electronic data, and internal records relevant to the  
19 functions of the office, maintained by a person, health and human  
20 services agency, or health or human services provider in connection  
21 with a state or state-funded health or human services program.

22 (b) The inspector general may not access data or other  
23 information the release of which is restricted under federal law  
24 unless the office is in compliance with all applicable federal  
25 regulations governing such access.

26 Sec. 531.715. COOPERATION REQUIRED. To further a review  
27 conducted by the inspector general's office, the inspector general



1 may require medical or other professional assistance from the  
2 executive commissioner, the commission, a health and human services  
3 agency, or an auditor, accountant, or other employee of the  
4 commission or agency.

5 Sec. 531.716. REFERRAL TO STATE MEDICAID FRAUD CONTROL  
6 UNIT. (a) At the time the office learns or has reason to suspect  
7 that a health or human services provider 's records related to  
8 participation in the state Medicaid program are being withheld,  
9 concealed, destroyed, fabricated, or in any way falsified, the  
10 office shall immediately refer the case to the state's Medicaid  
11 fraud control unit.

12 (b) A criminal referral under Subsection (a) does not  
13 preclude the office from continuing its investigation of a health  
14 or human services provider or the imposition of appropriate  
15 administrative or civil sanctions.

16 Sec. 531.717. HOLD ON CLAIM REIMBURSEMENT PAYMENT;  
17 EXCLUSION FROM PROGRAMS. (a) In addition to other instances  
18 authorized under state or federal law, the office shall impose  
19 without prior notice a hold on payment of claims for reimbursement  
20 submitted by a health or human services provider to compel  
21 production of records related to participation in the state  
22 Medicaid program or on request of the state's Medicaid fraud  
23 control unit, as applicable.

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

27 (c) The office shall, in consultation with the state 's

1 Medicaid fraud control unit, establish guidelines under which holds  
2 on payment or exclusions from a state or state-funded program:

3 (1) may permissively be imposed on a health or human  
4 services provider; or

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

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

15 Sec. 531.718. REQUEST FOR EXPEDITED HEARING. (a) On timely  
16 written request by a health or human services provider subject to a  
17 hold on payment under Section 531.717, other than a hold requested  
18 by the state's Medicaid fraud control unit, the office shall file a  
19 request with the State Office of Administrative Hearing for an  
20 expedited administrative hearing regarding the hold.

21 (b) The health or human services provider must request an  
22 expedited hearing not later than the 10th day after the date the  
23 provider receives notice from the office under Section 531.717(b).

24 (c) The office may enter into a memorandum of understanding  
25 with the State Office of Administrative Hearings to facilitate the  
26 docketing and hearing of contested case hearings.

27 Sec. 531.719. INFORMAL RESOLUTION. (a) The inspector

1 general shall adopt rules that allow a health or human services  
2 provider subject to a hold on payment under Section 531.717, other  
3 than a hold requested by the state's Medicaid fraud control unit, to  
4 seek an informal resolution of the issues identified by the office  
5 in the notice provided under that section.

6 (b) A health or human services provider must seek an  
7 informal resolution not later than the 10th day after the date the  
8 provider receives notice from the office under Section 531.717(b).

9 (c) A health or human services provider's decision to seek  
10 an informal resolution does not extend the time by which the  
11 provider must request an expedited administrative hearing under  
12 Section 531.718.

13 (d) A hearing initiated under Section 531.717 shall be  
14 stayed at the office's request until the informal resolution  
15 process is completed.

16 Sec. 531.720. EMPLOYEE REPORTS. The inspector general may  
17 require employees at the commission or a health and human services  
18 agency to report to the office information regarding fraud, waste,  
19 misuse or abuse of funds or resources, corruption, or illegal acts.

20 Sec. 531.721. SUBPOENAS. (a) The inspector general may  
21 issue a subpoena to compel the attendance of a relevant witness or  
22 the production, for inspection or copying, of relevant evidence in  
23 connection with a review conducted under this subchapter.

24 (b) A subpoena may be served personally or by certified  
25 mail.

26 (c) If a person fails to comply with a subpoena, the  
27 inspector general, acting through the attorney general, may file

1 suit to enforce the subpoena in a district court in this state.

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

6 (e) The reimbursement of the expenses of a witness whose  
7 attendance is compelled under this section is governed by Section  
8 2001.103.

9 Sec. 531.722. INTERNAL AUDITOR. (a) In this section,  
10 "internal auditor" means a person appointed under Section 2102.006.

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

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

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

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

20 (1) part or division of the agency;

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

22 (3) program conducted by the agency.

