

AN ACT

relating to the continuation and functions of the Texas Workforce Commission.

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

ARTICLE 1. CONTINUATION OF COMMISSION; GUIDELINES REGARDING FUNCTIONS OF COMMISSION AND STAFF

SECTION 1.01. Subchapter A, Chapter 301, Labor Code, is amended by adding Section 301.0015 and amending Section 301.008 to read as follows:

Sec. 301.0015. GUIDELINES REGARDING FUNCTIONS OF COMMISSION AND STAFF. (a) In administering its functions under this title or another law, the commission shall limit its activities to:

(1) setting commission policies, including policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director and commission staff;

(2) giving general direction to the executive director regarding the implementation of the commission's policies, and holding the executive director accountable for implementing the policies;

(3) approving the commission's budget recommendation to the legislature;

(4) reviewing under Subchapter D, Chapter 212, the

1 decision of an appeal tribunal regarding unemployment  
2 compensation;

3 (5) adopting rules necessary to administer the  
4 commission's policies, including rules necessary for the  
5 administration of this title and rules governing required reports,  
6 procedures, and orders;

7 (6) responding to questions and comments that are  
8 directed to the commission by the executive director and that  
9 relate to setting or clarifying commission policies or relate to  
10 other matters of general interest to the commission; and

11 (7) requesting information from commission staff.

12 (b) Except as provided by Subsection (c), the commission may  
13 conduct the activities listed in Subsection (a) only when acting as  
14 a governmental body.

15 (c) The commission, acting as a governmental body, or an  
16 individual member of the commission may conduct the activities  
17 listed in Subsections (a)(6) and (7).

18 (d) In administering its functions under this title or  
19 another law, the commission, acting as a governmental body, or an  
20 individual member of the commission may not:

21 (1) direct the day-to-day operations of the executive  
22 director or other commission staff; or

23 (2) establish the details for the implementation of  
24 commission policies or direct the executive director or other  
25 commission staff about those details.

26 Sec. 301.008. APPLICATION OF SUNSET ACT. The Texas  
27 Workforce Commission is subject to Chapter 325, Government Code

1 (Texas Sunset Act). Unless continued in existence as provided by  
2 that chapter, the commission is abolished September 1, 2009 [2003].

3 ARTICLE 2. MEMBERSHIP ON GOVERNING BODY OF COMMISSION

4 SECTION 2.01. Subsection (a), Section 301.002, Labor Code,  
5 is amended to read as follows:

6 (a) The commission is composed of three members:

7 (1) one member who is [~~of whom shall be~~] a  
8 representative of labor;

9 (2) one member who is [~~of whom shall be~~] a  
10 representative of employers; and

11 (3) one member who is a representative of [~~whom shall~~  
12 ~~represent~~] the public.

13 SECTION 2.02. Section 301.003, Labor Code, is amended to  
14 read as follows:

15 Sec. 301.003. MEMBER RESTRICTIONS. (a) In this section,  
16 "Texas trade association" means a cooperative and voluntarily  
17 joined statewide association of business or professional  
18 competitors in this state designed to assist its members and its  
19 industry or profession in dealing with mutual business or  
20 professional problems and in promoting their common interest.

21 (b) A member of the commission may not engage in any other  
22 business, vocation, or employment during the member's term on the  
23 commission.

24 (c) A person may not be a member of the commission or an  
25 employee of the commission employed in a "bona fide executive,  
26 administrative, or professional capacity," as that phrase is used  
27 for purposes of establishing an exemption to the overtime

1 provisions of the federal Fair Labor Standards Act of 1938 (29  
2 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

3 (1) the person is an officer, employee, or paid  
4 consultant of a Texas trade association in the field of labor,  
5 business, workforce development, child care, or career schools and  
6 colleges; or

7 (2) the person's spouse is an officer, manager, or paid  
8 consultant of a Texas trade association in the field of labor,  
9 business, workforce development, child care, or career schools and  
10 colleges.

11 (d) A person may not serve as a member of the commission if  
12 the person or the person's spouse:

13 (1) is employed by or participates in the management  
14 of a career school or college or a business entity or other  
15 organization receiving money from the commission;

16 (2) owns or controls, directly or indirectly, more  
17 than a 10 percent interest in a career school or college or a  
18 business entity or other organization receiving money from the  
19 commission; or

20 (3) is registered, certified, licensed, permitted, or  
21 otherwise authorized by the commission

22 ~~[(b) The public member of the commission may not be an~~  
23 ~~officer, employee, or paid consultant of a labor-oriented or~~  
24 ~~employer-oriented trade association while the member serves on the~~  
25 ~~commission].~~

26 SECTION 2.03. Section 301.004, Labor Code, is amended to  
27 read as follows:

1           Sec. 301.004. EFFECT OF LOBBYING ACTIVITY. A person [~~who is~~  
2 ~~required to register as a lobbyist under Chapter 305, Government~~  
3 ~~Code,~~] may not be [~~serve as~~] a member of the commission or act as the  
4 general counsel to the commission if the person is required to  
5 register as a lobbyist under Chapter 305, Government Code, because  
6 of the person's activities for compensation on behalf of a  
7 profession related to the operation of the commission [~~while so~~  
8 ~~registered~~]. If the person ceases to engage in lobbying activity  
9 and files a notice of termination as prescribed by Section 305.008,  
10 Government Code, the person may serve as a member of the commission  
11 or act as the general counsel to the commission.

12           SECTION 2.04. Subsection (a), Section 301.006, Labor Code,  
13 as renumbered from Section 202.005, Labor Code, by Section 11.02,  
14 Chapter 655, Acts of the 74th Legislature, Regular Session, 1995,  
15 is amended to read as follows:

16           (a) The governor shall designate the chair of the commission  
17 from among the members of the commission. The chair shall serve in  
18 that capacity at the pleasure of the governor for a two-year term.  
19 The governor may redesignate the same member to serve consecutive  
20 terms.

21           SECTION 2.05. Section 301.007, Labor Code, is amended by  
22 amending Subsection (a) and adding Subsection (c) to read as  
23 follows:

24           (a) It is a ground for removal from the commission [~~by~~  
25 ~~impeachment~~] that a member:

26           (1) during any 60-day period, is absent from each  
27 commission meeting for which the member received at least 48 hours'

1 notice;

2 (2) does not have at the time of taking office the  
3 qualifications required by Section 301.002 [~~is unable to discharge~~  
4 ~~the member's duties for the remainder of the term for which the~~  
5 ~~member was appointed because of illness or other disability~~]; [~~or~~]

6 (3) does not maintain during service as a member of the  
7 commission the qualifications required by Section 301.002;

8 (4) is ineligible for membership on the commission  
9 under Section 301.003 or 301.004;

10 (5) cannot, because of illness or disability,  
11 discharge the member's duties for a substantial part of the member's  
12 term; or

13 (6) is absent from more than half of the regularly  
14 scheduled meetings of the members that the member is eligible to  
15 attend during a calendar year without an excuse approved by a  
16 majority vote of the members [~~violates a prohibition established by~~  
17 ~~Section 301.003 or 301.004~~].

