

By: Eissler

H.B. No. 2824

A BILL TO BE ENTITLED

AN ACT

relating to adoption of a medical savings account program for the provision of health benefits coverage to active employees of school districts.

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

ARTICLE 1. MEDICAL SAVINGS ACCOUNT PROGRAM

SECTION 1.01. Subtitle H, Title 8, Insurance Code, is amended by adding Chapter 1579 to read as follows:

CHAPTER 1579. TEXAS PUBLIC SCHOOL EMPLOYEES MEDICAL SAVINGS

ACCOUNT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1579.001. DEFINITIONS. In this chapter:

(1) "Account" means a medical savings account established under this chapter for a participating employee.

(2) "Account administrator" means a person qualified to act as an account administrator under Section 1579.054.

(3) "Benefit options" include:

(A) long-term care coverage;

(B) long-term disability coverage;

(C) short-term disability coverage;

(D) accidental death and dismemberment coverage;

(E) group term life insurance coverage;

(F) vision care coverage;

(G) dental coverage;

1                   (H) prescription drug coverage;  
2                   (I) prosthetic device coverage;  
3                   (J) obstetrical coverage; and  
4                   (K) any other supplemental coverage considered  
5 appropriate by the board of trustees.

6                   (4) "Charter school" means an open-enrollment charter  
7 school established under Subchapter D, Chapter 12, Education Code.

8                   (5) "Dependent" means:

9                   (A) the spouse of a person;

10                   (B) an unmarried child of the person if that  
11 child is under 25 years of age, including:

12                                   (i) an adopted child;

13                                   (ii) a stepchild, foster child, or other  
14 child who has a regular parent-child relationship with the person;  
15 or

16                                   (iii) a recognized natural child; or

17                   (C) the person's recognized natural child,  
18 adopted child, foster child, stepchild, or other child who has a  
19 regular parent-child relationship with the participating employee,  
20 without regard to the age of the child, if the child lives with or  
21 has care provided by the person on a regular basis and is mentally  
22 retarded or physically incapacitated to an extent that the child is  
23 dependent on the person for care or support, as determined by the  
24 trustee.

25                   (6) "District" means a public school district of this  
26 state.

27                   (7) "Employee" means an individual who is employed by

1 a participating entity and who is not covered by a group insurance  
2 program under Chapter 1551 or 1601. The term does not include an  
3 individual performing personal services for a participating entity  
4 as an independent contractor.

5 (8) "Health benefits plan" means a plan designed to  
6 provide, pay for, or reimburse expenses for health care services.  
7 The term includes:

8 (A) a group insurance policy, contract, or  
9 certificate;

10 (B) a medical or hospital service agreement; and

11 (C) a similar group arrangement, including  
12 coverage through a health maintenance organization regulated under  
13 Chapter 843.

14 (9) "Health benefits plan provider" means an entity  
15 that provides health benefits plan coverage in this state. The term  
16 includes:

17 (A) an insurance company authorized to do  
18 business in this state;

19 (B) a group hospital service corporation  
20 operating under Chapter 842;

21 (C) a health maintenance organization regulated  
22 under Chapter 843;

23 (D) a stipulated premium insurance company  
24 operating under Chapter 884;

25 (E) a multiple employer welfare arrangement  
26 subject to Chapter 846;

27 (F) an approved nonprofit health corporation

1 that holds a certificate of authority issued under Chapter 844; and

2 (G) any other entity providing a plan of health  
3 insurance or health benefits coverage subject to state regulation  
4 by the department.

5 (10) "Participant" means a person enrolled in the  
6 program.

7 (11) "Participating entity" means an entity  
8 participating in the medical savings account program established  
9 under this chapter. The term includes:

10 (A) a school district;

11 (B) another educational district whose employees  
12 are members of the Teacher Retirement System of Texas;

13 (C) a regional education service center; and

14 (D) a charter school that meets the requirements  
15 of Section 1579.102.

16 (12) "Program" means the Texas public school employees  
17 medical savings account program established by this chapter.

18 (13) "Qualified health care expense" means an expense  
19 paid by a participating employee for medical care, as defined by 26  
20 U.S.C. Section 213(d), as amended, for the employee or the  
21 employee's dependents, as defined by 26 U.S.C. Section 152, as  
22 amended.

23 (14) "Regional education service center" means a  
24 regional education service center established under Chapter 8,  
25 Education Code.

26 (15) "Trustee" means the board of trustees of the  
27 Teacher Retirement System of Texas.

1       Sec. 1579.002. APPLICABILITY OF OTHER LAW. This chapter  
2 does not prohibit a district from providing additional or  
3 supplemental insurance coverage under Article 3.51 or 26.036 of  
4 this code or Section 22.005, Education Code.

5           [Sections 1579.003-1579.050 reserved for expansion]

6       SUBCHAPTER B. ESTABLISHMENT OF MEDICAL SAVINGS ACCOUNT

7           PROGRAM; POWERS AND DUTIES OF BOARD OF TRUSTEES

8       Sec. 1579.051. CREATION OF PROGRAM; ADMINISTRATION; RULES.

9       (a) The Texas public school employees medical savings account  
10 program is established for the benefit of active public school  
11 employees and those employees' dependents.

12       (b) The board of trustees of the Teacher Retirement System  
13 of Texas is the trustee for the program and shall administer the  
14 program.

15       (c) The trustee shall adopt rules, plans, and procedures as  
16 necessary for the administration of the medical savings account  
17 program adopted under this chapter.

18       Sec. 1579.052. CONTRACTS. On a competitive bid basis, the  
19 trustee shall, as necessary to implement this article, contract  
20 with:

21           (1) a qualified, experienced firm of group insurance  
22 specialists;

23           (2) a qualified, experienced firm of specialists in  
24 any of the benefit options authorized under this chapter; and

25           (3) an administering firm to act for the trustee in the  
26 capacity of account administrator.