23 Sec. 531.723. COOPERATION WITH LAW ENFORCEMENT OFFICIALS  
24 AND OTHER ENTITIES. (a) The inspector general may provide  
25 information and evidence relating to criminal acts to the state  
26 auditor's office and appropriate law enforcement officials.

27 (b) The inspector general may refer matters for further

1 civil, criminal, and administrative action to appropriate  
2 administrative and prosecutorial agencies, including the attorney  
3 general.

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

8 Sec. 531.724. COOPERATION AND COORDINATION WITH STATE  
9 AUDITOR.

10 (a) The state auditor may, on request of the inspector  
11 general, provide appropriate information or other assistance to the  
12 inspector general or office, as determined by the state auditor.

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

16 (c) The state auditor is entitled to access all information  
17 maintained by the inspector general, including vouchers,  
18 electronic data, internal records, and information obtained under  
19 Section 531.714 or subject to Section 531.731.

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

23 Sec. 531.725. PREVENTION. (a) The inspector general may  
24 recommend to the commission and executive commissioner policies on:

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

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

3           (b) The inspector general may provide training or other  
4 education regarding the prevention of fraud, waste, or abuse to  
5 employees of a health and human services agency. The training or  
6 education provided must be approved by the presiding officer of the  
7 agency.

8           Sec. 531.726. RULEMAKING BY EXECUTIVE COMMISSIONER. The  
9 executive commissioner may adopt rules governing a health and human  
10 services agency's response to reports and referrals from the  
11 inspector general on issues identified by the inspector general  
12 related to the agency or a contractor of the agency.

13           Sec. 531.727. ALLEGATIONS OF MISCONDUCT AGAINST PRESIDING  
14 OFFICER. If a review by the inspector general involves allegations  
15 that a presiding officer of a health and human services agency has  
16 engaged in misconduct, the inspector general shall report to the  
17 governor during the review until the report is completed or the  
18 review is closed without a finding.

19           Sec. 531.728. PERIODIC REPORTING TO STATE AUDITOR AND  
20 EXECUTIVE COMMISSIONER REQUIRED. The inspector general shall  
21 timely inform the state auditor and the executive commissioner of  
22 the initiation of a review of a health and human services agency  
23 program and the ongoing status of each review.

24           Sec. 531.729. REPORTING OFFICE FINDINGS. The inspector  
25 general shall report the findings of any review or investigation  
26 conducted by the office to:

27           (1) the executive commissioner;

1           (2) the governor;  
2           (3) the lieutenant governor;  
3           (4) the speaker of the house of representatives;  
4           (5) the state auditor 's office; and  
5           (6) appropriate law enforcement and prosecutorial  
6 agencies, including the office of the attorney general, if the  
7 findings suggest the probability of criminal conduct.

8           Sec. 531.730. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The  
9 inspector general shall immediately report to the executive  
10 commissioner, the governor's general counsel, and the state auditor  
11 a problem deemed by the inspector general to be particularly  
12 serious or flagrant, and relating to the administration of a  
13 program, operation of a health and human services agency, or  
14 interference with an inspector general review.

15           Sec. 531.731. INFORMATION CONFIDENTIAL. (a) Except as  
16 provided by this section, Sections 531.103, 531.729, and 531.733,  
17 all information and material compiled or maintained by the  
18 inspector general during a review under this subchapter is:

19           (1) confidential and not subject to disclosure under  
20 Chapter 552; and

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

25           (b) Subsection (a) applies to information the inspector  
26 general is required to disclose under Sections 531.727, 531.728,  
27 531.730, and 531.732.

1        (c) As the inspector general determines appropriate based  
2 on evidence sufficient to support an allegation, information  
3 relating to a review may be disclosed to:

4            (1) a law enforcement agency;

5            (2) the attorney general's office;

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

7            (4) the commission; or

8            (5) a licensing or regulatory agency.

9        (d) A person that receives information under Subsections  
10 (b) and (c) may not disclose the information except to the extent  
11 that disclosure is consistent with the authorized purpose for which  
12 the person first obtained the information.

13        Sec. 531.732. DRAFT OF FINAL REPORT; AGENCY RESPONSE.

14        (a) Except in cases in which the office has determined that  
15 potential fraud, waste, or abuse exists, or a criminal violation  
16 has occurred, the office shall provide a draft of the final report  
17 of any review of the operations of a health and human services  
18 agency to the presiding officer of the agency before publishing the  
19 office's final report.