18 (c) If the executive director has knowledge that a potential  
19 ground for removal exists, the executive director shall notify the  
20 chair of the potential ground. The chair shall then notify the  
21 governor and the attorney general that a potential ground for  
22 removal exists. If the potential ground for removal involves the  
23 chair, the executive director shall notify the next highest ranking  
24 member, who shall then notify the governor and the attorney general  
25 that a potential ground for removal exists.

26 SECTION 2.06. Subchapter A, Chapter 301, Labor Code, is  
27 amended by adding Section 301.0075 to read as follows:

1       Sec. 301.0075. MEMBER TRAINING. (a) A person who is  
2 appointed to and qualifies for office as a member of the commission  
3 may not vote, deliberate, or be counted as a member in attendance at  
4 a meeting of the members until the person completes a training  
5 program that complies with this section.

6       (b) The training program must provide the person with  
7 information regarding:

8               (1) the legislation that created the commission;

9               (2) the programs operated by the commission;

10              (3) the role and functions of the commission;

11              (4) the rules of the commission, with an emphasis on  
12 the rules that relate to disciplinary and investigatory authority;

13              (5) the current budget for the commission;

14              (6) the results of the most recent formal audit of the  
15 commission;

16              (7) the requirements of:

17                      (A) the open meetings law, Chapter 551,  
18 Government Code;

19                      (B) the public information law, Chapter 552,  
20 Government Code;

21                      (C) the administrative procedure law, Chapter  
22 2001, Government Code; and

23                      (D) other laws relating to public officials,  
24 including conflict-of-interest laws;

25              (8) civil rights laws relevant to employment programs  
26 offered by the commission; and

27              (9) any applicable ethics policies adopted by the

1 commission or the Texas Ethics Commission.

2 (c) A person appointed as a member of the commission is  
3 entitled to reimbursement, as provided by the General  
4 Appropriations Act, for the travel expenses incurred in attending  
5 the training program regardless of whether the attendance at the  
6 program occurs before or after the person qualifies for office.

7 SECTION 2.07. The changes in law made by this article in the  
8 prohibitions or qualifications applying to members of the Texas  
9 Workforce Commission do not affect the entitlement of a member  
10 serving immediately before September 1, 2003, to continue to serve  
11 and function as a member for the remainder of the member's term.  
12 Those changes in law apply only to a member appointed on or after  
13 September 1, 2003.

14 ARTICLE 3. POWERS AND DUTIES

15 SECTION 3.01. Section 301.023, Labor Code, is amended to  
16 read as follows:

17 Sec. 301.023. COMPLAINTS AGAINST COMMISSION. (a) The  
18 commission shall maintain a file on each written complaint filed  
19 with the commission. The file must include:

20 (1) the name of the person who filed the complaint;

21 (2) the date the complaint is received by the  
22 commission;

23 (3) the subject matter of the complaint;

24 (4) the name of each person contacted in relation to  
25 the complaint;

26 (5) a summary of the results of the review or  
27 investigation of the complaint; and



1           (6) an explanation of the reason the file was closed,  
2 if the commission closed the file without taking action other than  
3 to investigate the complaint [~~keep an information file about each~~  
4 ~~complaint filed with the commission that relates to a service~~  
5 ~~provided by the commission~~].

6           (b) The commission shall provide to the person filing the  
7 complaint and to each person who is a subject of the complaint a  
8 copy of the commission's policies and procedures relating to  
9 complaint investigation and resolution.

10           (c) The commission, at least quarterly until final  
11 disposition of the complaint, shall notify the person filing the  
12 complaint and each person who is a subject of the complaint of the  
13 status of the investigation unless the notice would jeopardize an  
14 undercover investigation [~~If a written complaint is filed with the~~  
15 ~~commission that relates to a service provided by the commission,~~  
16 ~~the commission, at least quarterly and until final disposition of~~  
17 ~~the complaint, shall notify the parties to the complaint of the~~  
18 ~~status of the complaint~~].

19           SECTION 3.02. Section 301.043, Labor Code, is amended to  
20 read as follows:

21           Sec. 301.043. STANDARDS OF CONDUCT INFORMATION. The  
22 executive director or the executive director's designee shall  
23 provide to the members of the commission and employees of the  
24 commission, as often as necessary, information regarding the  
25 requirements for office or employment under this chapter, including  
26 information regarding a person's [~~their~~] responsibilities under  
27 applicable laws relating to standards of conduct for state officers

1 or employees.

2 SECTION 3.03. Section 301.045, Labor Code, is amended by  
3 amending Subsections (a) and (b) and adding Subsection (a-1) to  
4 read as follows:

5 (a) The executive director or the executive director's  
6 designee shall prepare and maintain a written policy statement that  
7 implements [~~to ensure implementation of~~] a program of equal  
8 employment opportunity to ensure that [~~under which~~] all personnel  
9 decisions [~~transactions~~] are made without regard to race, color,  
10 disability, sex, religion, age, or national origin.

11 (a-1) The policy statement must include:

12 (1) personnel policies, including policies relating  
13 to recruitment, evaluation, selection, [~~appointment,~~] training,  
14 and promotion of personnel, that show the intent of the commission  
15 to avoid the unlawful employment practices described by [~~are in~~  
16 ~~compliance with~~] Chapter 21; and

17 (2) an [~~a comprehensive~~] analysis of the extent to  
18 which the composition of the commission's personnel is in  
19 accordance with state and [~~workforce that meets~~] federal law and a  
20 description of [~~and state guidelines,~~

21 [~~(3) procedures by which a determination can be made~~  
22 ~~of significant underuse in the commission's workforce of all~~  
23 ~~persons for whom federal or state guidelines encourage a more~~  
24 ~~equitable balance, and~~

25 [~~(4)~~] reasonable methods to achieve compliance with  
26 state and federal law [~~to appropriately address those areas of~~  
27 ~~underuse~~].

1 (b) The [A] policy statement [~~under Subsection (a)~~] must:

2 (1) [~~cover an annual period,~~] be updated annually;

3 (2) [~~r~~] be reviewed by the Commission on Human Rights  
4 for compliance with Subsection (a-1)(1); [~~(a)~~] and

5 (3) be filed with the governor's office.

6 SECTION 3.04. Subchapter C, Chapter 301, Labor Code, is  
7 amended by adding Sections 301.046 and 301.047 to read as follows:

8 Sec. 301.046. STATE EMPLOYEE INCENTIVE PROGRAM INFORMATION  
9 AND TRAINING. The executive director or the executive director's  
10 designee shall provide to commission employees information and  
11 training on the benefits and methods of participation in the state  
12 employee incentive program.