27       Sec. 1579.053. REQUIREMENTS FOR MEDICAL SAVINGS ACCOUNTS.

1 (a) The trustee shall request in writing a ruling or opinion from  
2 the Internal Revenue Service as to whether the medical savings  
3 accounts adopted under this chapter and the state rules governing  
4 those accounts qualify the accounts for appropriate federal tax  
5 exemptions. Based on the response of the Internal Revenue Service,  
6 the trustee shall:

7 (1) modify the rules, plans, and procedures adopted  
8 under Section 1579.051 as necessary to ensure the qualification of  
9 those accounts for appropriate federal tax exemptions; and

10 (2) certify the information regarding federal tax  
11 qualifications to the comptroller.

12 (b) Once finalized rules, plans, and procedures are adopted  
13 by the trustee and approved by the Internal Revenue Service, the  
14 trustee shall:

15 (1) solicit bids for the development and establishment  
16 of the medical savings account program; and

17 (2) provide information to participating employees  
18 regarding the operation of the medical savings accounts adopted  
19 under this chapter.

20 Sec. 1579.054. ACCOUNT ADMINISTRATOR. (a) The following  
21 persons may act as an account administrator under this chapter:

22 (1) a bank, savings and loan association, savings  
23 bank, or credit union chartered under the laws of this state or the  
24 United States;

25 (2) a trust company authorized to act as a fiduciary;

26 (3) an insurance company authorized to engage in the  
27 business of health insurance in this state, a group hospital

1 service corporation authorized under Chapter 842 to engage in  
2 business in this state, or a health maintenance organization  
3 authorized under Chapter 843 to engage in business in this state;

4 (4) a third-party administrator holding a certificate  
5 of authority issued under Article 21.07-6 of this code; or

6 (5) a certified public accountant licensed by the  
7 Texas State Board of Public Accountancy.

8 (b) An account administrator may charge a fee for services  
9 performed as the administrator of an account. The amount of the fee  
10 shall be established in the contract between the account  
11 administrator and the trustee.

12 (c) The account administrator is the fiduciary of the  
13 participating employee who has an account under this chapter.

14 Sec. 1579.055. PERSONNEL. The trustee may employ persons  
15 as necessary to assist the trustee in administering this chapter.

16 Sec. 1579.056. ANNUAL REPORT OF PROGRAM ACTIVITIES. (a)  
17 Not later than June 1 of each year, the trustee shall submit a  
18 report to the governor, the lieutenant governor, the speaker of the  
19 house of representatives, and the commissioner.

20 (b) The report must summarize the activities of the program  
21 in the calendar year preceding the year in which the report is  
22 submitted.

23 [Sections 1579.057-1579.100 reserved for expansion]

24 SUBCHAPTER C. PROGRAM PARTICIPATION AND COVERAGE

25 Sec. 1579.101. REQUIRED PARTICIPATION; PARTICIPATION  
26 OBLIGATIONS. (a) Each participating entity shall participate in  
27 the program as provided by this subchapter.

1       (b) Participation in the program includes compliance with  
2 rules adopted by the trustee for the administration of the program  
3 and provision of a notice to each employee as prescribed by the  
4 trustee relating to the existence of the program that contains the  
5 address from which an employee may obtain information about:

6           (1) the coverage offered by the program;

7           (2) eligibility requirements for and costs of that  
8 coverage;

9           (3) the contribution that the employee is eligible to  
10 receive from the state and the employing participating entity for  
11 the costs of the coverage; and

12           (4) other information considered useful by the  
13 trustee.

14       Sec. 1579.102. PARTICIPATION BY CHARTER SCHOOLS;  
15 ELIGIBILITY. (a) A charter school is eligible to participate in  
16 the program if the school agrees:

17           (1) that all records of the school relating to  
18 participation in the program are open to inspection by the trustee,  
19 the administering firm, the commissioner of education, or a  
20 designee of any of those entities; and

21           (2) to have the school's accounts relating to  
22 participation in the program annually audited by a certified public  
23 accountant at the school's expense.

24       (b) A charter school must notify the trustee of the school's  
25 intent to participate in the program in the manner and within the  
26 time required by board rule.

27       Sec. 1579.103. PROVISION OF COVERAGE. The program shall



1 provide, through the medical savings accounts, group health  
2 benefits plan coverage as provided by this chapter to an active  
3 employee who is eligible for that coverage under this chapter and,  
4 as provided by this chapter, to that employee's dependents.

5 Sec. 1579.104. COVERAGE PLANS. (a) The program must  
6 include:

7 (1) a primary care coverage plan comparable in scope  
8 and, to the greatest extent possible, in cost to the basic coverage  
9 for health care provided to state employees under Chapter 1551; and

10 (2) a catastrophic care coverage plan.

11 (b) The catastrophic care coverage plan must be less  
12 expensive for employee-only and employee and dependents coverage  
13 than the primary care coverage plan.

14 Sec. 1579.105. PARTICIPATION BY EMPLOYEES. (a) Each  
15 active employee is eligible to participate in the program  
16 established under this chapter. An employee who elects to  
17 participate shall be enrolled in the primary care coverage plan  
18 unless the employee elects in writing to participate only in the  
19 catastrophic care coverage plan.

20 (b) Participation in the program qualifies an employee to  
21 receive a contribution to the employee's account as authorized  
22 under Subchapter D. An employee who elects not to participate in  
23 the program is ineligible to receive a contribution.

