

By: Harper-Brown, Callegari, Lucio III

H.B. No. 2448

Substitute the following for H.B. No. 2448:

By: Callegari

C.S.H.B. No. 2448

A BILL TO BE ENTITLED

AN ACT

relating to the creation of offices of inspectors general at the Health and Human Services Commission, Texas Youth Commission, Texas Department of Criminal Justice, Texas Department of Transportation, and Texas Education Agency; 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. OFFICES OF INSPECTORS GENERAL

SUBCHAPTER A. GENERAL PROVISIONS

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

Sec. 422.002. PURPOSE. The purpose of this chapter is to establish guidelines for the offices of inspectors general at certain state agencies.

Sec. 422.003. DEFINITIONS. In this chapter:

(1) "Agency" means a state agency subject to this chapter under Section 422.004.

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

(3) "Inspector general" means the person appointed under this chapter to serve as inspector general for an agency.

(4) "Office" means the office of inspector general for an agency.

1           (5) "Provider" has the meaning assigned by Section  
2 531.1011.

3           (6) "Review":

4                 (A) includes an inspection, investigation,  
5 audit, or similar activity; and

6                 (B) does not include a criminal or administrative  
7 investigation conducted by the office established for the Texas  
8 Department of Criminal Justice.

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

12           Sec. 422.004. APPLICABILITY. (a) This chapter applies  
13 only to the:

- 14                 (1) Health and Human Services Commission;  
15                 (2) Texas Youth Commission;  
16                 (3) Texas Department of Transportation;  
17                 (4) Texas Department of Criminal Justice; and  
18                 (5) Texas Education Agency.

19           (b) A state agency may not establish an office of inspector  
20 general without specific legislative authorization.

21           Sec. 422.005. REFERENCE IN OTHER LAW. Notwithstanding any  
22 other provision of law, a reference in law or rule to an agency's  
23 office of inspector general means the office of inspector general  
24 established under this chapter for that agency.

25           [Sections 422.006-422.050 reserved for expansion]

26           SUBCHAPTER B. OFFICE OF INSPECTOR GENERAL

27           Sec. 422.051. ESTABLISHMENT OF OFFICE. (a) Each agency

1 subject to this chapter shall establish an office of inspector  
2 general in the agency.

3 (b) The office is governed by the inspector general for the  
4 agency.

5 (c) The inspector general shall:

6 (1) manage daily operations of the office;

7 (2) supervise office staff;

8 (3) create office operating procedures, personnel  
9 policies, and employment policies;

10 (4) allocate resources in the office;

11 (5) oversee office information resources systems;

12 (6) determine the location of office facilities; and

13 (7) coordinate office activities with the activities  
14 of other state agencies, including other health and human services  
15 agencies.

16 (d) The inspector general is responsible for office  
17 procurement and contracts.

18 Sec. 422.052. INDEPENDENCE OF OFFICE. Except as otherwise  
19 provided by this chapter, the office and inspector general operate  
20 independently of the agency.

21 Sec. 422.053. ADMINISTRATIVE ATTACHMENT. The office is  
22 administratively attached to the agency. The agency shall provide  
23 to the office administrative support services.

24 Sec. 422.054. SERVICE LEVEL AGREEMENT. (a) The agency and  
25 the office shall enter into a service level agreement that  
26 establishes the performance standards and deliverables with regard  
27 to administrative support by the agency.

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

4        Sec. 422.055. APPROPRIATIONS AND BUDGET. (a) The  
5 inspector general shall submit a budget for the office in  
6 accordance with the reporting requirements of the General  
7 Appropriations Act.

8        (b) The inspector general shall submit to the Legislative  
9 Budget Board and the agency a legislative appropriations request  
10 and an operating budget in accordance with the service level  
11 agreement entered into under Section 422.054 and applicable law.

12        (c) If required by or under law, the agency shall submit the  
13 operating budget to the legislature. The budget is not subject to  
14 review, alteration, or modification by the agency or the governing  
15 body or governing officer of the agency before submission to the  
16 legislature.

17        Sec. 422.056. DUTIES OF AGENCY. (a) The agency shall:

18                (1) provide administrative assistance to the office;  
19 and

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

22        (b) The agency may not take an action that affects or  
23 relates to the validity, status, or terms of an interagency  
24 agreement or a contract to which the office is a party without the  
25 office's approval.

26        [Sections 422.057-422.100 reserved for expansion]

SUBCHAPTER C. INSPECTOR GENERAL AND PERSONNEL

Sec. 422.101. APPOINTMENT; STATE OFFICER. (a) The governing body or, at an agency that is not governed by a multimember governing body, the governor with the advice and consent of the senate shall appoint an inspector general to serve as director of the office.

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

(c) In making the appointment, the governing body or the governor shall consider the person's integrity, education, training, knowledge of law, experience in the enforcement of law, executive ability, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, management analysis, public administration, investigation, criminal justice administration, or other closely related fields.

(d) The inspector general is a state officer.

Sec. 422.102. TERM. The inspector general serves a two-year term that expires on February 1 of each odd-numbered year.

Sec. 422.103. ELIGIBILITY. (a) To be eligible for appointment as inspector general, a person must:

(1) have unquestioned integrity and moral character;

(2) hold a bachelor's degree;

(3) have either:

(A) at least five years of experience as a certified public accountant, certified internal auditor, or certified inspector general; or

1                   (B) a peace officer certification issued by the  
2 Commission on Law Enforcement Officer Standards and Education that  
3 the person has held for at least five years; and

4                   (4) have either:

5                   (A) at least five years of experience in a  
6 professional or administrative position that included as a major  
7 duty fiscal management, the review of fiscal management, or the  
8 auditing or review of operational efficiency or program  
9 performance; or

10                   (B) experience carrying out law enforcement  
11 duties to prevent fraud, waste, and abuse.

12                   (b) The person appointed as inspector general must obtain  
13 certification as a certified inspector general within the time  
14 required by rules adopted by the governing body or governing  
15 officer of the agency, as applicable.

16                   (c) A person formerly employed by an agency as an executive  
17 or manager may not serve as inspector general for that agency before  
18 the fifth anniversary of the date of the termination of that  
19 person's employment by the agency.

20                   (d) A person is not eligible for appointment as inspector  
21 general if the person or the person's spouse:

22                   (1) is an officer or paid consultant of a business  
23 entity or other organization that holds a license, certificate of  
24 authority, or other authorization from the agency or that receives  
25 funds from the agency;

26                   (2) owns or controls, directly or indirectly, more  
27 than a 10 percent interest in a business entity or other

1 organization receiving funds from the agency; or

2 (3) uses or receives a substantial amount of tangible  
3 goods or funds from the agency, other than compensation or  
4 reimbursement authorized by law.

5 (e) A person is not eligible to serve as inspector general  
6 if the person or the person's spouse is required to register as a  
7 lobbyist under Chapter 305 because of the person's or spouse's  
8 activities for compensation related to the operation of the agency.

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

12 (b) The inspector general may not have a financial interest  
13 in the transactions of the office, the agency, or a contractor or  
14 provider of the agency or office.