13 Sec. 301.047. COMMISSION EMPLOYEES ACCOUNTABLE TO  
14 EXECUTIVE DIRECTOR. In performing functions required or authorized  
15 by law, employees of the commission are directly accountable to the  
16 executive director.

17 SECTION 3.05. The heading to Section 301.061, Labor Code,  
18 is amended to read as follows:

19 Sec. 301.061. GENERAL POWERS AND DUTIES OF COMMISSION AND  
20 EXECUTIVE DIRECTOR.

21 SECTION 3.06. Subsections (a) and (b), Section 301.061,  
22 Labor Code, are amended to read as follows:

23 (a) The commission shall provide the public with a  
24 reasonable opportunity to appear before the commission and speak on  
25 any issue under the jurisdiction of the commission [~~adopt rules as~~  
26 ~~necessary for the administration of this title~~].

27 (b) The executive director shall:

1           (1) administer this title as provided by rules adopted  
2 by the commission;

3           (2) oversee and manage:

4                 (A) the daily operation and administrative  
5 affairs of the commission; and

6                 (B) the implementation of commission policies  
7 set by the commission;

8           (3) coordinate the activities of the commission staff  
9 and hold commission staff accountable for the staff's performance  
10 of its duties;

11           (4) determine the organization of the agency and  
12 methods of procedure of the agency in accordance with this title;  
13 and

14           (5) [~~3~~] make expenditures necessary for the  
15 operation of this title.

16           SECTION 3.07. Subchapter D, Chapter 301, Labor Code, is  
17 amended by adding Sections 301.0681, 301.0682, and 301.069 to read  
18 as follows:

19           Sec. 301.0681. POLICY ON TECHNOLOGICAL SOLUTIONS. The  
20 commission shall develop and implement a policy requiring the  
21 executive director and commission employees to research and propose  
22 appropriate technological solutions to improve the commission's  
23 ability to perform its functions. The technological solutions  
24 must:

25                 (1) ensure that:

26                         (A) the public is able to easily find information  
27 about the commission on the Internet; and

1           (B) persons who want to use the commission's  
2 services are able to:

3                   (i) interact with the commission through  
4 the Internet; and

5                   (ii) access any service that can be  
6 provided effectively through the Internet;

7                   (2) be cost-effective; and

8                   (3) be developed through the commission's planning  
9 processes.

10           Sec. 301.0682. NEGOTIATED RULEMAKING AND ALTERNATIVE  
11 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and  
12 implement a policy to encourage the use of:

13                   (1) negotiated rulemaking procedures under Chapter  
14 2008, Government Code, for the adoption of the commission's rules;  
15 and

16                   (2) appropriate alternative dispute resolution  
17 procedures under Chapter 2009, Government Code, to assist in the  
18 resolution of internal and external disputes under the commission's  
19 jurisdiction, other than proceedings conducted by the commission  
20 under Title 2 and this title of this code that are not subject to  
21 Subchapters C-H, Chapter 2001, Government Code.

22                   (b) The commission's procedures relating to alternative  
23 dispute resolution must conform, to the extent possible, to any  
24 model guidelines issued by the State Office of Administrative  
25 Hearings for the use of alternative dispute resolution by state  
26 agencies.

27                   (c) The commission shall designate a trained person to:

1           (1) coordinate the implementation of the policy  
2 developed under Subsection (a);

3           (2) serve as a resource for any training needed to  
4 implement the procedures for negotiated rulemaking or alternative  
5 dispute resolution; and

6           (3) collect data concerning the effectiveness of those  
7 procedures, as implemented by the commission.

8           Sec. 301.069. PARTNERSHIP WITH BUSINESS COMMUNITY. To meet  
9 the needs of businesses in this state and to equip workers and job  
10 seekers with the skills required to compete for jobs in this state,  
11 the commission shall:

12           (1) partner with the business community to:

13                   (A) identify:

14                           (i) skills required by the business  
15 community;

16                           (ii) key industry sectors in the business  
17 community that are likely to benefit from skill development  
18 services and programs offered by the commission; and

19                           (iii) employment opportunities offered by  
20 the business community; and

21                   (B) develop services and programs that are  
22 designed to equip workers and job seekers with the skills required  
23 by the business community; and

24           (2) support business and community economic  
25 development activities of local workforce development boards and  
26 the state.

27           SECTION 3.08. The changes in law made by this article to

1 Section 301.023, Labor Code, apply only to a written complaint  
2 filed with the Texas Workforce Commission on or after the effective  
3 date of this Act, regardless of whether the conduct or act that is  
4 the subject of the complaint occurred or was committed before, on,  
5 or after the effective date of this Act.

6 SECTION 3.09. The Texas Workforce Commission shall  
7 implement Sections 301.046, 301.0681, 301.0682, and 301.069, as  
8 added by this article, not later than February 1, 2004.

9 ARTICLE 3A. TAX REFUNDS FOR WAGES PAID TO CERTAIN EMPLOYEES

10 RECEIVING FINANCIAL ASSISTANCE

11 SECTION 3A.01. Subsection (b), Section 1, Article 21.52K,  
12 Insurance Code, is amended to read as follows:

13 (b) The term "group health benefit plan" includes:

14 (1) a small employer health benefit plan written under  
15 Chapter 26 of this code; ~~and~~

16 (2) a plan provided under Chapter 1551 or 1601 of this  
17 code ~~[the Texas Employees Uniform Group Insurance Benefits Act~~  
18 ~~(Article 3.50-2, Vernon's Texas Insurance Code), the Texas State~~  
19 ~~College and University Employees Uniform Insurance Benefits Act~~  
20 ~~(Article 3.50-3, Vernon's Texas Insurance Code)],~~ the Texas Public  
21 School Employees Group Insurance Act (Article 3.50-4, Vernon's  
22 Texas Insurance Code), or a successor of any of those plans; and

23 (3) a medical savings account plan or other health  
24 reimbursement arrangement authorized by law.