24 Sec. 1579.106. COVERAGE FOR DEPENDENTS. (a) A  
25 participating employee is entitled to obtain for a dependent of the  
26 participating employee coverage in the plan selected by the  
27 employee in the manner determined by the trustee.

1       (b) The participating employee shall make any required  
2 additional contribution payments for the dependent coverage in the  
3 manner prescribed by the trustee.

4       (c) A participating entity is not prohibited by this chapter  
5 from voluntarily contributing to the cost of dependent coverage.

6       Sec. 1579.107. IDENTIFICATION CARDS. (a) The account  
7 administrator shall issue to each participating employee an  
8 identification card indicating:

9           (1) the name of the employee and any dependent of the  
10 employee for whom eligible expenses may be paid under the program;

11           (2) the name, address, and phone number of the account  
12 administrator; and

13           (3) a description of the coverage plan in which the  
14 employee is participating.

15       (b) The account administrator shall issue a duplicate  
16 identification card to each of the employee's dependents for whom  
17 eligible expenses may be paid under the program.

18       Sec. 1579.108. USE OF ACCOUNT. (a) The account  
19 administrator shall use money in an employee's account to pay:

20           (1) the costs of the health benefit plan coverage  
21 selected by the employee for the employee and the employee's  
22 dependents; and

23           (2) any additional eligible medical expenses of the  
24 participating employee or the employee's dependents or to reimburse  
25 the employee for those expenses.

26       (b) A medical expense is eligible for payment or  
27 reimbursement under Subsection (a)(2) if:

1           (1) it is a medical expense described under Section  
2 213(d), Internal Revenue Code of 1986, as amended; and

3           (2) payment or reimbursement for the expense is not  
4 otherwise provided for under the coverage plan selected by the  
5 employee or under another insurance policy, including a motor  
6 vehicle or workers' compensation insurance policy.

7           Sec. 1579.109. PROMPT PAYMENT OF CLAIMS. (a) Except as  
8 provided by Subsection (b), the account administrator shall pay a  
9 claim for an expense that is eligible for payment or reimbursement  
10 from the account not later than the 30th day after the date the  
11 claim is submitted to the account administrator.

12           (b) The account administrator may request documents  
13 necessary to verify whether an expense is eligible for payment or  
14 reimbursement from the account. If the account administrator makes  
15 a request under this subsection, the account administrator shall  
16 pay a claim for an expense that is eligible for payment or  
17 reimbursement from the account not later than the 30th day after the  
18 date the documents are received by the account administrator.

19           [Sections 1579.110-1579.200 reserved for expansion]

20                           SUBCHAPTER D. CONTRIBUTIONS

21           Sec. 1579.201. STATE CONTRIBUTION. (a) For each  
22 participating employee, the state shall annually contribute \$1,900  
23 or the amount specified in the General Appropriations Act to the  
24 medical savings account established for that employee for the  
25 payment of qualified health care expenses if the trustee has  
26 determined that those accounts meet the requirements described by  
27 Section 1579.053.

1       (b) For each participating employee of a school district or  
2 charter school:

3           (1) \$900 of the state contribution, or a greater  
4 amount as provided by the General Appropriations Act for purposes  
5 of this chapter, shall be distributed through the school finance  
6 formulas under Chapters 41 and 42, Education Code, and used by  
7 school districts and charter schools as provided by Sections  
8 42.2514 and 42.260, Education Code; and

9           (2) \$1,000 of the state contribution, or a greater  
10 amount as provided by the General Appropriations Act for purposes  
11 of this chapter, shall be delivered by the trustee.

12       (c) A school district that is ineligible for state aid under  
13 Chapter 42, Education Code, is entitled to the funds delivered  
14 under Subsection (b)(2).

15       (d) Each year, the trustee shall deliver to each  
16 participating entity other than a school district or charter school  
17 the amount to which the entity is entitled under Subsection (a).

18       Sec. 1579.202. EMPLOYEE CONTRIBUTIONS. (a) Each  
19 participating employee shall contribute any amounts required to  
20 cover benefit options selected by the employee beyond the state  
21 contribution under Section 1579.201.

22       (b) The participating employee shall make the employee's  
23 contributions in the manner prescribed by the trustee.

24       [Sections 1579.203-1579.250 reserved for expansion]

25       SUBCHAPTER E. RECORDS, PROCEEDINGS, AND ACCOUNTING;

26                   INVESTMENT AUTHORITY

27       Sec. 1579.251. CONFIDENTIALITY OF RECORDS. (a) Section

1 825.507, Government Code, applies to information in records  
2 relating to an employee or other participant under the program.

3 (b) The program may disclose to a health benefits plan  
4 provider information in the records of an individual that the  
5 trustee determines is necessary to administer the program.

6 Sec. 1579.252. CLAIM DENIAL; EXPULSION FROM PROGRAM. (a) A  
7 participant may appeal a claim denial or expulsion from the program  
8 to the trustee.

9 (b) Adjudication of claim disputes and expulsions from the  
10 program are subject to the contested case provisions of Chapter  
11 2001, Government Code.

12 Sec. 1579.253. HEARING EXAMINER. The trustee may delegate  
13 its authority to adjudicate claim disputes and expulsions to a  
14 qualified hearing examiner.

15 Sec. 1579.254. APPEAL. (a) A decision of the trustee or  
16 hearing examiner is subject to review by a district court in the  
17 county in which the claimant resides.

18 (b) An appeal of a determination under this section is under  
19 the substantial evidence rule.

20 Sec. 1579.255. ANNUAL ACCOUNTING. (a) In this article,  
21 "plan year" means the period beginning on September 1 and ending the  
22 following August 31.

23 (b) Coverage purchased under this chapter must provide for  
24 an accounting to the trustee by each health benefits plan provider.