20        (b) The health and human services agency may provide a  
21 response to the office's draft report in the manner prescribed by  
22 the office not later than the 10th day after the date the draft  
23 report is received by the agency. The inspector general by rule  
24 shall specify the format and requirements of the agency response.

25        (c) Notwithstanding Subsection (a), the office may not  
26 provide a draft report to the presiding officer of the agency if in  
27 the inspector general's opinion providing the draft report could



negatively affect any anticipated civil or criminal proceedings.

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

Sec. 531.733. FINAL REVIEW REPORTS; AGENCY RESPONSE. (a) The inspector general shall prepare a final report for each review conducted under this subchapter. The final report must include:

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

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

(3) a description of any findings of wrongdoing.

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

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

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

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

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

1       Sec. 531.734. STATE AUDITOR AUDITS, INVESTIGATIONS, AND  
2 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law  
3 related to the operation of the inspector general does not prohibit  
4 the state auditor from conducting an audit, investigation, or other  
5 review or from having full and complete access to all records and  
6 other information, including witnesses and electronic data, that  
7 the state auditor considers necessary for the audit, investigation,  
8 or other review.

9       Sec. 531.735. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY  
10 AUDITS NOT IMPAIRED. This chapter or other law related to the  
11 operation of the inspector general does not take precedence over  
12 the authority of the state auditor to conduct an audit under Chapter  
13 321 or other law.

14       Sec. 531.736. BUDGET. (a) The inspector general shall  
15 submit a budget in accordance with the reporting requirements of  
16 the General Appropriations Act.

17       (b) The inspector general shall submit to the commission a  
18 legislative appropriations request and an operating budget in  
19 accordance with the service level agreement entered into under  
20 Section 531.704 and applicable law.

21       (c) The commission shall submit the office's appropriations  
22 request and, if required by or under law, operating budget to the  
23 legislature. The request or budget is not subject to review,  
24 alteration, or modification by the commission or executive  
25 commissioner before submission to the legislature.

26       Sec. 531.737. COSTS. (a) The inspector general shall  
27 maintain information regarding the cost of reviews.

1        (b) The inspector general may cooperate with appropriate  
2 administrative and prosecutorial agencies, including the office of  
3 the attorney general, in recovering costs incurred under this  
4 subchapter from nongovernmental entities, including contractors or  
5 individuals involved in:

6            (1) violations of applicable state or federal rules or  
7 statutes;

8            (2) abusive or willful misconduct; or

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

11        (c) In criminal cases the inspector general and the Office  
12 of Attorney General shall cooperate to ensure that all appropriate  
13 evidence is submitted to the court in all criminal prosecutions  
14 towards ensuring that restitution is ordered, to include the  
15 overpayment and the costs incurred under this subchapter, as a  
16 condition of probation or as a condition of parole.

17        Sec. 531.738. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

18        (a) The office may:

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

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

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

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

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

8           Sec. 531.739. PEACE OFFICER INVESTIGATORS. (a) An  
9 investigator assigned to conduct investigations for the office may  
10 be a commissioned peace officer. The number of commissioned peace  
11 officers assigned to conduct investigations may not exceed 15  
12 percent of the office's full-time equivalent positions.

13           (b) A commissioned peace officer or otherwise designated  
14 law enforcement officer employed by the office is not entitled to  
15 supplemental benefits from the law enforcement and custodial  
16 officer supplemental retirement fund unless the officer transfers  
17 from a position, without a break in service, that qualifies for  
18 supplemental retirement benefits from the fund.

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

21           (4-a) "Office of inspector general" means the office of  
22 inspector general established under Subchapter R.

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

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

27           (1) the eligibility services division to make

1 eligibility determinations for services provided through the  
2 commission or a health and human services agency related to:

3 (A) the child health plan program;

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

6 (C) the medical assistance program under Chapter  
7 32, Human Resources Code;

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

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

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

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

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

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

20 (A) provide dispute resolution services for the  
21 commission and the health and human services agencies; and

22 (B) perform consumer protection functions  
23 related to health and human services;

24 (3) ~~[(4)]~~ a purchasing division as provided by Section  
25 531.017; and

26 (4) ~~[(5)]~~ an internal audit division to conduct a  
27 program of internal auditing in accordance with ~~[Government Code,~~