15 (c) The inspector general and office staff may not  
16 participate in partisan political activities related to the work of  
17 the inspector general's office. The inspector general may select  
18 the most efficient personnel available for each position in the  
19 inspector general's office. It is against the public policy of this  
20 state for an officer or employee of this state to recommend a person  
21 to serve on the staff of the inspector general.

22 Sec. 422.105. 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 fraud, waste, and abuse in agency  
26 programs or in programs receiving state or federal funds that are  
27 implemented, administered, or overseen by or for a state agency.

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

9       Sec. 422.106. EXPERTS. Subject to the availability of  
10 funds, the inspector general may contract with certified public  
11 accountants, qualified management consultants, or other  
12 professional experts as necessary to independently perform the  
13 functions of the office.

14       Sec. 422.107. EMPLOYEES; TRAINING. (a) The inspector  
15 general may employ personnel as necessary to implement the duties  
16 of the office.

17       (b) The inspector general shall train office personnel to  
18 pursue, efficiently and as necessary, fraud, waste, and abuse cases  
19 in state agency programs or other state or federally funded  
20 programs implemented, administered, or overseen by or for the  
21 agency.

22       (c) The inspector general for the Texas Department of  
23 Criminal Justice shall train personnel to efficiently and  
24 effectively perform law enforcement duties.

25       Sec. 422.108. ASSISTANCE BY AGENCY EMPLOYEES. (a) The  
26 inspector general may require employees of a state agency to  
27 provide assistance to the office in connection with the office's



1 duties relating to conducting reviews of fraud, waste, and abuse in  
2 the provision of services for agency programs or state or federally  
3 funded programs implemented, administered, or overseen by or for  
4 the agency.

5 (b) The inspector general for the Health and Human Services  
6 Commission may also require employees of any health and human  
7 services agency to provide assistance under Subsection (a).

8 [Sections 422.109-422.150 reserved for expansion]

9 SUBCHAPTER D. GENERAL POWERS AND DUTIES

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

12 (1) conducting reviews of fraud, waste, and abuse in  
13 the provision or funding of services by or for the agency or under a  
14 program implemented, administered, or overseen by or for the  
15 agency;

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

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

20 (b) In addition to the responsibilities under Subsection  
21 (a), the office established for the Texas Department of Criminal  
22 Justice is responsible for the investigation of criminal cases and  
23 administrative violations.

24 Sec. 422.152. RULEMAKING BY INSPECTOR GENERAL. (a)  
25 Notwithstanding Section 531.0055(e) and any other law, the  
26 inspector general shall adopt the rules necessary to administer the  
27 functions of the office, including rules to address the imposition

1 of sanctions and penalties for violations and due process  
2 requirements for imposing sanctions and penalties.

3 (b) A rule, standard, or form of the agency that is  
4 necessary to accomplish the duties of the office is considered to  
5 also be a rule, standard, or form of the office and remains in  
6 effect as a rule, standard, or form of the office until changed by  
7 the inspector general.

8 (c) The office shall submit proposed rules and adopted rules  
9 to the agency for publication. The agency shall promptly provide  
10 for the publication of the proposed or adopted rules in accordance  
11 with law. The agency, including the governing body or governing  
12 officer of the agency, may not amend or modify a rule submitted by  
13 the office.

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

16 (1) coordinating reviews and investigative efforts to  
17 aggressively recover money;

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

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

23 (e) In addition to the standards under Subsection (d), the  
24 rules of the office established for the Texas Department of  
25 Criminal Justice must include standards for the office that  
26 emphasize the investigation of criminal cases and administrative  
27 violations.

1       Sec. 422.153. PUBLIC INTEREST INFORMATION AND COMPLAINTS.

2       (a) The office shall develop and implement policies that provide  
3       the public a reasonable opportunity to appear before the office and  
4       to speak on any issue under the office's jurisdiction.

5       (b) The office shall prepare information of public interest  
6       describing the functions of the office and the office's procedures  
7       by which complaints are filed with and resolved by the office. The  
8       office shall make the information available to the public and  
9       appropriate state agencies.

10       (c) The office shall keep an information file about each  
11       complaint filed with the office relating to a state agency or entity  
12       receiving state or federal money and falling under the  
13       investigatory jurisdiction of the office.

14       [Sections 422.154-422.200 reserved for expansion]

15       SUBCHAPTER E. REVIEWS, INVESTIGATIONS, AND AUDITS

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

17       (a) The inspector general may review any activity or operation of  
18       the agency, a provider, if applicable, or a person in this state  
19       that is related to the investigation, detection, or prevention of  
20       fraud, waste, abuse, or employee misconduct in an agency program or  
21       state or federally funded program implemented, administered, or  
22       overseen by or for the agency. A review may include an  
23       investigation or other inquiry into a specific act or allegation  
24       of, or a specific financial transaction or practice that may  
25       involve, impropriety, malfeasance, or nonfeasance in the  
26       obligation, spending, receipt, or other use of state or federal  
27       money.

1        (b) The office shall conduct reviews to protect the public  
2 and detect and prevent fraud, waste, and abuse in the provision or  
3 funding of services or programs.

4        (c) The office shall conduct internal affairs  
5 investigations in instances of suspected fraud, waste, and abuse  
6 and in instances of suspected misconduct by employees, contractors,  
7 subcontractors, and vendors.

8        (d) The office established for the Texas Department of  
9 Criminal Justice shall conduct criminal and administrative  
10 investigations involving suspected misconduct by employees,  
11 contractors, subcontractors, vendors, and offenders.

12        (e) A state agency or the governing body or governing  
13 officer of a state agency may not impair or prohibit the inspector  
14 general from initiating or completing a review, or attempt to  
15 influence the inspector general in conducting a review.

16        (f) The inspector general may review the use and  
17 effectiveness of state or federal funds, including contract and  
18 grant funds, administered by a person or state agency receiving the  
19 funds in connection with an agency or state or federally funded  
20 program implemented, administered, or overseen by or for the  
21 agency.

22        Sec. 422.202. INITIATION OF REVIEW. The inspector general  
23 may initiate a review:

- 24                (1) on the inspector general's own initiative;  
25                (2) at the request of the agency or the governing body  
26 or governing officer of the agency; or  
27                (3) based on a complaint from any source concerning a

1 matter described by Section 422.201.

2 Sec. 422.203. ACCESS TO INFORMATION. To further a review  
3 conducted by the office, the inspector general is entitled to  
4 access all books, records, accounts, documents, reports, vouchers,  
5 databases, systems, or other information, including confidential  
6 information, electronic data, and internal records relevant to the  
7 functions of the office that are maintained by or for a person,  
8 state agency, or provider, if applicable, in connection with an  
9 agency or a state or federally funded program implemented,  
10 administered, or overseen by or for the agency.