25 (c) The accounting must be submitted:

26 (1) not later than the 90th day after the last day of  
27 each plan year; and

1           (2) on a form approved by the trustee.

2           (d) Each health benefits plan provider shall prepare any  
3 other report required by rule by the trustee.

4           (e) A health benefits plan provider may not assess an  
5 additional charge for preparation of an accounting report.

6           Sec. 1579.256. ASSISTANCE. In implementing and  
7 administering this chapter, the trustee may obtain the assistance  
8 of any state agency the trustee considers appropriate.

9           ARTICLE 2. CONFORMING AMENDMENTS--EDUCATION CODE

10           SECTION 2.01. Sections 22.004(a), (b), (c), (g), and (j),  
11 Education Code, are amended to read as follows:

12           (a) A district shall participate in the medical savings  
13 account [~~uniform group coverage~~] program established under Chapter  
14 1579 [~~Article 3.50-7~~], Insurance Code [~~, as provided by Section 5 of~~  
15 ~~that article~~].

16           (b) In addition to participation in the medical savings  
17 account program under Chapter 1579, Insurance Code, a [A] district  
18 may [~~that does not participate in the program described by~~  
19 ~~Subsection (a) shall~~] make available to its employees group health  
20 coverage provided by a risk pool established by one or more school  
21 districts under Chapter 172, Local Government Code, or under a  
22 policy of insurance or group contract issued by an insurer, a group  
23 hospital service corporation [~~company~~] subject to Chapter 842 [~~20~~],  
24 Insurance Code, or a health maintenance organization subject to  
25 Chapter 843, Insurance Code [~~under the Texas Health Maintenance~~  
26 ~~Organization Act (Chapter 20A, Vernon's Texas Insurance Code)]].  
27 [~~The coverage must meet the substantive coverage requirements of~~~~

1 ~~Article 3.51-6, Insurance Code, and any other law applicable to~~  
2 ~~group health insurance policies or contracts issued in this state.~~  
3 ~~The coverage must include major medical treatment but may exclude~~  
4 ~~experimental procedures. In this subsection, "major medical~~  
5 ~~treatment" means a medical, surgical, or diagnostic procedure for~~  
6 ~~illness or injury. The coverage may include managed care or~~  
7 ~~preventive care and must be comparable to the basic health coverage~~  
8 ~~provided under the Texas Employees Uniform Group Insurance Benefits~~  
9 ~~Act (Article 3.50-2, Vernon's Texas Insurance Code). The board of~~  
10 ~~trustees of the Teacher Retirement System of Texas shall adopt~~  
11 ~~rules to determine whether a school district's group health~~  
12 ~~coverage is comparable to the basic health coverage specified by~~  
13 ~~this subsection. The rules must provide for consideration of the~~  
14 ~~following factors concerning the district's coverage in~~  
15 ~~determining whether the district's coverage is comparable to the~~  
16 ~~basic health coverage specified by this subsection:~~

17 ~~[(1) the deductible amount for service provided inside~~  
18 ~~and outside of the network,~~

19 ~~[(2) the coinsurance percentages for service provided~~  
20 ~~inside and outside of the network,~~

21 ~~[(3) the maximum amount of coinsurance payments a~~  
22 ~~covered person is required to pay,~~

23 ~~[(4) the amount of the copayment for an office visit,~~

24 ~~[(5) the schedule of benefits and the scope of~~  
25 ~~coverage,~~

26 ~~[(6) the lifetime maximum benefit amount, and~~

27 ~~[(7) verification that the coverage is issued by a~~

1 ~~provider licensed to do business in this state by the Texas~~  
2 ~~Department of Insurance or is provided by a risk pool authorized~~  
3 ~~under Chapter 172, Local Government Code, or that a district is~~  
4 ~~capable of covering the assumed liabilities in the case of coverage~~  
5 ~~provided through district self-insurance.]~~

6 (c) The cost of the coverage provided under the program  
7 described by Subsection (a) shall be paid by the state~~[, the~~  
8 ~~district,]~~ and the employees in the manner provided by Chapter 1579  
9 ~~[Article 3.50-7]~~, Insurance Code. The cost of any coverage  
10 provided under a plan adopted under Subsection (b) shall be shared  
11 by the employees and the district ~~[using the contributions by the~~  
12 ~~state described by Section 9, Article 3.50-7, Insurance Code, or by~~  
13 ~~Article 3.50-8, Insurance Code].~~

14 (g) An insurer, a group hospital service corporation  
15 ~~[company]~~ subject to Chapter 842 ~~[20]~~, Insurance Code, or a health  
16 maintenance organization subject to Chapter 843, Insurance Code,  
17 that issues a policy or contract under this section and any person  
18 that assists the school district in obtaining or managing the  
19 policy or contract for compensation shall provide an annual audited  
20 financial statement to the school district showing the financial  
21 condition of the insurer, corporation ~~[company]~~, organization, or  
22 person.

23 (j) This section does not preclude a district that is  
24 participating in the medical savings account ~~[uniform group~~  
25 ~~coverage]~~ program established under Chapter 1579 ~~[Article 3.50-7]~~,  
26 Insurance Code, from voluntarily entering into contracts to provide  
27 optional insurance coverages for the employees of the district.



1 SECTION 2.02. Sections 42.2514(a), (b), and (c), Education  
2 Code, are amended to read as follows:

3 (a) In this section, "participating charter school" means  
4 an open-enrollment charter school that participates in the medical  
5 savings account [~~uniform group coverage~~] program established under  
6 Chapter 1579 [~~Article 3.50-7~~], Insurance Code.