1 Chapter 2102.

2 SECTION 4. Sections 531.103(a), (c), and (d), Government  
3 Code, are amended to read as follows:

4 (a) The [~~commission, acting through the commission's~~]  
5 office of inspector general[~~7~~] and the office of the attorney  
6 general shall enter into a memorandum of understanding to develop  
7 and implement joint written procedures for processing cases of  
8 suspected fraud, waste, or abuse, as those terms are defined by  
9 state or federal law, or other violations of state or federal law  
10 under the state Medicaid program or other program administered by  
11 the commission or a health and human services agency, including the  
12 financial assistance program under Chapter 31, Human Resources  
13 Code, a nutritional assistance program under Chapter 33, Human  
14 Resources Code, and the child health plan program. The memorandum  
15 of understanding shall require:

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

24 (1-a) the office of inspector general to refer each  
25 case of suspected provider fraud, waste, or abuse to the office of  
26 the attorney general not later than the 20th business day after the  
27 date the office of inspector general determines that the existence

1 of fraud, waste, or abuse is reasonably indicated;

2 (1-b) the office of the attorney general to take  
3 appropriate action in response to each case referred to the  
4 attorney general, which action may include direct initiation of  
5 prosecution, with the consent of the appropriate local district or  
6 county attorney, direct initiation of civil litigation, referral to  
7 an appropriate United States attorney, a district attorney, or a  
8 county attorney, or referral to a collections agency for initiation  
9 of civil litigation or other appropriate action;

10 (2) the office of inspector general to keep detailed  
11 records for cases processed by that office or the office of the  
12 attorney general, including information on the total number of  
13 cases processed and, for each case:

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

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

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

19 (3) the office of inspector general to notify each  
20 appropriate division of the office of the attorney general of each  
21 case referred by the office of inspector general;

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

26 (5) the office of the attorney general to notify the  
27 office of inspector general of each case the attorney general

declines to prosecute or prosecutes unsuccessfully;

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

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

(c) The office of inspector general ~~[commission]~~ and the office of the attorney general shall jointly prepare and submit a semiannual report to the governor, lieutenant governor, speaker of the house of representatives, and comptroller concerning the activities of the office of the attorney general and the office of inspector general ~~[those agencies]~~ in detecting and preventing fraud, waste, and abuse under the state Medicaid program or other program administered by the commission or a health and human services agency. The report may be consolidated with any other report relating to the same subject matter the office of inspector general ~~[commission]~~ or office of the attorney general is required to submit under other law.

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



SECTION 5. Section 531.1031(a)(2), Government Code, is amended to read as follows:

(2) "Participating agency" means:

(A) the Medicaid fraud enforcement divisions of the office of the attorney general; ~~and~~

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

(C) the office of inspector general.

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

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

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

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

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

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

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

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

17 SECTION 8. Sections 531.106(f) and (g), Government Code,  
18 are amended to read as follows:

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

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

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

6 SECTION 9. Section 531.1061, Government Code, is amended to  
7 read as follows:

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

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

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

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

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

27 (4) generate standard letters to a provider regarding

1 the status or outcome of an investigation.

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

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

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

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

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

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

22 (1) information detailing:

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

25 (B) the time spent investigating each case;

26 (C) the number of cases investigated each month,  
27 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 12. 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 inspector general ~~[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 office 's ~~[commission's]~~ case management system or the case management system of a health and human services agency.

(b) The office of inspector general ~~[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

1 public assistance in counties bordering other states and in  
2 metropolitan areas selected by the office [~~commission~~] who are  
3 already receiving benefits in other states. If economically  
4 feasible, the office [~~commission~~] may develop a computerized  
5 matching system.

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

7 (1) verify automobile information that is used as  
8 criteria for eligibility; and

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

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

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

26 (b) In conducting the annual review of claims under  
27 Subsection (a), the office of inspector general [~~commission~~] may

1 directly contact a recipient by telephone or in person, or both, to  
2 verify that the services for which a claim for reimbursement was  
3 submitted by a provider were actually provided to the recipient.

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

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

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

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

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

23 (e) The office of inspector general [~~commission~~], or a  
24 health and human services agency designated by the office  
25 [~~commission~~], by rule shall establish procedures to verify the  
26 electronic data matches conducted by the office [~~commission~~] under  
27 this section. Not later than the 20th day after the date the

1 electronic data match is verified, the commission and other health  
2 and human services agencies [~~Texas Department of Human Services~~]  
3 shall remove from eligibility a recipient who is determined to be  
4 ineligible for assistance under the state Medicaid program.

5 (f) The office of inspector general [~~commission~~] shall  
6 report biennially to the legislature the results of the electronic  
7 data matching program. The report must include a summary of the  
8 number of applicants who were removed from eligibility for  
9 assistance under the state Medicaid program as a result of an  
10 electronic data match conducted under this section.