11 Sec. 422.204. COOPERATION REQUIRED. To further a review  
12 conducted by the inspector general's office, the inspector general  
13 is entitled to full and unrestricted access to all offices, limited  
14 access or restricted areas, employees, equipment, and computers,  
15 including areas, equipment, and computers that contain  
16 confidential information and internal records, relevant to the  
17 functions of the office that are maintained by or for a person,  
18 agency, or provider, if applicable, in connection with an agency or  
19 a state or federally funded program implemented, administered, or  
20 overseen by or for the agency.

21 Sec. 422.205. SUBPOENAS. (a) The inspector general may  
22 issue a subpoena to compel the attendance of a relevant witness or  
23 the production, for inspection or copying, of relevant evidence in  
24 connection with a review conducted under this subchapter.

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

27 (c) If a person fails to comply with a subpoena, the

1 inspector general, acting through the attorney general, may file  
2 suit to enforce the subpoena in a district court in this state.

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

7 (e) The reimbursement of the expenses of a witness whose  
8 attendance is compelled under this section is governed by Section  
9 2001.103.

10 Sec. 422.206. INTERNAL AUDITOR. (a) In this section,  
11 "internal auditor" means a person appointed under Section 2102.006.

12 (b) The internal auditor for the 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. 422.207. 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 inspectors general for the Texas Department of  
6 Criminal Justice and the Texas Youth Commission shall refer a  
7 criminal or delinquent conduct case to the appropriate prosecuting  
8 attorney or the special prosecution unit under Subchapter E,  
9 Chapter 41.

10       (d) The inspector general may enter into a memorandum of  
11 understanding with a law enforcement or prosecutorial agency,  
12 including the office of the attorney general, to assist in  
13 conducting a review under this subchapter.

14       Sec. 422.208. COOPERATION AND COORDINATION WITH STATE  
15 AUDITOR. (a) The state auditor may, on request of the inspector  
16 general, provide appropriate information or other assistance to the  
17 inspector general or office, as determined by the state auditor.

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

21       (c) The state auditor is entitled to access all information  
22 maintained by the inspector general, including vouchers,  
23 electronic data, internal records, and information obtained under  
24 Section 422.203 or subject to Section 422.254.

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

1       Sec. 422.209. AUTHORITY OF STATE AUDITOR AND SUNSET  
2 ADVISORY COMMISSION NOT IMPAIRED. (a) This chapter or other law  
3 related to the operation of an inspector general does not take  
4 precedence over the authority of the state auditor to conduct an  
5 audit under Chapter 321 or other law.

6       (b) This chapter or other law related to the operation of an  
7 inspector general does not take precedence over the authority of  
8 the Sunset Advisory Commission or other legislative bodies to  
9 review an agency under other law.

10       Sec. 422.210. PREVENTION. (a) The inspector general may  
11 recommend to the agency policies on:

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

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

17       (b) The inspector general may provide training or other  
18 education regarding the prevention of fraud, waste, or abuse to  
19 employees of a state agency. The training or education provided  
20 must be approved by the agency director.

21       [Sections 422.211-422.250 reserved for expansion]

22                       SUBCHAPTER F. REPORTS

23       Sec. 422.251. PERIODIC REPORTING TO STATE AUDITOR AND  
24 AGENCY REQUIRED. The inspector general shall timely inform the  
25 state auditor and the agency director of the initiation of a review  
26 of an agency program and the ongoing status of each review.

27       Sec. 422.252. REPORTING OFFICE FINDINGS. The inspector



general shall report the findings of the office for any review conducted under Subchapter E to:

(1) the governing body or governing officer of the agency, as applicable;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the state auditor's office; and

(6) appropriate law enforcement and prosecutorial agencies, including the office of the attorney general, if the findings suggest the probability of criminal conduct.

Sec. 422.253. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The inspector general shall immediately report to the governing body or governing officer of the agency, as applicable, the governor's general counsel, and the state auditor a problem that the inspector general determines is particularly serious or flagrant and that relates to the administration of a program, operation of a state agency, or interference with an inspector general review.

Sec. 422.254. INFORMATION CONFIDENTIAL. (a) Except as provided by this section and Sections 422.251, 422.252, 422.255, 422.256, 531.103, and 531.1031, all information and material compiled or maintained by the inspector general during a review under this chapter is:

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

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the

1 state auditor's office, the agency, or the office or its agents  
2 involved in the review related to that information or material.

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

6 (1) a law enforcement agency;

7 (2) a district or county attorney with jurisdiction;

8 (3) the attorney general's office;

9 (4) the state auditor's office; or

10 (5) the agency.

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

15 Sec. 422.255. DRAFT OF FINAL REVIEW REPORT; AGENCY  
16 RESPONSE. (a) Except in cases in which the office has determined  
17 that fraud, waste, or abuse exists, the office shall provide a draft  
18 of the final review report of any review of the operations of a  
19 state agency to the state agency director before publishing the  
20 office's final review report.

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

26 (c) Notwithstanding Subsection (a), the office may not  
27 provide a draft report to the state agency director if in 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 state agency's response in the office's final report.

Sec. 422.256. FINAL REVIEW REPORTS; AGENCY RESPONSE. (a) The inspector general shall prepare a final report for each review conducted under this chapter. 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 or substantial waste was found; and

(3) a description of any findings of wrongdoing or substantial waste or, if no wrongdoing or substantial waste was found, a statement indicating that finding.

(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 state agency, the state agency shall file a response that includes:

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

(2) the state agency's rationale for declining to

1 implement corrective measures for the identified deficiencies or  
2 inefficiencies or the office's recommended corrective measures, as  
3 applicable.

4 (e) Unless otherwise prohibited by this chapter or other  
5 law, the inspector general shall deliver a copy of each final report  
6 to:

- 7 (1) the agency director of the subject state agency;  
8 (2) the governing body or governing officer of the  
9 state agency;  
10 (3) any appropriate advisory council;  
11 (4) the governor;  
12 (5) the lieutenant governor;  
13 (6) the speaker of the house of representatives;  
14 (7) any appropriate law enforcement and prosecutorial  
15 agencies;  
16 (8) the state auditor; and  
17 (9) any appropriate licensing or certification  
18 agencies.

19 Sec. 422.257. COSTS. (a) The inspector general shall  
20 maintain information regarding the cost of reviews.

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

- 26 (1) violations of applicable state or federal rules or  
27 statutes;

1           (2) abusive or wilful misconduct; or  
2           (3) violations of a provider contract or program  
3 policy.

4           (c) In a criminal prosecution to which this chapter applies,  
5 the attorney representing the state shall request that the court  
6 require restitution as a condition of a convicted person's  
7 community supervision or parole.

8           [Sections 422.258-422.300 reserved for expansion]

9                               SUBCHAPTER G. PENALTIES

10          Sec. 422.301. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

11       (a) The office may:

12               (1) act for a state agency in the assessment by the  
13 office of administrative or civil penalties the agency is  
14 authorized to assess under applicable law; and

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

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

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

23               (2) the office shall impose the penalty under  
24 applicable rules of the office, this chapter, applicable laws  
25 governing the imposition of a penalty by the agency, and any other  
26 applicable law.