25 SECTION 3A.02. Subchapter H, Chapter 301, Labor Code, is  
26 amended by amending Sections 301.104 and 301.105 and adding Section  
27 301.108 to read as follows:

1           Sec. 301.104. ELIGIBILITY. A person is eligible for the  
2 refund for wages paid or incurred by the person, during each  
3 calendar year for which the refund is claimed, only if:

4           (1) the wages paid or incurred by the person are for  
5 services of an employee who is:

6                   (A) a resident of this state; and

7                   (B) a recipient of:

8                           (i) financial assistance and services in  
9 accordance with Chapter 31, Human Resources Code; or

10                           (ii) medical assistance in accordance with  
11 Chapter 32, Human Resources Code;

12           (2) the person satisfies the certification  
13 requirements under Section 301.105; and

14           (3) the person, under an arrangement under Section  
15 32.0422, Human Resources Code, provides and pays for the benefit of  
16 the employee a part of the cost of coverage under:

17                   (A) a health plan provided by a health  
18 maintenance organization established under the Texas Health  
19 Maintenance Organization Act (Chapter 20A, Vernon's Texas  
20 Insurance Code);

21                   (B) a health benefit plan approved by the  
22 commissioner of insurance;

23                   (C) a self-funded or self-insured employee  
24 welfare benefit plan that provides health benefits and is  
25 established in accordance with the Employee Retirement Income  
26 Security Act of 1974 (29 U.S.C. 1001 et seq.); or

27                   (D) a medical savings account or other health



1 reimbursement arrangement authorized by law [~~under the Health~~  
2 ~~Insurance Portability and Accountability Act of 1996 (26 U.S.C.~~  
3 ~~Section 220)~~].

4       Sec. 301.105. CERTIFICATION. A person is not eligible for  
5 the refund for wages paid or incurred by the person unless the  
6 person has received a written certification from the commission  
7 that the employee is a recipient of medical assistance or financial  
8 assistance and services on or before the day the employee begins  
9 employment with the person.

10       Sec. 301.108. LIMITATION ON CONVEYANCE, ASSIGNMENT, OR  
11 TRANSFER OF REFUND. A person may convey, assign, or transfer a  
12 refund under this subchapter to another person only if:

13             (1) the employing unit is sold, conveyed, assigned, or  
14 transferred, in the same transaction or in a related transaction,  
15 to the person to whom the refund is conveyed, assigned, or  
16 transferred; or

17             (2) the person to whom the refund is conveyed,  
18 assigned, or transferred:

19                 (A) is subject to a tax administered by the  
20 comptroller and deposited to the credit of the general revenue fund  
21 without dedication; and

22                 (B) directly or indirectly owns, controls, or  
23 otherwise directs, in whole or in part, an interest in the person  
24 from whom the refund is conveyed, assigned, or transferred.

25       SECTION 3A.03. The changes in law made by this article to  
26 Sections 301.104 and 301.105, Labor Code, apply only to a claim for  
27 a refund under Section 301.104 for wages that were paid or incurred

1 on or after the effective date of this Act.

2 ARTICLE 4. WORKFORCE DEVELOPMENT

3 SECTION 4.01. Section 2308.264, Government Code, is amended  
4 by amending Subsections (a), (b), and (d) and adding Subsections  
5 (e) and (f) to read as follows:

6 (a) Except as otherwise provided by this section, a [~~A~~]  
7 board may not directly provide workforce training or one-stop  
8 workforce [~~and~~] services.

9 (b) A board may request from the Texas Workforce Commission  
10 [~~council~~] a waiver of Subsection (a).

11 (d) If a board receives a waiver to provide workforce  
12 training and one-stop workforce services, the evaluation of results  
13 and outcomes is provided by the Texas Workforce Commission  
14 [~~council~~].

15 (e) In consultation with local workforce development  
16 boards, the Texas Workforce Commission by rule shall establish  
17 contracting guidelines for boards under this section, including  
18 guidelines designed to:

19 (1) ensure that each independent contractor that  
20 contracts to provide one-stop workforce services under this section  
21 has sufficient insurance, bonding, and liability coverage for the  
22 overall financial security of one-stop workforce services funds and  
23 operations;

24 (2) prevent potential conflicts of interest between  
25 boards and entities that contract with boards under this section;  
26 and

27 (3) ensure that if a board acts as a fiscal agent for

1 an entity that contracts with the board to provide one-stop  
2 workforce services, the board does not deliver the services or  
3 determine eligibility for the services.

4 (f) The Texas Workforce Commission shall ensure that each  
5 board complies with this section and may approve a local plan under  
6 Section 2308.304 only if the plan complies with this section.

7 SECTION 4.02. Subsections (b) and (c), Section 2308.267,  
8 Government Code, are amended to read as follows:

9 (b) A board's staff shall be separate from and independent  
10 of any organization providing workforce education or workforce  
11 training and services in the workforce development area. A board's  
12 staff may not direct or control the staffing of any entity providing  
13 one-stop workforce services.

14 (c) The requirement for separate staffing does not preclude  
15 a board from designating a qualified organization to provide staff  
16 services to the board if the board:

17 (1) arranges for independent evaluation of any other  
18 workforce services provided by the staffing organization; and

19 (2) requests and obtains from the Texas Workforce  
20 Commission [~~council~~] a waiver of the separate staffing requirement  
21 and of the requirement under Section 2308.264(a).

22 SECTION 4.03. Subchapter G, Chapter 2308, Government Code,  
23 is amended by adding Section 2308.319 to read as follows:

24 Sec. 2308.319. COLLABORATIVE READING INITIATIVES. The  
25 commission shall encourage each local workforce development board  
26 to raise an amount of local funds in excess of the amount required  
27 to meet performance measures to be used to support collaborative

1 reading initiatives.

2 SECTION 4.04. Subchapter A, Chapter 31, Human Resources  
3 Code, is amended by adding Section 31.0121 to read as follows:

4 Sec. 31.0121. SKILLS ASSESSMENT AND DEVELOPMENT FOR CERTAIN  
5 RECIPIENTS. (a) The Texas Workforce Commission shall ensure that  
6 each local workforce development board assesses the skills  
7 development needs of recipients referred to the CHOICES program  
8 administered by the board.

9 (b) If, after assessing a recipient's skills development  
10 needs, a local workforce development board determines that the  
11 recipient requires job-specific training for placement in a job  
12 paying wages that equal or exceed the self-sufficiency wage  
13 developed for the board under the Workforce Investment Act of 1998  
14 (29 U.S.C. Section 2801 et seq.), as amended, the board shall:

15 (1) to the extent allowed by federal law, place the  
16 recipient in training activities designed to improve employment and  
17 wage outcomes and job retention rates; and

18 (2) ensure that the training activities under  
19 Subdivision (1) target occupations that are in demand by local  
20 employers.

21 (c) A local workforce development board may use a single  
22 list of targeted occupations that is developed for other training  
23 programs for purposes of meeting the requirements of Subsection  
24 (b)(2).

25 (d) A recipient participating in the CHOICES program who is  
26 placed in training activities under Subsection (b) may concurrently  
27 engage in those training activities and in work activities.

1       (e) To meet the requirements of this section, the Texas  
2 Workforce Commission shall use CHOICES program funds and, to the  
3 extent possible, existing funds from other training programs for  
4 which a recipient participating in the CHOICES program may qualify,  
5 including funds from:

6           (1) other training programs provided under the  
7 Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.),  
8 as amended, or their successor programs;

9           (2) the skills development fund created under Chapter  
10 303, Labor Code; or

11           (3) the self-sufficiency fund created under Section  
12 309.002, Labor Code.