11 SECTION 14. Section 531.1112, Government Code, is amended  
12 to read as follows:

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

21 (b) The commission shall implement any methods the  
22 commission and the [~~commission's~~] office of inspector general  
23 determine are effective at strengthening fraud detection and  
24 deterrence.

25 SECTION 15. Section 531.113, Government Code, is amended to  
26 read as follows:

27 Sec. 531.113. MANAGED CARE ORGANIZATIONS: SPECIAL



1 INVESTIGATIVE UNITS OR CONTRACTS. (a) Each managed care  
2 organization that provides or arranges for the provision of health  
3 care services to an individual under a government-funded program,  
4 including the Medicaid program and the child health plan program,  
5 shall:

6 (1) establish and maintain a special investigative  
7 unit within the managed care organization to investigate fraudulent  
8 claims and other types of program waste or abuse by recipients and  
9 service providers; or

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

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

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

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

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

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

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

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

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

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

18                   (1) a copy of the written contract;

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

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

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

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

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

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

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

12 (2) refer the matter to the appropriate prosecuting  
13 attorney for prosecution.

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

16 SECTION 17. Section 533.005(a), Government Code, is amended  
17 to read as follows:

18 (a) A contract between a managed care organization and the  
19 commission for the organization to provide health care services to  
20 recipients must contain:

21 (1) procedures to ensure accountability to the state  
22 for the provision of health care services, including procedures for  
23 financial reporting, quality assurance, utilization review, and  
24 assurance of contract and subcontract compliance;

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

27 (3) a requirement that the managed care organization

1 provide ready access to a person who assists recipients in  
2 resolving issues relating to enrollment, plan administration,  
3 education and training, access to services, and grievance  
4 procedures;

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

9 (5) a requirement that the managed care organization  
10 provide information and referral about the availability of  
11 educational, social, and other community services that could  
12 benefit a recipient;

13 (6) procedures for recipient outreach and education;

14 (7) a requirement that the managed care organization  
15 make payment to a physician or provider for health care services  
16 rendered to a recipient under a managed care plan not later than the  
17 45th day after the date a claim for payment is received with  
18 documentation reasonably necessary for the managed care  
19 organization to process the claim, or within a period, not to exceed  
20 60 days, specified by a written agreement between the physician or  
21 provider and the managed care organization;

22 (8) a requirement that the commission, on the date of a  
23 recipient 's enrollment in a managed care plan issued by the managed  
24 care organization, inform the organization of the recipient 's  
25 Medicaid certification date;

26 (9) a requirement that the managed care organization  
27 comply with Section 533.006 as a condition of contract retention

1 and renewal;

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

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

11 (12) if the commission finds that a managed care  
12 organization has violated Subdivision (11), a requirement that the  
13 managed care organization reimburse an out-of-network provider for  
14 health care services at a rate that is equal to the allowable rate  
15 for those services, as determined under Sections 32.028 and  
16 32.0281, Human Resources Code;

17 (13) a requirement that the organization use advanced  
18 practice nurses in addition to physicians as primary care providers  
19 to increase the availability of primary care providers in the  
20 organization 's provider network;

21 (14) a requirement that the managed care organization  
22 reimburse the state for any overpayments resulting from fraud,  
23 waste or abuse in the Medicaid program, the child health plan  
24 program, or another government funded program.

25 (15) a requirement that the managed care organization  
26 reimburse a federally qualified health center or rural health  
27 clinic for health care services provided to a recipient outside of

1 regular business hours, including on a weekend day or holiday, at a  
2 rate that is equal to the allowable rate for those services as  
3 determined under Section 32.028, Human Resources Code, if the  
4 recipient does not have a referral from the recipient 's primary  
5 care physician; and

6 (16) a requirement that the managed care organization  
7 develop, implement, and maintain a system for tracking and  
8 resolving all provider appeals related to claims payment, including  
9 a process that will require:

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

12 (B) the contracting with physicians who are not  
13 network providers and who are of the same or related specialty as  
14 the appealing physician to resolve claims disputes related to  
15 denial on the basis of medical necessity that remain unresolved  
16 subsequent to a provider appeal; and

17 (C) the determination of the physician resolving  
18 the dispute to be binding on the managed care organization and  
19 provider.

20 SECTION 18. Section 533.012(c), Government Code, is amended  
21 to read as follows:

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

26 SECTION 19. Section 21.014(b), Human Resources Code, is  
27 amended to read as follows:

1           (b) The [~~person employed by the department as~~] inspector  
2 general appointed under Subchapter R, Chapter 531, Government Code,  
3 shall make reports to and consult with the agency director  
4 [~~chairman of the board~~] regarding:

5                   (1) the selection of internal audit topics;

6                   (2) the establishment of internal audit priorities;

7 and

8                   (3) the findings of each regular or special internal  
9 audit initiative.