27          SECTION 2. Section 493.019, Government Code, is amended to

1 read as follows:

2       Sec. 493.019. ENFORCEMENT OFFICERS. In accordance with  
3 Section 422.105, 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 3. Section 493.028(b), Government Code, is amended  
10 to read as follows:

11       (b) The inspector general of the department appointed under  
12 Chapter 422 shall on a quarterly basis prepare and deliver to the  
13 board of directors of the special prosecution unit a report  
14 concerning any alleged criminal offense concerning the department  
15 and described by Article 104.003(a), Code of Criminal Procedure,  
16 that occurred during the preceding calendar quarter.

17       SECTION 4. Section 501.174, Government Code, is amended to  
18 read as follows:

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

21               (1) a designated administrator at each correctional  
22 facility to post information throughout the facility describing how  
23 an inmate may confidentially contact the ombudsperson regarding a  
24 sexual assault;

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

27               (3) employees at correctional facilities, on

notification of the occurrence of a sexual assault, to immediately:

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

(B) ensure that the alleged victim is safe;

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

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

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

SECTION 5. Section 501.176(b), Government Code, is amended to read as follows:

(b) The report must include public information regarding:

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

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

3           SECTION 6. Section 501.177, Government Code, is amended to  
4 read as follows:

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

14          SECTION 7. Section 501.178, Government Code, is amended to  
15 read as follows:

16          Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY  
17 AUDITS NOT IMPAIRED. This subchapter or other law related to the  
18 operation of the ombudsperson or of the office of the inspector  
19 general established under Chapter 422 does not take precedence over  
20 the authority of the state auditor to conduct an audit under Chapter  
21 321 or other law.

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

24                 (4-a) "Office of inspector general" means the office  
25 of inspector general established under Chapter 422 for the  
26 commission.

27          SECTION 9. Section 531.008(c), Government Code, is amended



1 to read as follows:

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

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

7 (A) the child health plan program;

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

10 (C) the medical assistance program under Chapter  
11 32, Human Resources Code;

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

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

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

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

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

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

24 (A) provide dispute resolution services for the  
25 commission and the health and human services agencies; and

26 (B) perform consumer protection functions  
27 related to health and human services;

1           (3) ~~[(4)]~~ a purchasing division as provided by Section  
2 531.017; and

3           (4) ~~[(5)]~~ an internal audit division to conduct a  
4 program of internal auditing in accordance with ~~[Government Code]~~,  
5 Chapter 2102.

6           SECTION 10. Sections 531.101(a) and (b), Government Code,  
7 are amended to read as follows:

8           (a) The office of inspector general ~~[commission]~~ may grant  
9 an award to an individual who reports activity that constitutes  
10 fraud or abuse of funds in the state Medicaid program or reports  
11 overcharges in the program if the office ~~[commission]~~ determines  
12 that the disclosure results in the recovery of an administrative  
13 penalty imposed under Section 32.039, Human Resources Code. The  
14 office ~~[commission]~~ may not grant an award to an individual in  
15 connection with a report if the office ~~[commission]~~ or attorney  
16 general had independent knowledge of the activity reported by the  
17 individual.

18           (b) The office of inspector general ~~[commission]~~ shall  
19 determine the amount of an award. The award may not exceed five  
20 percent of the amount of the administrative penalty imposed under  
21 Section 32.039, Human Resources Code, that resulted from the  
22 individual's disclosure. In determining the amount of the award,  
23 the office ~~[commission]~~ shall consider how important the disclosure  
24 is in ensuring the fiscal integrity of the program. The office  
25 ~~[commission]~~ may also consider whether the individual participated  
26 in the fraud, abuse, or overcharge.

27           SECTION 11. Section 531.102, Government Code, is amended to

read as follows:

Sec. 531.102. OFFICE OF INSPECTOR GENERAL: CLAIMS CRITERIA FOR INVESTIGATION; REFERRAL TO FRAUD CONTROL UNIT; HOLD ON PAYMENT.

(a) ~~[The commission, through the commission's office of inspector general, is responsible for the investigation of fraud and abuse in the provision of health and human services and the enforcement of state law relating to the provision of those services. The commission may obtain any information or technology necessary to enable the office to meet its responsibilities under this subchapter or other law.~~

~~[(a-1) The governor shall appoint an inspector general to serve as director of the office. The inspector general serves a one-year term that expires on February 1.~~

~~[(b) The commission, in consultation with the inspector general, shall set clear objectives, priorities, and performance standards for the office that emphasize:~~

~~[(1) coordinating investigative efforts to aggressively recover money;~~

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

~~[(3) maximizing opportunities for referral of cases to the office of the attorney general in accordance with Section 531.103.~~

~~[(c) The commission shall train office staff to enable the staff to pursue priority Medicaid and other health and human services fraud and abuse cases as necessary.~~

1       ~~[(d) The commission may require employees of health and~~  
2 ~~human services agencies to provide assistance to the office in~~  
3 ~~connection with the office's duties relating to the investigation~~  
4 ~~of fraud and abuse in the provision of health and human services.~~  
5 ~~The office is entitled to access to any information maintained by a~~  
6 ~~health and human services agency, including internal records,~~  
7 ~~relevant to the functions of the office.~~

8       ~~[(e)]~~ The commission, in consultation with the inspector  
9 general, by rule shall set specific claims criteria that, when met,  
10 require the office of inspector general to begin an investigation.

11       (b) ~~[(f)(1)]~~ If the office of inspector general  
12 ~~[commission]~~ receives a complaint of Medicaid fraud or abuse from  
13 any source, the office must conduct an integrity review to  
14 determine whether there is sufficient basis to warrant a full  
15 investigation. An integrity review must begin not later than the  
16 30th day after the date the office ~~[commission]~~ receives a  
17 complaint or has reason to believe that fraud or abuse has occurred.  
18 An integrity review shall be completed not later than the 90th day  
19 after it began.

20       (c) ~~[(2)]~~ If the findings of an integrity review give the  
21 office of inspector general reason to believe that an incident of  
22 fraud or abuse involving possible criminal conduct has occurred in  
23 the Medicaid program, the office must take the following action, as  
24 appropriate, not later than the 30th day after the completion of the  
25 integrity review:

26       (1) ~~[(A)]~~ if a provider is suspected of fraud or abuse  
27 involving criminal conduct, the office must refer the case to the

1 state's Medicaid fraud control unit, provided that the criminal  
2 referral does not preclude the office from continuing its  
3 investigation of the provider, which investigation may lead to the  
4 imposition of appropriate administrative or civil sanctions; or

5 (2) [~~(B)~~] if there is reason to believe that a  
6 recipient has defrauded the Medicaid program, the office may  
7 conduct a full investigation of the suspected fraud.

8 (d) [~~(g)(1)~~] Whenever the office of inspector general  
9 learns or has reason to suspect that a provider's records are being  
10 withheld, concealed, destroyed, fabricated, or in any way  
11 falsified, the office shall immediately refer the case to the  
12 state's Medicaid fraud control unit. However, such criminal  
13 referral does not preclude the office from continuing its  
14 investigation of the provider, which investigation may lead to the  
15 imposition of appropriate administrative or civil sanctions.