13       SECTION 4.05. Subsection (a), Section 302.006, Labor Code,  
14 is amended to read as follows:

15       (a) The commission may [~~shall~~] develop and administer a  
16 program under which the commission awards scholarships in the  
17 amount of \$1,000 each for professional child-care training to  
18 eligible recipients.

19       SECTION 4.06. Subchapter A, Chapter 302, Labor Code, is  
20 amended by adding Sections 302.0042, 302.0043, 302.0044, 302.0046,  
21 and 302.013 to read as follows:

22       Sec. 302.0042. EVALUATION OF ALLOCATION FORMULAS FOR CHILD  
23 CARE DEVELOPMENT FUNDS. (a) The commission shall annually  
24 evaluate the formulas used by the commission to distribute federal  
25 child care development funds to local workforce development boards  
26 in order to ensure that the formulas address the child care needs of  
27 each local workforce development board.

1           (b) The commission's evaluation must assess:

2                   (1) the use of current federal child care funds by each  
3 local workforce development board;

4                   (2) the ability of each local workforce development  
5 board to meet child care performance measures;

6                   (3) the average cost of child care in each local  
7 workforce development area;

8                   (4) the poverty rate of each local workforce  
9 development area compared to the state's poverty rate;

10                   (5) the number of children on waiting lists for child  
11 care in each local workforce development area; and

12                   (6) the number of vacant slots available for child  
13 care placement in each local workforce development area.

14           Sec. 302.0043. EVALUATION OF EFFECTIVENESS OF SUBSIDIZED  
15 CHILD CARE PROGRAM. (a) To evaluate the effectiveness of the  
16 commission's child care program in helping parents who receive  
17 subsidized child care to maintain employment, the commission shall  
18 compile, regarding each parent receiving subsidized child care from  
19 the commission's child care program, the following information  
20 regarding the wage and employment status of the parent:

21                   (1) if the parent receives both financial assistance  
22 under Chapter 31, Human Resources Code, and subsidized child care,  
23 whether the parent:

24                           (A) finds employment; and

25                           (B) maintains the parent's employment after one  
26 year;

27                   (2) if the parent receives only subsidized child care,

1 whether the parent:

2 (A) maintains the parent's employment; and

3 (B) experiences a change in the parent's earnings  
4 after one year of employment; and

5 (3) if the parent leaves the child care program:

6 (A) the parent's reason for leaving the program;

7 and

8 (B) whether the parent returns to financial  
9 assistance under Chapter 31, Human Resources Code, or becomes a  
10 recipient of financial assistance under that chapter for the first  
11 time.

12 (b) The commission may use the wage and employment records  
13 of the parents to determine the employment outcome of the parents.

14 (c) The commission shall also measure and evaluate the  
15 effectiveness of the commission's child care program in:

16 (1) improving the training of child care  
17 professionals; and

18 (2) facilitating collaboration with Head Start, the  
19 Texas Education Agency, the Department of Protective and Regulatory  
20 Services, and the Health and Human Services Commission.

21 (d) The commission shall periodically analyze the  
22 information collected by the commission under this section and  
23 shall compile its findings regarding the effectiveness of the  
24 commission's child care program.

25 (e) The commission shall make the information collected by  
26 the commission and the commission's findings available to local  
27 workforce development boards.

1       (f) Not later than January 15 of each odd-numbered year, the  
2 commission shall report to the legislature regarding the  
3 commission's findings regarding the effectiveness of the  
4 commission's child care program.

5       Sec. 302.0044. WAGE TRACKING OF TANF CHOICES PROGRAM  
6 RECIPIENTS. (a) The commission, in consultation with local  
7 workforce development boards, shall compile the following  
8 information with regard to each recipient of employment services  
9 under the Temporary Assistance for Needy Families (TANF) CHOICES  
10 program:

11           (1) whether the recipient is placed in employment  
12 paying wages equal to or exceeding 200 percent of the federal  
13 poverty level for a family that is the size of the recipient's  
14 family; and

15           (2) if the recipient is placed in employment earning  
16 wages equal to or exceeding the amount described by Subdivision  
17 (1), whether the recipient has earned that amount before the first  
18 anniversary of the date of the recipient's initial date of  
19 employment.

20       (b) Not later than December 15 of each year, the commission  
21 shall report to the legislature the percentage of recipients of  
22 employment services under the Temporary Assistance for Needy  
23 Families (TANF) CHOICES program who meet the wage criteria  
24 described by Subsections (a)(1) and (2).

25       Sec. 302.0046. NOTICE REGARDING TERMINATION OF CERTAIN  
26 CHILD-CARE SERVICES. (a) The commission shall direct each local  
27 workforce development board to notify a working poor subsidy



1 recipient who resides in that board's local workforce development  
2 area and who receives child-care services from a child-care  
3 services program financed through state or federal funds of any  
4 termination of the subsidy for any reason other than involuntary  
5 termination resulting from the recipient's actions or failure to  
6 act.

7 (b) Except as otherwise provided by this subsection, the  
8 local workforce development board shall provide the notice in  
9 writing to the recipient not later than the 30th day before the  
10 scheduled date of termination of the affected child-care services  
11 subsidy. The notice must include information regarding other  
12 child-care services programs under which the recipient may be  
13 eligible for services. If providing notice on or before the  
14 deadline specified by this subsection would interfere with the  
15 ability of the local workforce development board to comply with its  
16 duties regarding the number of children to be served or would  
17 require the expenditure of funds in excess of the amount  
18 appropriated to the board, the board may provide the notice on the  
19 earliest date on which it is practicable for the board to provide  
20 notice.

21 Sec. 302.013. LOCAL WORKFORCE DEVELOPMENT BOARD ADVISORY  
22 COMMITTEE. (a) In this section, "advisory committee" means the  
23 local workforce development board advisory committee created under  
24 this section.

25 (b) The organization composed of a member of and the staff  
26 director of each local workforce development board in this state  
27 shall establish a local workforce development board advisory

1 committee composed of nine members appointed by the executive  
2 officers of that organization.

3 (c) The advisory committee shall be composed of:

4 (1) six members of local workforce development boards  
5 who serve as members of the organization described by Subsection  
6 (b); and

7 (2) three staff directors of local workforce  
8 development boards who serve as members of the organization  
9 described by Subsection (b).

10 (d) The members of the advisory committee must represent  
11 different geographic areas of the state.

12 (e) The advisory committee shall:

13 (1) meet at least quarterly;

14 (2) report to the commission at least annually; and

15 (3) advise the commission and commission staff  
16 regarding the programs, policies, and rules of the commission that  
17 affect the operations of local workforce development boards and the  
18 local workforce delivery system.