10          SECTION 20. Section 32.003, Human Resources Code, is  
11 amended by adding Subdivision (5) to read as follows:

12                   (5) "Office of inspector general" means the office of  
13 inspector general established under Subchapter R, Chapter 531,  
14 Government Code.

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

17          Sec. 32.0291. PREPAYMENT REVIEWS AND POSTPAYMENT HOLDS.

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

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

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

26           (b) Notwithstanding any other law, the office of inspector  
27 general [~~department~~] may impose a postpayment hold on payment of

1 future claims submitted by a provider if the office ~~[department]~~  
2 has prima facie evidence that the provider has committed fraud,  
3 waste, abuse, or wilful misrepresentation regarding a claim for  
4 reimbursement or cost report under the medical assistance program.  
5 The office ~~[department]~~ must notify the provider of the postpayment  
6 hold not later than the fifth working day after the date the hold is  
7 imposed.

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

21 (d) The inspector general ~~[department]~~ shall adopt rules  
22 that allow a provider subject to a postpayment hold under  
23 Subsection (b) to seek an informal resolution of the issues  
24 identified by the office of inspector general ~~[department]~~ in the  
25 notice provided under that subsection. A provider must seek an  
26 informal resolution under this subsection not later than the  
27 deadline prescribed by Subsection (c). A provider's decision to



1 seek an informal resolution under this subsection does not extend  
 2 the time by which the provider must request an expedited  
 3 administrative hearing under Subsection (c). However, a hearing  
 4 initiated under Subsection (c) shall be stayed at the office 's  
 5 [~~department's~~] request until the informal resolution process is  
 6 completed.

7 SECTION 22. Section 32.032, Human Resources Code, is  
 8 amended to read as follows:

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

17 SECTION 23. Sections 32.0321(a) through (d), Human  
 18 Resources Code, are amended to read as follows:

19 (a) The office of inspector general [~~department~~] by rule may  
 20 recommend to the department and the department by rule may require  
 21 that each provider of medical assistance in a provider type that has  
 22 demonstrated significant potential for fraud, waste, or abuse to  
 23 file with the department a surety bond in a reasonable amount. The  
 24 office and the department by rule shall each require a provider of  
 25 medical assistance to file with the department a surety bond in a  
 26 reasonable amount if the office [~~department~~] identifies a pattern  
 27 of suspected fraud, waste, or abuse involving criminal conduct

1 relating to the provider 's services under the medical assistance  
2 program that indicates the need for protection against potential  
3 future acts of fraud, waste, or abuse.

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

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

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

24 SECTION 24. Section 32.0322(a), Human Resources Code, is  
25 amended to read as follows:

26 (a) The office of inspector general and the department may  
27 obtain from any law enforcement or criminal justice agency the

1 criminal history record information that relates to a provider  
2 under the medical assistance program or a person applying to enroll  
3 as a provider under the medical assistance program.

4 SECTION 25. Section 32.070(d), Human Resources Code, is  
5 amended to read as follows:

6 (d) This section does not apply to a computerized audit  
7 conducted using the Medicaid Fraud Detection Audit System or an  
8 audit or investigation of fraud, waste, and abuse conducted by the  
9 Medicaid fraud control unit of the office of the attorney general,  
10 the office of the state auditor, the office of ~~[the]~~ inspector  
11 general, or the Office of Inspector General in the United States  
12 Department of Health and Human Services.

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

15 (e) The department shall require a person exempted under  
16 this section from making a personal appearance at department  
17 offices to provide verification of the person 's entitlement to the  
18 exemption on initial eligibility certification and on each  
19 subsequent periodic eligibility recertification. If the person  
20 does not provide verification and the department considers the  
21 verification necessary to protect the integrity of the food stamp  
22 program, the department shall initiate a fraud referral to the  
23 ~~[department's]~~ office of inspector general established under  
24 Subchapter R, Chapter 531, Government Code.