16 (e) [~~(2)~~] In addition to other instances authorized under  
17 state or federal law, the office of inspector general shall impose  
18 without prior notice a hold on payment of claims for reimbursement  
19 submitted by a provider to compel production of records or when  
20 requested by the state's Medicaid fraud control unit, as  
21 applicable. The office must notify the provider of the hold on  
22 payment not later than the fifth working day after the date the  
23 payment hold is imposed.

24 (f) [~~(3)~~] On timely written request by a provider subject to  
25 a hold on payment under Subsection (e) [~~Subdivision (2)~~], other  
26 than a hold requested by the state's Medicaid fraud control unit,  
27 the office of inspector general shall file a request with the State

Office of Administrative Hearings or the hearings division of the Health and Human Services Commission for an expedited administrative hearing regarding the hold. The provider must request an expedited hearing under this subsection [~~subdivision~~] not later than the 10th day after the date the provider receives notice from the office under Subsection (e) [~~Subdivision (2)~~].

(g) [~~(4)~~] The inspector general [~~commission~~] shall adopt rules that allow a provider subject to a hold on payment under Subsection (e) [~~Subdivision (2)~~], other than a hold requested by the state's Medicaid fraud control unit, to seek an informal resolution of the issues identified by the office of inspector general in the notice provided under that subsection [~~subdivision~~]. A provider must seek an informal resolution under this subsection [~~subdivision~~] not later than the deadline prescribed by Subsection (f) [~~Subdivision (3)~~]. A provider's decision to seek an informal resolution under this subsection [~~subdivision~~] does not extend the time by which the provider must request an expedited administrative hearing under Subsection (f) [~~Subdivision (3)~~]. However, a hearing initiated under Subsection (f) [~~Subdivision (3)~~] shall be stayed at the office's request until the informal resolution process is completed.

(h) [~~(5)~~] The office of inspector general shall, in consultation with the state's Medicaid fraud control unit, establish guidelines under which holds on payment, ~~or~~ program exclusions, administrative actions, or other sanctions:

(1) [~~(A)~~] may permissively be imposed on or taken against a provider; or

1           (2) [~~(B)~~] shall automatically be imposed on or taken  
2 against a provider.

3           (1) [~~(h)~~] In addition to performing functions and duties  
4 otherwise provided by law, the office of inspector general may:

5                 (1) take administrative action, impose administrative  
6 sanctions, and assess administrative penalties otherwise  
7 authorized by law on behalf of the commission or a health and human  
8 services agency;

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

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

17                (4) audit the use and effectiveness of state or  
18 federal funds, including contract and grant funds, administered by  
19 a person or state agency receiving the funds from a health and human  
20 services agency;

21                (5) conduct investigations relating to the funds  
22 described by Subdivision (4); [~~and~~]

23                (6) recommend policies promoting economical and  
24 efficient administration of the funds described by Subdivision (4)  
25 and the prevention and detection of fraud and abuse in  
26 administration of those funds;

27                (7) request the attorney general to represent the

1 office of inspector general in a legal proceeding that arises from a  
2 review conducted by the office and coordinate the activities of the  
3 office with the office of the attorney general during the legal  
4 proceeding;

5 (8) settle for the commission a case filed in response  
6 to a review conducted by the office; and

7 (9) recover overpayments, assessments, and  
8 liabilities in a settlement regardless of the origin of the  
9 overpayment, assessment, or liability.

10 (j) ~~[(i)]~~ Notwithstanding any other provision of law, a  
11 reference in law or rule to the commission's office of  
12 investigations and enforcement means the office of inspector  
13 general established under Chapter 422 ~~[this section]~~.

14 ~~[(j) The office shall prepare a final report on each audit~~  
15 ~~or investigation conducted under this section. The final report~~  
16 ~~must include:~~

17 ~~[(1) a summary of the activities performed by the~~  
18 ~~office in conducting the audit or investigation,~~

19 ~~[(2) a statement regarding whether the audit or~~  
20 ~~investigation resulted in a finding of any wrongdoing, and~~

21 ~~[(3) a description of any findings of wrongdoing.]~~

22 (k) A final report on an audit or investigation is subject  
23 to required disclosure under Chapter 552. All information and  
24 materials compiled during the audit or investigation remain  
25 confidential and not subject to required disclosure ~~[in accordance~~  
26 ~~with Section 531.1021(g)]~~.

27 SECTION 12. Sections 531.103(a), (c), and (d), Government



Code, are amended to read as follows:

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

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

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

(1-b) the office of the attorney general to take

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

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

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

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

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

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

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

24 (5) the office of the attorney general to notify the  
25 office of inspector general of each case the attorney general  
26 declines to prosecute or prosecutes unsuccessfully;

27 (6) representatives of the office of inspector general

1 and of the office of the attorney general to meet not less than  
2 quarterly to share case information and determine the appropriate  
3 agency and division to investigate each case; and

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

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

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

26 SECTION 13. Section 531.1031(a)(2), Government Code, is  
27 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 14. 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 15. 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 services agencies ~~[Texas Department of Health and the Texas Department of Human Services]~~ in identifying potential cases of

1 fraud, waste, or abuse under the state Medicaid program. The  
2 training provided to the contractors and staff must include clear  
3 criteria that specify:

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

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

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

15 SECTION 16. Sections 531.106(a), (b), (d), (e), (f), and  
16 (g), Government Code, are amended to read as follows:

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

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

26 (d) The office of inspector general ~~[commission]~~ shall  
27 require each health and human services agency that performs any

1 aspect of the state Medicaid program to participate in the  
2 implementation and use of the technology.

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

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

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

20 SECTION 17. Section 531.1061, Government Code, is amended  
21 to read as follows:

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

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

5 (1) receive electronically transferred records  
6 relating to the identified case from the learning or neural network  
7 technology;

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

12 (3) generate documents and reports related to the  
13 status of the case investigation; and

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

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

21 SECTION 18. Section 531.1062(a), Government Code, is  
22 amended to read as follows:

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

27 SECTION 19. Sections 531.107(a), (b), and (f), Government

Code, are amended to read as follows:

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

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

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

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

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

(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 20. 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

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

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

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

14               (1) verify automobile information that is used as  
15 criteria for eligibility; and

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

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

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

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

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

15           SECTION 21. Sections 531.110(a), (c), (d), (e), and (f),  
16 Government Code, are amended to read as follows:

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

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

27           (d) The office of inspector general [~~commission~~] may

1 contract with a public or private entity to conduct the electronic  
2 data matches required by this section.

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

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

18 SECTION 22. Section 531.111, Government Code, is amended to  
19 read as follows:

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

25 (1) develop and implement the fraud detection  
26 technology; ~~and~~

27 (2) determine if a pattern of fraud by Medicaid

recipients is present in the provider's files or recipients'  
eligibility files maintained by the commission or other health and  
human services agencies; and

(3) identify a person who obtains or receives services  
fraudulently, the date on which the person obtained or received the  
services, and the location where the services were provided [~~Texas~~  
~~Department of Human Services~~].