19 SECTION 4.07. Subchapter C, Chapter 302, Labor Code, is  
20 amended by adding Section 302.048 to read as follows:

21 Sec. 302.048. ASSESSMENT OF LOCAL WORKFORCE DEVELOPMENT  
22 BOARD'S CAPACITY TO OVERSEE AND MANAGE LOCAL FUNDS AND DELIVERY OF  
23 SERVICES. (a) In consultation with local workforce development  
24 boards, the commission by rule shall establish criteria to be used  
25 by the commission to evaluate each local workforce development  
26 board's overall capacity to oversee and manage local funds and the  
27 delivery of local workforce services.

1       (b) The criteria established under Subsection (a) must  
2 address a local workforce development board's ability to:

3           (1) develop, maintain, and upgrade comprehensive  
4 fiscal management systems;

5           (2) hire, train, and retain qualified staff to carry  
6 out the board's oversight activities;

7           (3) select and oversee local contractors to improve  
8 the delivery of workforce services;

9           (4) oversee and improve the operations of local career  
10 development centers in the area served by the board;

11           (5) manage the contractors' performance across  
12 multiple board programs; and

13           (6) identify and resolve long-standing oversight  
14 problems of the board and performance problems of contract  
15 providers.

16       (c) Based on the criteria prescribed under this section, the  
17 commission shall develop performance measures to be used by the  
18 commission to evaluate each local workforce development board.

19       (d) The commission shall post the results of the  
20 commission's evaluation of each local workforce development board  
21 on the commission's Internet website in a format that is readily  
22 accessible to and understandable by a member of the public.

23       (e) The commission annually shall compile information  
24 provided to the commission by local workforce development boards  
25 that aggregates existing performance measure data on each local  
26 career development center in a consistent format demonstrating  
27 overall performance across multiple programs.

1       (f) The commission shall post the information compiled by  
2 the commission under Subsection (e) on the commission's Internet  
3 website in a format that is readily accessible to and  
4 understandable by a member of the public.

5       SECTION 4.08. Subchapter D, Chapter 302, Labor Code, is  
6 amended by adding Section 302.065 to read as follows:

7       Sec. 302.065. INTEGRATION OF BLOCK GRANT PROGRAMS AND  
8 WORKFORCE SERVICES. (a) To streamline the delivery of services  
9 provided in local career development centers, the commission and  
10 local workforce boards shall integrate the administration of the  
11 following federal block grant programs and the caseworker functions  
12 associated with those programs as provided by this section:

13           (1) Temporary Assistance for Needy Families (TANF)  
14 CHOICES training and employment programs under Chapters 31 and 34,  
15 Human Resources Code;

16           (2) child care programs under Chapter 44, Human  
17 Resources Code;

18           (3) employment and training programs under Title I of  
19 the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et  
20 seq.) or any subsequent applicable federal legislation; and

21           (4) the food stamp employment and training program  
22 authorized under 7 U.S.C. Section 2015(d).

23       (b) The commission, in consultation with local workforce  
24 development boards, shall ensure that state-level performance  
25 measures, rules, policies, procedures, and organizational  
26 structures support the integration of the federal block grant  
27 programs described by Subsection (a) and the caseworker functions

1 associated with those programs at the local level.

2 (c) Each local career development center that provides  
3 services through the federal block grant programs described by  
4 Subsection (a) shall provide:

5 (1) integrated services across the programs;

6 (2) an integrated determination through a single point  
7 of contact of a customer's eligibility for services under more than  
8 one program; and

9 (3) integrated case management through a single point  
10 of contact for a customer receiving services under more than one  
11 program.

12 SECTION 4.09. (a) The Texas Workforce Commission shall  
13 adopt rules as required by Subsection (e), Section 2308.264,  
14 Government Code, as added by this article, not later than March 1,  
15 2004. The commission shall consider using negotiated rulemaking  
16 procedures under Chapter 2008, Government Code, to adopt those  
17 rules. Except as provided by Subsection (b) of this section, until  
18 the commission has adopted rules as required by that section, the  
19 commission may not approve a new local plan or contract:

20 (1) that uses a managing director or a professional  
21 employment organization for the delivery of one-stop workforce  
22 services; or

23 (2) under which an independent contractor provides  
24 one-stop workforce services, unless the plan or contract requires  
25 the independent contractor to:

26 (A) directly employ staff to provide one-stop  
27 workforce services; and

1 (B) have direction and control over the staff  
2 providing the one-stop workforce services, including the right to  
3 hire, fire, discipline, and reassign the staff.

4 (b) Rules adopted by the Texas Workforce Commission under  
5 Subsection (e), Section 2308.264, Government Code, as added by this  
6 article, apply to any existing local plan adopted by a local  
7 workforce development board and any existing contract for one-stop  
8 workforce services. If an existing commission-approved local plan  
9 that uses a managing director or a professional employment  
10 organization for the delivery of one-stop workforce services or a  
11 local plan under which a request for proposal was issued before  
12 July 1, 2003, for a managing director or a professional employment  
13 organization to deliver one-stop workforce services does not comply  
14 with the rules adopted under Subsection (e), Section 2308.264,  
15 Government Code, as added by this article, the board that is  
16 operating under the plan or that is in the process of adopting the  
17 plan shall comply with the rules not later than September 1, 2004,  
18 and may operate under the plan until that date.

19 (c) This section is not intended to require the Texas  
20 Workforce Commission to adopt rules prohibiting local workforce  
21 development boards from using any particular contracting model when  
22 contracting for the delivery of one-stop workforce services and may  
23 not be interpreted to imply the illegality of any existing  
24 contracting model.

25 SECTION 4.10. The Texas Workforce Commission shall adopt  
26 rules to establish criteria to be used to evaluate each local  
27 workforce development board as required by Section 302.048, Labor

1 Code, as added by this article, not later than May 1, 2004.

2 SECTION 4.11. The Texas Workforce Commission shall  
3 implement Section 302.048, Labor Code, as added by this article,  
4 not later than September 1, 2004.

5 SECTION 4.12. The Texas Workforce Commission shall  
6 implement Section 31.0121, Human Resources Code, and Sections  
7 302.0042, 302.0043, and 302.0044, Labor Code, as added by this  
8 article, as soon as possible after the effective date of this Act.

9 SECTION 4.13. The Texas Workforce Commission shall  
10 implement Subsection (c), Section 302.065, Labor Code, as added by  
11 this article, not later than September 1, 2007.