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

27 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace

1 officers:

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

5 (2) constables, deputy constables, and those reserve  
6 deputy constables who hold a permanent peace officer license issued  
7 under Chapter 1701, Occupations Code;

8 (3) marshals or police officers of an incorporated  
9 city, town, or village, and those reserve municipal police officers  
10 who hold a permanent peace officer license issued under Chapter  
11 1701, Occupations Code;

12 (4) rangers and officers commissioned by the Public  
13 Safety Commission and the Director of the Department of Public  
14 Safety;

15 (5) investigators of the district attorneys', criminal  
16 district attorneys', and county attorneys' offices;

17 (6) law enforcement agents of the Texas Alcoholic  
18 Beverage Commission;

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

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

23 (9) officers commissioned by the General Services  
24 Commission;

25 (10) law enforcement officers commissioned by the  
26 Parks and Wildlife Commission;

27 (11) airport police officers commissioned by a city

1 with a population of more than 1.18 million that operates an airport  
2 that serves commercial air carriers;

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

7 (13) municipal park and recreational patrolmen and  
8 security officers;

9 (14) security officers and investigators commissioned  
10 as peace officers by the comptroller;

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

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

15 (17) investigators commissioned by the Texas Medical  
16 Board;

17 (18) officers commissioned by the board of managers of  
18 the Dallas County Hospital District, the Tarrant County Hospital  
19 District, or the Bexar County Hospital District under Section  
20 281.057, Health and Safety Code;

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

23 (20) investigators employed by the Texas Racing  
24 Commission;

25 (21) officers commissioned under Chapter 554,  
26 Occupations Code;

27 (22) officers commissioned by the governing body of a

1 metropolitan rapid transit authority under Section 451.108,  
2 Transportation Code, or by a regional transportation authority  
3 under Section 452.110, Transportation Code;

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

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

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

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

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

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

16 (29) apprehension specialists and inspectors general  
17 commissioned by the Texas Youth Commission as officers under  
18 Sections 61.0451 and 61.0931, Human Resources Code;

19 (30) officers appointed by the inspector general of  
20 the Texas Department of Criminal Justice under Section 493.019,  
21 Government Code;

22 (31) investigators commissioned by the Commission on  
23 Law Enforcement Officer Standards and Education under Section  
24 1701.160, Occupations Code;

25 (32) commission investigators commissioned by the  
26 Texas Private Security Board under Section 1702.061(f),  
27 Occupations Code;

1           (33) the fire marshal and any officers, inspectors, or  
2 investigators commissioned by an emergency services district under  
3 Chapter 775, Health and Safety Code;

4           (34) officers commissioned by the State Board of  
5 Dental Examiners under Section 254.013, Occupations Code, subject  
6 to the limitations imposed by that section; ~~and~~

7           (35) investigators commissioned by the Texas Juvenile  
8 Probation Commission as officers under Section 141.055, Human  
9 Resources Code; and

10           (36) officers commissioned by the office of inspector  
11 general established under Subchapter R, Chapter 531, Government  
12 Code.

13       SECTION 28. Sections 531.102 and 531.1021, Government Code,  
14 are repealed.

15       SECTION 29. Section 411.086, Government Code, is amended to  
16 read as follows:

17       Sec. 411.083. DISSEMINATION OF CRIMINAL HISTORY RECORD  
18 INFORMATION. (a) Criminal history record information maintained  
19 by the department is confidential information for the use of the  
20 department and, except as provided by this subchapter, may not be  
21 disseminated by the department.

22       (b) The department shall grant access to criminal history  
23 record information to:

24           (1) criminal justice agencies;

25           (2) noncriminal justice agencies authorized by  
26 federal statute or executive order or by state statute to receive  
27 criminal history record information;

1           (3) the person who is the subject of the criminal  
2 history record information;

3           (4) a person working on a research or statistical  
4 project that:

5                 (A) is funded in whole or in part by state funds;  
6 or

7                 (B) meets the requirements of Part 22, Title 28,  
8 Code of Federal Regulations, and is approved by the department;

9           (5) an individual or an agency that has a specific  
10 agreement with a criminal justice agency to provide services  
11 required for the administration of criminal justice under that  
12 agreement, if the agreement:

13                 (A) specifically authorizes access to  
14 information;

15                 (B) limits the use of information to the purposes  
16 for which it is given;

17                 (C) ensures the security and confidentiality of  
18 the information; and

19                 (D) provides for sanctions if a requirement  
20 imposed under Paragraph (A), (B), or (C) is violated;

21           (6) an individual or an agency that has a specific  
22 agreement with a noncriminal justice agency to provide services  
23 related to the use of criminal history record information  
24 disseminated under this subchapter, if the agreement:

25                 (A) specifically authorizes access to  
26 information;

27                 (B) limits the use of information to the purposes



1 for which it is given;

2 (C) ensures the security and confidentiality of  
3 the information; and

4 (D) provides for sanctions if a requirement  
5 imposed under Paragraph (A), (B), or (C) is violated;

6 (7) a county or district clerk's office; ~~and~~

7 (8) the Office of Court Administration of the Texas  
8 Judicial System; and

9 (9) officers commissioned by the office of inspector  
10 general established under Subchapter R, Chapter 531, Government  
11 Code.