7 (b) For each school year, a school district, including a  
8 school district that is otherwise ineligible for state aid under  
9 this chapter, or a participating charter school is entitled to  
10 state aid in an amount, as determined by the commissioner, equal to  
11 the difference, if any, between:

12 (1) the amount determined by multiplying the amount of  
13 \$1,900 [~~\$900~~] or the amount specified in the General Appropriations  
14 Act for that year for purposes of the state contribution under  
15 Subchapter D, Chapter 1579 [~~Section 9, Article 3.50-7~~], Insurance  
16 Code, by the number of district or school employees who participate  
17 in the medical savings account program [~~a group health coverage~~  
18 ~~plan provided by or through the district or school~~]; and

19 (2) an amount equal to 75 percent of the amount of [+  
20 [~~(A)~~] additional funds to which the district or  
21 school is entitled due to the increase made by Chapter 1187 [~~H.B.~~  
22 ~~No. 3343~~], Acts of the 77th Legislature, Regular Session, 2001, to:

23 (A) [~~(i)~~] the equalized wealth level under  
24 Section 41.002; and

25 (B) [~~(ii)~~] the guaranteed level of state and  
26 local funds per weighted student per cent of tax effort under  
27 Section 42.302 [~~+~~ or

1                   ~~[(B) additional state aid to which the district~~  
2 ~~is entitled under Section 42.2513].~~

3           (c) A school district or participating charter school may  
4 use state aid received under this section only to pay contributions  
5 under the medical savings account program under Chapter 1579,  
6 Insurance Code ~~[a group health coverage plan for district or school~~  
7 ~~employees].~~

8           SECTION 2.03. Sections 42.260(b) and (c), Education Code,  
9 are amended to read as follows:

10           (b) For each year, the commissioner shall certify to each  
11 school district or participating charter school the amount of ~~[+~~

12                   ~~[(1)]~~ additional funds to which the district or school  
13 is entitled due to the increase made by Chapter 1187 ~~[H.B. No.~~  
14 ~~3343]~~, Acts of the 77th Legislature, Regular Session, 2001, to:

15                   (1) ~~[(A)]~~ the equalized wealth level under Section  
16 41.002; or

17                   (2) ~~[(B)]~~ the guaranteed level of state and local  
18 funds per weighted student per cent of tax effort under Section  
19 42.302 ~~[, or~~

20                   ~~[(2) additional state aid to which the district or~~  
21 ~~school is entitled under Section 42.2513].~~

22           (c) Notwithstanding any other provision of this code, a  
23 school district or participating charter school may use an amount  
24 equal to 75 percent of the amount certified for the district or  
25 school under Subsection (b) ~~[the following amount of funds]~~ only to  
26 pay contributions under the medical savings account program under  
27 Chapter 1579, Insurance Code ~~[a group health coverage plan for~~

1 ~~district or school employees:~~

2 ~~[(1) an amount equal to 75 percent of the amount~~  
3 ~~certified for the district or school under Subsection (b), or~~

4 ~~[(2) if the following amount is less than the amount~~  
5 ~~specified by Subdivision (1), the sum of:~~

6 ~~[(A) the amount determined by multiplying the~~  
7 ~~amount of \$900 or the amount specified in the General~~  
8 ~~Appropriations Act for that year for purposes of the state~~  
9 ~~contribution under Section 9, Article 3.50-7, Insurance Code, by~~  
10 ~~the number of district or school employees who participate in a~~  
11 ~~group health coverage plan provided by or through the district or~~  
12 ~~school; and~~

13 ~~[(B) the difference between the amount necessary~~  
14 ~~for the district or school to comply with Section 3, Article 3.50-9,~~  
15 ~~Insurance Code, for the school year and the amount the district or~~  
16 ~~school is required to use to provide health coverage under Section 2~~  
17 ~~of that article for that year].~~

18 SECTION 2.04. The following laws are repealed:

19 (1) Sections 22.004(d), (e), (f), and (i), Education  
20 Code; and

21 (2) Section 42.253(e-1), Education Code.

22 ARTICLE 3. CONFORMING AMENDMENT--GOVERNMENT CODE

23 SECTION 3.01. Section 822.201(c), Government Code, is  
24 amended to read as follows:

25 (c) Excluded from salary and wages are:

26 (1) expense payments;

27 (2) allowances;

- 1           (3) payments for unused vacation or sick leave;
- 2           (4) maintenance or other nonmonetary compensation;
- 3           (5) fringe benefits;
- 4           (6) deferred compensation other than as provided by
- 5 Subsection (b)(3);
- 6           (7) compensation that is not made pursuant to a valid
- 7 employment agreement;
- 8           (8) payments received by an employee in a school year
- 9 that exceed \$5,000 for teaching a driver education and traffic
- 10 safety course that is conducted outside regular classroom hours;
- 11           (9) the benefit replacement pay a person earns as a
- 12 result of a payment made under Subchapter B or C, Chapter 661; and
- 13           (10) ~~[supplemental compensation received by an~~
- 14 ~~employee under Article 3.50-8, Insurance Code; and~~
- 15           ~~[(11)]~~ any compensation not described by ~~[in]~~
- 16 Subsection (b).

17           ARTICLE 4. CONFORMING AMENDMENTS--INSURANCE CODE

18           SECTION 4.01. (a) Section 1575.001, Insurance Code, is

19 amended to conform to Section 3.02, Chapter 1187, Acts of the 77th

20 Legislature, Regular Session, 2001, to read as follows:

21           Sec. 1575.001. SHORT TITLE. This chapter may be cited as the

22 Texas Public School Retired Employees Group Benefits Act.

23           (b) Section 3.02, Chapter 1187, Acts of the 77th

24 Legislature, Regular Session, 2001, is repealed.

25           SECTION 4.02. (a) Section 1575.002(4), Insurance Code, is

26 amended to conform to Section 3.03, Chapter 1187, Acts of the 77th

27 Legislature, Regular Session, 2001, to read as follows:

1           (4) "Fund" means the Texas public school retired  
2 employees group insurance fund.