12 SECTION 4.14. (a) Not later than September 1, 2004, the  
13 Texas Workforce Commission shall:

14 (1) implement Subsections (a) and (b), Section  
15 302.065, Labor Code, as added by this article;

16 (2) conduct a review of the commission's programs,  
17 rules, policies, procedures, and organizational structure to  
18 identify specific barriers to the integration by the commission of  
19 federal block grant programs and the caseworker functions  
20 associated with those programs;

21 (3) conduct at least three and not more than five pilot  
22 projects in different local workforce development board areas to  
23 identify the best methods to integrate federal block grant programs  
24 and the caseworker functions associated with those programs; and

25 (4) modify and develop the commission's programs,  
26 rules, policies, procedures, and organizational structure to  
27 support the integration by the commission of federal block grant

1 programs and the caseworker functions associated with those  
2 programs.

3 (b) The commission may request a waiver of any federal  
4 requirement from a federal agency if the commission determines that  
5 the waiver is necessary for the implementation of this section.

6 (c) Not later than January 15, 2005, the Texas Workforce  
7 Commission shall submit to the 79th Legislature a report regarding  
8 the results of the review and pilot projects conducted by the  
9 commission under Subsection (a) of this section. The report must  
10 include the commission's recommendations for any statutory changes  
11 required to facilitate the integration by the commission of federal  
12 block grant programs and the caseworker functions associated with  
13 those programs.

14 ARTICLE 5. ADULT EDUCATION AND LITERACY ISSUES

15 SECTION 5.01. Chapter 301, Labor Code, is amended by adding  
16 Subchapter I to read as follows:

17 SUBCHAPTER I. ADULT EDUCATION AND LITERACY

18 Sec. 301.151. COOPERATION WITH TEXAS EDUCATION AGENCY TO  
19 IMPROVE ADULT EDUCATION AND LITERACY SERVICES. The commission  
20 shall collaborate with the Texas Education Agency to improve the  
21 coordination and implementation of adult education and literacy  
22 services in this state.

23 Sec. 301.152. DEVELOPMENT OF WORKPLACE LITERACY AND BASIC  
24 SKILLS CURRICULUM. (a) Under contract with the Texas Education  
25 Agency, the commission shall develop a demand-driven workplace  
26 literacy and basic skills curriculum aimed at assisting local  
27 workforce development boards to equip workers and job seekers with



1 the skills necessary to compete for current and emerging jobs in  
2 this state.

3 (b) In developing the general curriculum required by  
4 Subsection (a), the commission shall:

5 (1) evaluate existing efforts and potential cost  
6 savings resulting from designing specific curricula that address  
7 the needs of various industry sectors in the business community;

8 (2) contract for field work to solicit the assistance  
9 of workers, employers, providers, and local workforce development  
10 boards in developing industry sector curricula;

11 (3) target up to five industry sectors in the business  
12 community that are likely to benefit from the development of  
13 specific curricula; and

14 (4) pilot test the curricula within the targeted  
15 industry sectors and adjust the curricula based on feedback  
16 received from workers and employers in those sectors.

17 (c) Based on the curriculum developed under this section,  
18 the commission shall develop workforce basic skills credentials to  
19 be used to define, measure, and certify the mastery of the basic  
20 skills required by the curricula developed under this section.

21 (c-1) In addition to the curriculum developed under this  
22 section, the commission shall develop and implement a plan to  
23 encourage participants who successfully complete the curriculum to  
24 pursue postsecondary education opportunities leading to  
25 certificates and degrees.

26 (d) This section expires September 1, 2005.

27 SECTION 5.02. Subsection (a), Section 302.021, Labor Code,

1 is amended to read as follows:

2 (a) The following job-training, employment, and  
3 employment-related educational programs and functions are  
4 consolidated under the authority of the division:

5 (1) career [~~adult education programs under Subchapter~~  
6 ~~H, Chapter 29, Education Code,~~

7 [~~(2) proprietary~~] school and college programs under  
8 Chapter 132, Education Code;

9 (2) [(3)] apprenticeship programs under Chapter 133,  
10 Education Code;

11 (3) [(4)] postsecondary vocational and technical  
12 job-training programs that are not a part of approved courses or  
13 programs that lead to licensing, certification, or an associate  
14 degree under Chapters 61, 130, and 135, Education Code, Subchapter  
15 E, Chapter 88, Education Code, and Subchapter E, Chapter 96,  
16 Education Code;

17 (4) [(5)] employment programs under Chapter 31, Human  
18 Resources Code;

19 (5) [(6)] the senior citizens employment program  
20 under Chapter 101, Human Resources Code;

21 (6) [(7)] the work and family policies program under  
22 Chapter 81;

23 (7) [(8)] job-training programs funded under [~~the Job~~  
24 ~~Training Partnership Act (29 U.S.C. Section 1501 et seq.) and~~  
25 ~~under~~] the Workforce Investment Act of 1998 (29 U.S.C. Section 2801  
26 et seq.);

27 (8) [(9)] the job counseling program for displaced

1 homemakers under Chapter 304;

2           (9) [~~(10)~~] the reintegration of offenders program  
3 under Chapter 306;

4           (10) [~~(11)~~] the inmate employment counseling program  
5 [~~under Section 499.051(f), Government Code~~];

6           (11) [~~(12)~~] the continuity of care program under  
7 Section 501.095, Government Code;

8           (12) [~~(13)~~] a literacy program from state, local,  
9 federal, and private funds available to the state for that purpose;

10           (13) [~~(14)~~] the employment service;

11           (14) [~~(15)~~] the community service program under the  
12 National and Community Service Act of 1990 (42 U.S.C. Section 12501  
13 et seq.);

14           (15) [~~(16)~~] the trade adjustment assistance program  
15 under Part 2, Subchapter II, Trade Act of 1974 (19 U.S.C. Section  
16 2271 et seq.);

17           (16) [~~(17)~~] education, employment, employment  
18 support, training services, activities and programs funded under  
19 Temporary Assistance for Needy Families (42 U.S.C. Section 601 et  
20 seq.);

21           (17) [~~(18)~~] the food stamp employment and training  
22 program authorized under 7 U.S.C. Section 2015(d); and

23           (18) [~~(19)~~] the functions of the State Occupational  
24 Information Coordinating Committee.