SECTION 23. Section 531.1112, Government Code, is amended  
to read as follows:

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

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

SECTION 24. Section 531.113, Government Code, is amended to  
read as follows:

Sec. 531.113. MANAGED CARE ORGANIZATIONS: SPECIAL  
INVESTIGATIVE UNITS OR CONTRACTS. (a) Each managed care  
organization that provides or arranges for the provision of health  
care services to an individual under a government-funded program,

including the Medicaid program and the child health plan program,  
shall:

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

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

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

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

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

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

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

(5) a description or chart outlining the organizational arrangement of the managed care organization's personnel responsible for investigating and reporting possible

1 acts of fraud, waste, or abuse;

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

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

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

15 (1) a copy of the written contract;

16 (2) the names, addresses, telephone numbers, and fax  
17 numbers of the principals of the entity with which the managed care  
18 organization has contracted; and

19 (3) a description of the qualifications of the  
20 principals of the entity with which the managed care organization  
21 has contracted.

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

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

27 SECTION 25. Sections 531.114(b) and (g), Government Code,

are amended to read as follows:

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

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

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

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

SECTION 26. Section 531.115, Government Code, is amended to read as follows:

Sec. 531.115. FEDERAL FELONY MATCH. The office of inspector general ~~[commission]~~ shall develop and implement a system to cross-reference data collected for the programs listed under Section 531.008(c) with the list of fugitive felons maintained by the federal government.

SECTION 27. Section 533.005(a), Government Code, is amended to read as follows:

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

(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and



1 assurance of contract and subcontract compliance;

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

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

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

13 (5) a requirement that the managed care organization  
14 provide information and referral about the availability of  
15 educational, social, and other community services that could  
16 benefit a recipient;

17 (6) procedures for recipient outreach and education;

18 (7) a requirement that the managed care organization  
19 make payment to a physician or provider for health care services  
20 rendered to a recipient under a managed care plan not later than the  
21 45th day after the date a claim for payment is received with  
22 documentation reasonably necessary for the managed care  
23 organization to process the claim, or within a period, not to exceed  
24 60 days, specified by a written agreement between the physician or  
25 provider and the managed care organization;

26 (8) a requirement that the commission, on the date of a  
27 recipient's enrollment in a managed care plan issued by the managed

1 care organization, inform the organization of the recipient's  
2 Medicaid certification date;

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

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

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

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

21 (13) a requirement that the organization use advanced  
22 practice nurses in addition to physicians as primary care providers  
23 to increase the availability of primary care providers in the  
24 organization's provider network;

25 (14) 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 (15) 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; and

20 (16) a requirement that the managed care organization  
21 refund to the commission, through the office of inspector general,  
22 an overpayment made by the managed care organization to a provider  
23 that is identified as a result of a review conducted under Chapter  
24 422 or Subchapter C, Chapter 531, according to rules adopted by the  
25 inspector general.

26 SECTION 28. Section 533.012(c), Government Code, is amended  
27 to read as follows:

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

5           SECTION 29. Section 811.001(9), Government Code, is amended  
6 to read as follows:

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

9                           (A) has been commissioned as a law enforcement  
10 officer by the Department of Public Safety, the Texas Alcoholic  
11 Beverage Commission, the Parks and Wildlife Department, or the  
12 office of inspector general established under Chapter 422 at the  
13 Texas Youth Commission; and

14                           (B) is recognized as a commissioned law  
15 enforcement officer by the Commission on Law Enforcement Officer  
16 Standards and Education.

17           SECTION 30. Section 814.104(b), Government Code, is amended  
18 to read as follows:

19                   (b) A member who is at least 55 years old and who has at  
20 least 10 years of service credit as a commissioned peace officer  
21 engaged in criminal law enforcement activities of the Department of  
22 Public Safety, the Texas Alcoholic Beverage Commission, the Parks  
23 and Wildlife Department, or the office of inspector general  
24 established under Chapter 422 at the Texas Youth Commission, or as a  
25 custodial officer, is eligible to retire and receive a service  
26 retirement annuity.

27           SECTION 31. Section 815.505, Government Code, is amended to

1 read as follows:

2           Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND  
3 CUSTODIAL OFFICERS. Not later than the 12th day of the month  
4 following the month in which a person begins or ceases employment as  
5 a law enforcement officer or custodial officer, the Public Safety  
6 Commission, the Texas Alcoholic Beverage Commission, the Parks and  
7 Wildlife Commission, the office of inspector general established  
8 under Chapter 422 at the Texas Youth Commission, the Board of  
9 Pardons and Paroles, or the Texas Board of Criminal Justice, as  
10 applicable, shall certify to the retirement system, in the manner  
11 prescribed by the system, the name of the employee and such other  
12 information as the system determines is necessary for the crediting  
13 of service and financing of benefits under this subtitle.

14           SECTION 32. Section 2054.376(b), Government Code, is  
15 amended to read as follows:

16           (b) This subchapter does not apply to:

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

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

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

25                   (4) the state treasury cash and treasury management  
26 system; ~~or~~

27                   (5) a database or network managed by the comptroller

1 to:

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

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

7 (6) the use of a federal or state database or network  
8 by an office of inspector general established under Chapter 422.

9 SECTION 33. Section 21.014(b), Human Resources Code, is  
10 amended to read as follows:

11 (b) The [~~person employed by the department as~~] inspector  
12 general appointed under Chapter 422, Government Code, for the  
13 Health and Human Services Commission shall make reports to and  
14 consult with the agency director [~~chairman of the board~~] regarding:

15 (1) the selection of internal audit topics;

16 (2) the establishment of internal audit priorities;

17 and

18 (3) the findings of each regular or special internal  
19 audit initiative.

20 SECTION 34. Section 32.003, Human Resources Code, is  
21 amended by adding Subdivision (5) to read as follows:

22 (5) "Office of inspector general" means the office of  
23 inspector general established under Chapter 422, Government Code,  
24 for the Health and Human Services Commission.

25 SECTION 35. Section 32.0291, Human Resources Code, is  
26 amended to read as follows:

27 Sec. 32.0291. PREPAYMENT REVIEWS AND POSTPAYMENT HOLDS.

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

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

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

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

(c) On timely written request by a provider subject to a postpayment hold under Subsection (b), the office of inspector general ~~[department]~~ shall file a request with the State Office of Administrative Hearings or the hearings division of the Health and Human Services Commission for an expedited administrative hearing regarding the hold. The provider must request an expedited hearing under this subsection not later than the 10th day after the date the provider receives notice from the office of inspector general ~~[department]~~ under Subsection (b). The office of inspector general ~~[department]~~ shall discontinue the hold unless the office ~~[department]~~ makes a prima facie showing at the hearing that the

1 evidence relied on by the office of inspector general [~~department~~]  
2 in imposing the hold is relevant, credible, and material to the  
3 issue of fraud, waste, abuse, or wilful misrepresentation.