3           (b) Section 1575.003(1), Insurance Code, is amended to  
4 conform to Section 3.03, Chapter 1187, Acts of the 77th  
5 Legislature, Regular Session, 2001, and to conform more closely to  
6 the source law from which the subdivision was derived, to read as  
7 follows:

8           (1) "Dependent" means:

9                   (A) the spouse of a retiree [~~or active employee~~];

10                   (B) an unmarried child of a retiree[~~, active~~  
11 ~~employee,~~] or deceased active member [~~employee~~] if the child is  
12 younger than 25 years of age, including:

13                           (i) an adopted child;

14                           (ii) a foster child, stepchild, or other  
15 child who is in a regular parent-child relationship; or

16                           (iii) a recognized natural child;

17                   (C) a retiree's [~~or active employee's~~] recognized  
18 natural child, adopted child, foster child, stepchild, or other  
19 child who[~~, without regard to the age of the child, if the child~~] is  
20 in a regular parent-child relationship and who[~~,~~] lives with or has  
21 his or her [~~the child's~~] care provided by the retiree[~~, active~~  
22 ~~employee,~~] or surviving spouse on a regular basis regardless of the  
23 child's age, if the child[~~, and~~] is mentally retarded or physically  
24 incapacitated to an extent that the child is dependent on the  
25 retiree[~~, active employee,~~] or surviving spouse for care or  
26 support, as determined by the trustee [~~board of trustees~~]; or

27                   (D) a deceased active member's [~~employee's~~]

1 recognized natural child, adopted child, foster child, stepchild,  
2 or other child who is in a regular parent-child relationship,  
3 without regard to the age of the child, if, while the active member  
4 [~~employee~~] was alive, the child:

5 (i) lived with or had the child's care  
6 provided by the active member [~~employee~~] on a regular basis; and

7 (ii) was mentally retarded or physically  
8 incapacitated to an extent that the child was dependent on the  
9 active member [~~employee~~] or surviving spouse for care or support,  
10 as determined by the trustee [~~board of trustees~~].

11 (c) Section 3.03, Chapter 1187, Acts of the 77th  
12 Legislature, Regular Session, 2001, is repealed.

13 SECTION 4.03. (a) Section 1575.005, Insurance Code, is  
14 amended to conform to Section 3.07, Chapter 1187, Acts of the 77th  
15 Legislature, Regular Session, 2001, and to conform more closely to  
16 the source law from which the section was derived, to read as  
17 follows:

18 Sec. 1575.005. ISSUANCE OF CERTIFICATE OF COVERAGE. At the  
19 time and in the circumstances specified by the trustee [~~board of~~  
20 ~~trustees~~], a carrier shall issue to each retiree, surviving spouse,  
21 or surviving dependent child[~~, or active employee of a~~  
22 ~~participating school district~~] covered under this chapter a  
23 certificate of coverage that:

24 (1) states the benefits to which the person is  
25 entitled;

26 (2) states to whom the benefits are payable;

27 (3) states to whom a claim must be submitted; and

1 (4) summarizes the provisions of the coverage  
2 principally affecting the person.

3 (b) Section 3.07, Chapter 1187, Acts of the 77th  
4 Legislature, Regular Session, 2001, is repealed.

5 SECTION 4.04. (a) Section 1575.008, Insurance Code, is  
6 repealed to conform to the repeal of Section 21, Article 3.50-4,  
7 Insurance Code, the source law from which that section was derived,  
8 by Section 3.20, Chapter 1187, Acts of the 77th Legislature,  
9 Regular Session, 2001.

10 (b) Subchapter R, Chapter 1575, Insurance Code, is repealed  
11 to conform to the repeal of Sections 7A and 20, Article 3.50-4,  
12 Insurance Code, the source law from which that subchapter was  
13 derived, by Section 3.20, Chapter 1187, Acts of the 77th  
14 Legislature, Regular Session, 2001.

15 SECTION 4.05. (a) Section 1575.052, Insurance Code, is  
16 amended to conform to Section 3.05, Chapter 1187, Acts of the 77th  
17 Legislature, Regular Session, 2001, and to conform more closely to  
18 the source law from which the section was derived, to read as  
19 follows:

20 Sec. 1575.052. AUTHORITY TO ADOPT RULES AND PROCEDURES;  
21 OTHER AUTHORITY. (a) The trustee [~~board of trustees~~] may adopt  
22 rules, plans, procedures, and orders reasonably necessary to  
23 implement this chapter, including:

24 (1) minimum benefit and financing standards for group  
25 coverage for retirees, dependents, surviving spouses, and  
26 surviving dependent children [~~, and active employees of~~  
27 ~~participating school districts~~];

1           (2) basic and optional group coverage for retirees,  
2 dependents, surviving spouses, and surviving dependent children[~~7~~  
3 ~~and active employees of participating school districts~~];

4           (3) procedures for contributions and deductions;

5           (4) periods for enrollment and selection of optional  
6 coverage and procedures for enrolling and exercising options under  
7 the group program;

8           (5) procedures for claims administration;

9           (6) procedures to administer the fund; and

10          (7) a timetable for:

11               (A) developing minimum benefit and financial  
12 standards for group coverage;

13               (B) establishing group plans; and

14               (C) taking bids and awarding contracts for group  
15 plans.