12 (c) The department may disseminate criminal history record  
13 information under Subsection (b)(1) only for a criminal justice  
14 purpose. The department may disseminate criminal history record  
15 information under Subsection (b)(2) only for a purpose specified in  
16 the statute or order. The department may disseminate criminal  
17 history record information under Subsection (b)(4), (5), or (6)  
18 only for a purpose approved by the department and only under rules  
19 adopted by the department. The department may disseminate criminal  
20 history record information under Subsection (b)(7) only to the  
21 extent necessary for a county or district clerk to perform a duty  
22 imposed by law to collect and report criminal court disposition  
23 information. Criminal history record information disseminated to a  
24 clerk under Subsection (b)(7) may be used by the clerk only to  
25 ensure that information reported by the clerk to the department is  
26 accurate and complete. The dissemination of information to a clerk  
27 under Subsection (b)(7) does not affect the authority of the clerk

1 to disclose or use information submitted by the clerk to the  
 2 department. The department may disseminate criminal history record  
 3 information under Subsection (b)(8) only to the extent necessary  
 4 for the office of court administration to perform a duty imposed by  
 5 law to compile court statistics or prepare reports. The office of  
 6 court administration may disclose criminal history record  
 7 information obtained from the department under Subsection (b)(8) in  
 8 a statistic compiled by the office or a report prepared by the  
 9 office, but only in a manner that does not identify the person who  
 10 is the subject of the information.

11 (d) The department is not required to release or disclose  
 12 criminal history record information to any person that is not in  
 13 compliance with rules adopted by the department under this  
 14 subchapter or rules adopted by the Federal Bureau of Investigation  
 15 that relate to the dissemination or use of criminal history record  
 16 information.

17 SECTION 30. (a) The repeal by this Act of Section 531.102,  
 18 Government Code, does not affect the validity of a complaint,  
 19 investigation, or other proceeding initiated under that section  
 20 before the effective date of this Act. A complaint, investigation,  
 21 or other proceeding initiated under that section is continued in  
 22 accordance with the changes in law made by this Act.

23 (b) The repeal by this Act of Section 531.1021, Government  
 24 Code, does not affect the validity of a subpoena issued under that  
 25 section before the effective date of this Act. A subpoena issued  
 26 under that section before the effective date of this Act is governed  
 27 by the law that existed when the subpoena was issued, and the former

1 law is continued in effect for that purpose.

2       SECTION 31. (a) The person serving as inspector general  
3 under Section 531.102(a-1), Government Code, on the effective date  
4 of this Act shall serve as the inspector general appointed under  
5 Subchapter R, Chapter 531, Government Code, as added by this Act,  
6 until February 1, 2011, and may be reappointed under Subchapter R,  
7 Chapter 531, if the person has the qualifications required under  
8 that subchapter.

9       (b) Not later than February 1, 2011, the governor shall  
10 appoint an inspector general for the Office of Inspector General  
11 under Subchapter R, Chapter 531, Government Code, as added by this  
12 Act, to a term expiring February 1, 2013.

13       SECTION 32. On the effective date of this Act:

14               (1) all functions, activities, employees, rules,  
15 forms, money, property, contracts, memorandums of understanding,  
16 records, and obligations of the office of inspector general under  
17 Section 531.102(a-1), Government Code, become functions,  
18 activities, employees, rules, forms, money, property, contracts,  
19 memorandums of understanding, records, and obligations of the  
20 Office of Inspector General established under Subchapter R, Chapter  
21 531, Government Code, as added by this Act, without a change in  
22 status; and

23               (2) all money appropriated or budgeted for the office  
24 of inspector general under Section 531.102(a-1), Government Code,  
25 including money for providing administrative support, is  
26 considered appropriated for the use of the Office of Inspector  
27 General established under Subchapter R, Chapter 531, Government

1 Code, as added by this Act.

2       SECTION 33. If before implementing any provision of this  
3 Act a state office or agency determines that a waiver or  
4 authorization from a federal agency is necessary for implementation  
5 of that provision, the office or agency affected by the provision  
6 shall request the waiver or authorization and may delay  
7 implementing that provision until the waiver or authorization is  
8 granted.

9       SECTION 34. 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.