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

17 SECTION 36. Section 32.032, Human Resources Code, is  
18 amended to read as follows:

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

27 SECTION 37. Sections 32.0321(a) through (d), Human



Resources Code, are amended to read as follows:

(a) The office of inspector general ~~[department]~~ by rule may recommend to the department and the department by rule may require that each provider of medical assistance in a provider type that has demonstrated significant potential for fraud, waste, or abuse to file with the department a surety bond in a reasonable amount. The office and the department by rule shall each require a provider of medical assistance to file with the department a surety bond in a reasonable amount if the office ~~[department]~~ identifies a pattern of suspected fraud, waste, or abuse involving criminal conduct relating to the provider's services under the medical assistance program that indicates the need for protection against potential future acts of fraud, waste, or abuse.

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

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

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

7           SECTION 38. Section 32.0322, Human Resources Code, is  
8 amended to read as follows:

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

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

20           SECTION 39. Sections 32.033(d) through (h), Human Resources  
21 Code, are amended to read as follows:

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

27           (e) The ~~[department's]~~ right of recovery of the office of

1 inspector general is limited to the amount of the cost of medical  
2 care services paid by the department. Other subrogation rights  
3 granted under this section are limited to the cost of the services  
4 provided.

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

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

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

17 SECTION 40. Sections 32.039(c) through (r) and (u) through  
18 (x), Human Resources Code, are amended to read as follows:

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

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

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

amount:

(A) not less than \$5,000 or more than \$15,000 for each violation that results in injury to an elderly person, as defined by Section 48.002(a)(1) [~~48.002(1)~~], a disabled person, as defined by Section 48.002(a)(8)(A) [~~48.002(8)(A)~~], or a person younger than 18 years of age; or

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

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

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

- (1) the seriousness of the violation;
- (2) whether the person had previously committed a violation; and
- (3) the amount necessary to deter the person from

1 committing future violations.

2 (f) If after an examination of the facts the office of  
3 inspector general [~~department~~] concludes that the person committed  
4 a violation, the office [~~department~~] may issue a preliminary report  
5 stating the facts on which it based its conclusion, recommending  
6 that an administrative penalty under this section be imposed and  
7 recommending the amount of the proposed penalty.

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

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

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

1           (j) If the person charged with committing the violation  
2 requests an informal review as provided by Subsection (h), the  
3 office of inspector general [~~department~~] shall conduct the review.  
4 The office [~~department~~] shall give the person written notice of the  
5 results of the review.

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

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

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

- 23                   (1) pay the amount of the penalty;
- 24                   (2) pay the amount of the penalty and file a petition  
25 for judicial review contesting the occurrence of the violation, the  
26 amount of the penalty, or both the occurrence of the violation and  
27 the amount of the penalty; or

1           (3) without paying the amount of the penalty, file a  
2 petition for judicial review contesting the occurrence of the  
3 violation, the amount of the penalty, or both the occurrence of the  
4 violation and the amount of the penalty.

5           (n) A person who acts under Subsection (m)(3) within the  
6 30-day period may:

7           (1) stay enforcement of the penalty by:

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

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

14           (2) request the court to stay enforcement of the  
15 penalty by:

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

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

22           (o) If the office of inspector general ~~[commissioner]~~  
23 receives a copy of an affidavit under Subsection (n)(2), the office  
24 ~~[commissioner]~~ may file with the court, within five days after the  
25 date the copy is received, a contest to the affidavit. The court  
26 shall hold a hearing on the facts alleged in the affidavit as soon  
27 as practicable and shall stay the enforcement of the penalty on

1 finding that the alleged facts are true. The person who files an  
2 affidavit has the burden of proving that the person is financially  
3 unable to pay the amount of the penalty and to give a supersedeas  
4 bond.

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

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

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



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

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

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

- 26            (1) the person's knowledge of the violation;  
27            (2) the likelihood that education provided to the

1 person would be sufficient to prevent future violations;

2 (3) the potential impact on availability of services  
3 in the community served by the person; and

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

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

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

10 (A) conducting a marketing campaign;

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

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

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

17 (3) other conduct specifically authorized by law,  
18 including conduct authorized by federal safe harbor regulations (42  
19 C.F.R. Section 1001.952).

20 SECTION 41. Section 32.070(d), Human Resources Code, is  
21 amended to read as follows:

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

Department of Health and Human Services.

SECTION 42. Section 33.015(e), Human Resources Code, is amended to read as follows:

(e) The department shall require a person exempted under this section from making a personal appearance at department offices to provide verification of the person's entitlement to the exemption on initial eligibility certification and on each subsequent periodic eligibility recertification. If the person does not provide verification and the department considers the verification necessary to protect the integrity of the food stamp program, the department shall initiate a fraud referral to the ~~[department's]~~ office of inspector general established for the Health and Human Services Commission under Chapter 422, Government Code.

SECTION 43. Section 61.001(7), Human Resources Code, is amended to read as follows:

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

SECTION 44. Sections 61.0451(a), (d), (f), and (g), Human Resources Code, are amended to read as follows:

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

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

(2) crimes and delinquent conduct committed at a

1 facility operated by the commission, a residential facility  
2 operated by another entity under a contract with the commission, or  
3 any facility in which a child committed to the custody of the  
4 commission is housed or receives medical or mental health  
5 treatment.

6 (d) The office of inspector general may employ and  
7 commission inspectors [~~general~~] as peace officers in accordance  
8 with Section 422.105, Government Code, for the purpose of carrying  
9 out the duties described by this section. An inspector [~~general~~]  
10 shall have all of the powers and duties given to peace officers  
11 under Article 2.13, Code of Criminal Procedure.

12 (f) If the inspector general is not a commissioned peace  
13 officer, the inspector general [~~The executive commissioner~~] shall  
14 select a commissioned peace officer as chief inspector [~~general~~].  
15 The chief inspector [~~general~~] is subject to the requirements of  
16 this section and may only be discharged for cause.

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

- 20 (1) the executive commissioner;
- 21 (2) the advisory board;
- 22 (3) the governor;
- 23 (4) the lieutenant governor;
- 24 (5) the speaker of the house of representatives;
- 25 (6) the standing committees of the senate and house of  
26 representatives with primary jurisdiction over correctional  
27 facilities;

1           (7) the state auditor; and

2           (8) the comptroller.

3           SECTION 45. Sections 61.098(d) and (e), Human Resources  
4 Code, are amended to read as follows:

5           (d) Notwithstanding Subsection (c), the office of inspector  
6 general shall immediately provide the special prosecution unit with  
7 a report concerning an alleged criminal offense or delinquent  
8 conduct concerning the commission and described by Article  
9 104.003(a), Code of Criminal Procedure, if the ~~[chief]~~ inspector  
10 general reasonably believes the offense or conduct is particularly  
11 serious and egregious.