16          (b) The trustee [~~board of trustees~~] may:

17               (1) study the operation of all group coverage provided  
18 under this chapter; and

19               (2) contract for advice and counsel in implementing  
20 and administering the group program with an independent and  
21 experienced group insurance consultant or actuary [~~who does not~~  
22 ~~receive a commission from any insurance company~~].

23          (b) Section 3.05, Chapter 1187, Acts of the 77th  
24 Legislature, Regular Session, 2001, is repealed.

25          SECTION 4.06. (a) Subchapter B, Chapter 1575, Insurance  
26 Code, is amended to conform to Section 3A, Article 3.50-4,  
27 Insurance Code, as added by Section 3.01, Chapter 1187, Acts of the



1 77th Legislature, Regular Session, 2001, by adding Section 1575.056  
2 to read as follows:

3 Sec. 1575.056. TRANSFER OF RECORDS RELATING TO ACTIVE  
4 EMPLOYEES. The trustee shall, not later than the 30th day after the  
5 date on which the medical savings account program established under  
6 Chapter 1579 is implemented, transfer from the program any records  
7 relating to active employees participating in any group health  
8 coverage program under the jurisdiction of the trustee.

9 (b) Section 3A, Article 3.50-4, Insurance Code, as added by  
10 Section 3.01, Chapter 1187, Acts of the 77th Legislature, Regular  
11 Session, 2001, is repealed.

12 SECTION 4.07. (a) Section 1575.106, Insurance Code, is  
13 amended to conform to Section 3.06, Chapter 1187, Acts of the 77th  
14 Legislature, Regular Session, 2001, and to conform more closely to  
15 the source law from which the section was derived, to read as  
16 follows:

17 Sec. 1575.106. COMPETITIVE BIDDING REQUIREMENTS; RULE. (a)  
18 A contract to provide group benefits under this chapter may be  
19 awarded only through competitive bidding under rules adopted by the  
20 trustee [~~board of trustees~~].

21 (b) [~~The rules:~~  
22 [~~(1) must require that a prospective bidder provide,~~  
23 ~~for each area consisting of a county and all adjacent counties,~~  
24 ~~information on the number and types of qualified providers willing~~  
25 ~~to participate in the plan for which the bid is made, and~~

26 [~~(2) may provide criteria for determining whether a~~  
27 ~~provider is qualified.~~

1           ~~[(c) The board of trustees may not require a bidder to~~  
2 ~~demonstrate a minimum standard of provider participation.~~

3           ~~[(d)]~~ The trustee ~~[board of trustees]~~ shall submit for  
4 competitive bidding at least every six years each contract under  
5 this chapter.

6           (b) Section 1575.107(a), Insurance Code, is amended to  
7 conform to Section 3.06, Chapter 1187, Acts of the 77th  
8 Legislature, Regular Session, 2001, and to conform more closely to  
9 the source law from which the subsection was derived, to read as  
10 follows:

11           (a) In awarding a contract to provide group benefits under  
12 this chapter, the trustee ~~[board of trustees]~~ is not required to  
13 select the lowest bid and~~+~~

14           ~~[(1) shall consider information obtained under~~  
15 ~~Section 1575.106, and~~

16           ~~[(2)]~~ may consider any relevant criteria, including  
17 the bidder's:

18           (1) ~~[(A)]~~ ability to service contracts;

19           (2) ~~[(B)]~~ past experiences; and

20           (3) ~~[(C)]~~ financial stability.

21           (c) Section 3.06, Chapter 1187, Acts of the 77th  
22 Legislature, Regular Session, 2001, is repealed.

23           SECTION 4.08. (a) Section 1575.153, Insurance Code, is  
24 amended to conform to Section 3.10, Chapter 1187, Acts of the 77th  
25 Legislature, Regular Session, 2001, and to conform more closely to  
26 the source law from which the section was derived, to read as  
27 follows:

1           Sec. 1575.153. AUTOMATIC BASIC COVERAGE. A retiree [~~or~~  
2 ~~active employee of a participating school district~~] who applies for  
3 coverage during an enrollment period may not be denied coverage in a  
4 basic plan provided under this chapter unless the trustee [~~board of~~  
5 ~~trustees~~] finds under Subchapter K that the individual defrauded or  
6 attempted to defraud the group program.

7           (b) Section 3.10, Chapter 1187, Acts of the 77th  
8 Legislature, Regular Session, 2001, is repealed.

9           SECTION 4.09. (a) Section 1575.160, Insurance Code, is  
10 amended to conform to Section 3.09, Chapter 1187, Acts of the 77th  
11 Legislature, Regular Session, 2001, and to conform more closely to  
12 the source law from which the section was derived, to read as  
13 follows:

14           Sec. 1575.160. GROUP LIFE OR ACCIDENTAL DEATH AND  
15 DISMEMBERMENT INSURANCE: PAYMENT OF CLAIM. The amount of group  
16 life insurance or group accidental death and dismemberment  
17 insurance covering a retiree, [~~active employee,~~] dependent,  
18 surviving spouse, or surviving dependent child on the date of death  
19 shall be paid, on the establishment of a valid claim, only to:

20           (1) the beneficiary designated by the person in a  
21 signed and witnessed document received before death in the office  
22 of the trustee system; or

23           (2) a person in the order prescribed by Section  
24 824.103(b), Government Code, if a beneficiary is not properly  
25 designated or a beneficiary does not exist.

26           (b) Section 3.09, Chapter 1187, Acts of the 77th  
27 Legislature, Regular Session, 2001, is repealed.

1 SECTION 4.10. (a) Section 1575.301(a), Insurance Code, is  
2 amended to conform to Section 3.11, Chapter 1187, Acts of the 77th  
3 Legislature, Regular Session, 2001, to read as follows:

4 (a) The Texas public school retired employees group  
5 insurance fund is a trust fund with the comptroller, who is  
6 custodian of the fund.

7 (b) The heading to Subchapter G, Chapter 1575, Insurance  
8 Code, is amended to conform to Section 3.11, Chapter 1187, Acts of  
9 the 77th Legislature, Regular Session, 2001, to read as follows:

10 SUBCHAPTER G. TEXAS PUBLIC SCHOOL RETIRED EMPLOYEES  
11 GROUP INSURANCE FUND

12 (c) Section 3.11, Chapter 1187, Acts of the 77th  
13 Legislature, Regular Session, 2001, is repealed.

14 SECTION 4.11. (a) Section 1575.456(a), Insurance Code, is  
15 amended to conform to Section 3.13, Chapter 1187, Acts of the 77th  
16 Legislature, Regular Session, 2001, and to conform more closely to  
17 the source law from which the subsection was derived, and amended to  
18 read as follows:

19 (a) Section 825.507, Government Code, concerning  
20 confidentiality and disclosure of records applies to [~~information~~  
21 ~~in~~] records in the custody of the system or in the custody of an  
22 account or other administrator, carrier, agent, attorney,  
23 consultant, or governmental body acting in cooperation with or on  
24 behalf of the system relating to a retiree, active employee,  
25 annuitant, or beneficiary under the group program.

26 (b) Section 3.13, Chapter 1187, Acts of the 77th  
27 Legislature, Regular Session, 2001, is repealed.

1 SECTION 4.12. (a) Section 1575.501, Insurance Code, is  
2 amended to conform to Section 3.12, Chapter 1187, Acts of the 77th  
3 Legislature, Regular Session, 2001, and to conform more closely to  
4 the source law from which the section was derived, to read as  
5 follows:

6 Sec. 1575.501. EXPULSION FOR FRAUD. After notice and  
7 hearing as provided by this subchapter, the trustee [~~board of~~  
8 ~~trustees~~] may expel from participation in the group program a  
9 retiree, [~~active employee,~~] dependent, surviving spouse, or  
10 surviving dependent child who:

11 (1) submits a fraudulent claim or application for  
12 coverage under the group program; or

13 (2) defrauds or attempts to defraud a health benefit  
14 plan offered under the group program.

15 (b) Section 3.12, Chapter 1187, Acts of the 77th  
16 Legislature, Regular Session, 2001, is repealed.

17 SECTION 4.13. Sections 3.04, 3.08, 3.14, and 3.15, Chapter  
18 1187, Acts of the 77th Legislature, Regular Session, 2001, are  
19 repealed.

20 SECTION 4.14. The following laws are repealed:

21 (1) Articles 3.50-7, 3.50-8, and 3.50-9, Insurance  
22 Code;

23 (2) Section 3, Article 3.51, Insurance Code; and

24 (3) Article 26.036(c), Insurance Code.

25 ARTICLE 5. CONFORMING AMENDMENT--HEALTH AND SAFETY CODE

26 SECTION 5.01. Section 62.1015(a), Health and Safety Code,  
27 is amended to read as follows:

1           (a) In this section, "charter school," "employee," and  
2 "regional education service center" have the meanings assigned by  
3 Subchapter A, Chapter 1579 [~~Section 2, Article 3.50-7~~], Insurance  
4 Code.

5                           ARTICLE 6. CONFORMING AMENDMENT--TAX CODE

6           SECTION 6.01. Sections 26.08(k), (l), and (m), Tax Code,  
7 are repealed.

8                           ARTICLE 7. TRANSITION; EFFECTIVE DATE

9           SECTION 7.01. The Teacher Retirement System of Texas shall  
10 develop the medical savings account program to be implemented under  
11 Chapter 1579, Insurance Code, as added by this Act, beginning  
12 September 1, 2003, and shall develop enrollment requirements for  
13 the program during the 2003-2004 school year, with coverage  
14 beginning September 1, 2004.

15           SECTION 7.02. The Teacher Retirement System of Texas shall  
16 continue to operate the uniform group health coverage program  
17 established under Article 3.50-7, Insurance Code, as added by  
18 Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001,  
19 until September 1, 2004.

20           SECTION 7.03. Not later than July 31, 2003, the Teacher  
21 Retirement System of Texas shall provide written information to  
22 school districts eligible to participate in the medical savings  
23 account program under Chapter 1579, Insurance Code, as added by  
24 this Act, that provides a general description of the requirements  
25 for such a program as adopted under Chapter 1579, Insurance Code, as  
26 added by this Act.

27           SECTION 7.04. During the initial implementation of Chapter

1 1579, Insurance Code, as added by this Act, and notwithstanding any  
2 bidding requirements or other requirements set forth in Article  
3 3.50-4, Insurance Code, or Article 3.50-7, Insurance Code, as added  
4 by Chapter 1187, Acts of the 77th Legislature, Regular Session,  
5 2001, the Teacher Retirement System of Texas may amend any  
6 agreement in effect on September 1, 2003, that it has entered into  
7 under Article 3.50-4, Insurance Code, or Article 3.50-7, Insurance  
8 Code, as added by Chapter 1187, Acts of the 77th Legislature,  
9 Regular Session, 2001, as necessary to comply with Chapter 1579,  
10 Insurance Code, as added by this Act.

11 SECTION 7.05. To the extent of any conflict, this Act  
12 prevails over another Act of the 78th Legislature, Regular Session,  
13 2003, relating to nonsubstantive additions to and corrections in  
14 enacted codes.

15 SECTION 7.06. (a) Except as provided by Subsection (b) of  
16 this section, this Act takes effect September 1, 2003.

17 (b) Articles 2, 3, and 6 of this Act take effect September 1,  
18 2004, and apply beginning with the 2004-2005 school year.