12           (e) The ~~[chief]~~ inspector general of the office of inspector  
13 general, at the direction of the board of directors of the special  
14 prosecution unit, shall notify the foreman of the appropriate grand  
15 jury, in the manner provided by Article 20.09, Code of Criminal  
16 Procedure, if:

17           (1) the ~~[chief]~~ inspector general receives credible  
18 evidence of illegal or improper conduct by commission officers,  
19 employees, or contractors that the inspector general reasonably  
20 believes jeopardizes the health, safety, and welfare of children in  
21 the custody of the commission;

22           (2) the ~~[chief]~~ inspector general reasonably believes  
23 the conduct:

24                   (A) could constitute an offense under Article  
25 104.003(a), Code of Criminal Procedure; and

26                   (B) involves the alleged physical or sexual abuse  
27 of a child in the custody of a commission facility or an

1 investigation related to the alleged abuse; and

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

5 SECTION 46. Section 64.055(b), Human Resources Code, is  
6 amended to read as follows:

7 (b) The independent ombudsman shall immediately report to  
8 the governor, the lieutenant governor, the speaker of the house of  
9 representatives, the state auditor, and the office of the inspector  
10 general established under Chapter 422, Government Code, for ~~[of]~~  
11 the commission any particularly serious or flagrant:

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

14 (2) problem concerning the administration of a  
15 commission program or operation;

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

18 (4) interference by the commission with an  
19 investigation conducted by the office.

20 SECTION 47. Section 64.056(b), Human Resources Code, is  
21 amended to read as follows:

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

24 (1) share with the office of inspector general  
25 established under Chapter 422, Government Code, for ~~[of]~~ the  
26 commission a communication with a child that may involve the abuse  
27 or neglect of the child; and

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

SECTION 48. 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 deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

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

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

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

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

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

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

1           (9) officers commissioned by the General Services  
2 Commission;

3           (10) law enforcement officers commissioned by the  
4 Parks and Wildlife Commission;

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

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

12           (13) municipal park and recreational patrolmen and  
13 security officers;

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

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

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

20           (17) investigators commissioned by the Texas Medical  
21 Board;

22           (18) officers commissioned by the board of managers of  
23 the Dallas County Hospital District, the Tarrant County Hospital  
24 District, or the Bexar County Hospital District under Section  
25 281.057, Health and Safety Code;

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



(20) investigators employed by the Texas Racing Commission;

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

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

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

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

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

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

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

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

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

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

~~[(31)]~~ investigators commissioned by the Commission

on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code;

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

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

(33) ~~[(34)]~~ officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section;

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

(35) ~~[(36)]~~ the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code; and

(36) officers commissioned by an office of inspector general established under Chapter 422, Government Code.

SECTION 49. Section 1(2), Article 18.21, Code of Criminal Procedure, is amended to read as follows:

(2) "Authorized peace officer" means:

(A) a sheriff or a sheriff's deputy;

(B) a constable or deputy constable;

(C) a marshal or police officer of an incorporated city;

(D) a ranger or officer commissioned by the

1 Public Safety Commission or the director of the Department of  
2 Public Safety;

3 (E) an investigator of a prosecutor's office;

4 (F) a law enforcement agent of the Alcoholic  
5 Beverage Commission;

6 (G) a law enforcement officer commissioned by the  
7 Parks and Wildlife Commission; or

8 (H) an enforcement officer appointed by the  
9 inspector general [~~executive director~~] of the Texas Department of  
10 Criminal Justice under Section 493.019, Government Code.

11 SECTION 50. Section 531.1021, Government Code, is repealed.

12 SECTION 51. (a) The amendment by this Act of Section  
13 531.102, Government Code, does not affect the validity of a  
14 complaint, investigation, or other proceeding initiated under that  
15 section before the effective date of this Act. A complaint,  
16 investigation, or other proceeding initiated under that section is  
17 continued in 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 52. (a) A person serving on the effective date of  
25 this Act as inspector general for a state agency subject to Chapter  
26 422, Government Code, as added by this Act, shall serve as the  
27 inspector general considered appointed for the agency under Chapter

1 422, Government Code, as added by this Act, until February 1, 2013,  
2 and may be reappointed under Chapter 422 if the person has the  
3 qualifications required under that chapter.

4 (b) Not later than February 1, 2013, the governor or the  
5 governing body of a state agency subject to Chapter 422, Government  
6 Code, as added by this Act, as applicable, shall appoint an  
7 inspector general for the office of inspector general of that  
8 agency to a term expiring February 1, 2015.

9 SECTION 53. A contract or proceeding primarily related to a  
10 function transferred to an office of inspector general established  
11 under this Act is transferred to the office. The transfer does not  
12 affect the status of a proceeding or the validity of a contract.

13 SECTION 54. (a) All personnel and assets currently  
14 assigned to the inspector general of a state agency subject to  
15 Chapter 422, Government Code, as added by this Act, shall be  
16 promptly transferred to the office of inspector general for that  
17 agency established under Chapter 422 along with any equipment,  
18 documents, and records currently assigned to or used by the  
19 inspector general of that agency. Inventory of personnel,  
20 equipment, documents, records, and assets to be transferred under  
21 this section shall be accomplished jointly by the transferring  
22 agency and the inspector general considered appointed under Chapter  
23 422 for that agency. All funds previously appropriated or used,  
24 from any source, by the transferring agency in support of the  
25 transferred functions, personnel, equipment, documents, records,  
26 or assets shall also be contemporaneously transferred to the  
27 office.

1 (b) For purposes of this section, "currently assigned"  
2 means:

3 (1) all personnel and vacant full-time equivalent  
4 positions assigned to or supporting a transferred function at any  
5 time during the state fiscal biennium beginning September 1, 2009;  
6 and

7 (2) all inventory and equipment assigned to a  
8 transferred function or transferring personnel or that was in the  
9 possession of transferring personnel on or at any time after  
10 October 31, 2010.

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

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

23 SECTION 55. On the effective date of this Act:

24 (1) all functions, activities, employees, rules,  
25 forms, money, property, contracts, memorandums of understanding,  
26 records, and obligations of a previously established office of  
27 inspector general of an agency subject to Chapter 422, Government

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

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

12 SECTION 56. (a) Each agency subject to Chapter 422,  
13 Government Code, as added by this Act, shall take all action  
14 necessary to provide for the orderly transfer of the assets and  
15 responsibilities of any previously established office of inspector  
16 general for that agency to the office of inspector general  
17 established under Chapter 422.

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

23 (c) A reference in law or administrative rule to a  
24 previously established office of inspector general of an agency  
25 subject to Chapter 422, Government Code, as added by this Act, means  
26 the office of inspector general established under Chapter 422.

27 SECTION 57. If before implementing any provision of this

1 Act a state agency determines that a waiver or authorization from a  
2 federal agency is necessary for implementation of that provision,  
3 the agency affected by the provision shall request the waiver or  
4 authorization and may delay implementing that provision until the  
5 waiver or authorization is granted.

6 SECTION 58. This Act takes effect immediately if it  
7 receives a vote of two-thirds of all the members elected to each  
8 house, as provided by Section 39, Article III, Texas Constitution.  
9 If this Act does not receive the vote necessary for immediate  
10 effect, this Act takes effect September 1, 2011.