25           SECTION 5.03. Section 29.252, Education Code, is amended by  
26 amending Subsection (a) and adding Subsection (a-1) to read as  
27 follows:

1 (a) The agency shall:

2 (1) provide adequate staffing to develop, administer,  
3 and support a comprehensive statewide adult education program and  
4 coordinate related federal and state programs for education and  
5 training of adults;

6 (2) develop, implement, and regulate a comprehensive  
7 statewide program for community level education services to meet  
8 the special needs of adults;

9 (3) develop the mechanism and guidelines for  
10 coordination of comprehensive adult education and related skill  
11 training services for adults with other agencies, both public and  
12 private, in planning, developing, and implementing related  
13 programs, including community education programs;

14 (4) administer all state and federal funds for adult  
15 education and related skill training in this state, except in  
16 programs for which another entity is specifically authorized to do  
17 so under other law;

18 (5) prescribe and administer standards and  
19 accrediting policies for adult education;

20 (6) prescribe and administer rules for teacher  
21 certification for adult education;

22 (7) accept and administer grants, gifts, services, and  
23 funds from available sources for use in adult education; ~~and~~

24 (8) adopt or develop and administer a standardized  
25 assessment mechanism for assessing all adult education program  
26 participants who need literacy instruction, adult basic education,  
27 or secondary education leading to an adult high school diploma or

1 the equivalent;

2 (9) collaborate with the Texas Workforce Commission to  
3 improve the coordination and implementation of adult education and  
4 literacy services in this state; and

5 (10) monitor and evaluate educational and employment  
6 outcomes of students who participate in the agency's adult  
7 education and literacy programs.

8 (a-1) The agency shall use existing funds to contract with  
9 the Texas Workforce Commission for the development of a  
10 demand-driven workplace literacy and basic skills curriculum that  
11 complies with the requirements adopted under Section 301.152, Labor  
12 Code. This subsection expires September 1, 2005.

13 SECTION 5.04. Subchapter C, Chapter 2308, Government Code,  
14 is amended by adding Section 2308.1016 to read as follows:

15 Sec. 2308.1016. DUTY TO FACILITATE DELIVERY OF INTEGRATED  
16 ADULT EDUCATION AND LITERACY SERVICES. (a) In addition to any  
17 duty imposed under this subchapter, to facilitate the efficient  
18 delivery of integrated adult education and literacy services in  
19 this state, the council shall:

20 (1) evaluate adult education and literacy programs  
21 administered by the Texas Education Agency and the Texas Workforce  
22 Commission to identify:

23 (A) any duplication of planning by those agencies  
24 at the state and local level;

25 (B) any lack of adequate client information  
26 sharing between those agencies; and

27 (C) any other problems that adversely affect the

1 delivery of those programs by the agencies;

2 (2) develop and implement immediate and long-range  
3 strategies to address problems identified by the council under  
4 Subdivision (1); and

5 (3) develop a system to monitor and evaluate the wage  
6 and employment outcomes of students who participate in the adult  
7 education and literacy programs administered by the Texas Education  
8 Agency, including students referred to the programs by the Texas  
9 Workforce Commission or local workforce development boards, to  
10 ensure the effectiveness of the programs in improving the  
11 employment-related outcomes of the students.

12 (b) The council shall include in the council's annual report  
13 to the governor and to the legislature:

14 (1) a list of specific problems identified by the  
15 council under Subsection (a) to be addressed by the council in the  
16 following year; and

17 (2) the results of any measures taken by the council to  
18 address problems identified by the council under Subsection (a).

19 (c) The long-range strategies developed by the council  
20 under Subsection (a) must:

21 (1) identify the agency responsible for implementing  
22 each strategy; and

23 (2) include a schedule for the implementation of each  
24 strategy.

25 SECTION 5.05. Section 2308.104, Government Code, is amended  
26 by adding Subsection (i) to read as follows:

27 (i) The council shall include in the strategic plan the

1 long-range strategies developed by the council under Section  
2 2308.1016 to facilitate the efficient delivery of integrated adult  
3 education and literacy services in this state.

4 SECTION 5.06. The Texas Workforce Commission shall  
5 implement Section 301.151, Labor Code, as added by this article, as  
6 soon as possible after the effective date of this Act.

7 SECTION 5.07. The Texas Workforce Commission shall  
8 implement Section 301.152, Labor Code, as added by this article,  
9 not later than September 1, 2005.

10 SECTION 5.08. The Texas Education Agency shall implement  
11 Subsection (a), Section 29.252, Education Code, as amended by this  
12 article, and Subsection (a-1), Section 29.252, Education Code, as  
13 added by this article, as soon as possible after the effective date  
14 of this Act.

15 SECTION 5.09. The Council on Workforce and Economic  
16 Competitiveness shall implement Section 2308.1016 and Subsection  
17 (i), Section 2308.104, Government Code, as added by this article,  
18 not later than December 31, 2003.

19 ARTICLE 6. ISSUANCE OF OBLIGATIONS AND IMPOSITION OF  
20 ASSESSMENTS FOR UNEMPLOYMENT COMPENSATION SYSTEM

21 SECTION 6.01. The heading to Subchapter C, Chapter 203,  
22 Labor Code, is amended to read as follows:

23 SUBCHAPTER C. ADVANCES FROM FEDERAL TRUST FUND AND  
24 OBLIGATION ASSESSMENT

25 SECTION 6.02. Section 203.102, Labor Code, is amended to  
26 read as follows:

27 Sec. 203.102. OBLIGATION [~~ADVANCE INTEREST~~] TRUST FUND.

1 (a) The obligation [~~advance interest~~] trust fund is a dedicated  
2 trust fund outside of the state treasury in the custody of the  
3 comptroller.

4 (b) The commission and governor may use money in the  
5 obligation [~~advance interest~~] trust fund without legislative  
6 appropriation to pay:

7 (1) bond obligations and bond administrative  
8 expenses; and

9 (2) principal and [pay] interest incurred on advances  
10 from the federal trust fund[~~;~~ ~~and~~

11 [~~(2) repay temporary transfers of surplus cash that~~  
12 ~~may be made between the advance interest trust fund and other~~  
13 ~~funds].~~

14 [~~(c) Subject to legislative appropriation, the commission~~  
15 ~~may use money in the advance interest trust fund, including any~~  
16 ~~interest earnings scheduled to be transferred under Section~~  
17 ~~203.103, for the administration of Chapters 51, 61, and 62.]~~

18 SECTION 6.03. Section 203.104, Labor Code, is amended to  
19 read as follows:

20 Sec. 203.104. LIMITATION ON TRANSFER FROM OBLIGATION  
21 [~~ADVANCE INTEREST~~] TRUST FUND TO COMPENSATION FUND. An amount that  
22 is attributable to the portion of the unemployment obligation  
23 assessment authorized by Section 203.105(a)(2) may not be  
24 transferred [~~The governor may authorize the commission to transfer~~  
25 ~~money from the advance interest trust fund]~~ to the compensation  
26 fund unless all bond obligations, including bond administrative  
27 expenses, have been fully paid and satisfied. After the



1 obligations have been fully satisfied, the commission shall  
2 transfer the balance of the obligation trust fund to the  
3 compensation fund [if the governor:

4  ~~(1) on the advice of the commission, determines that~~  
5  ~~funds in the compensation fund will be depleted at the time payment~~  
6  ~~on an advance from the federal trust fund is due and that depletion~~  
7  ~~of the funds will cause the loss of some portion of the credit~~  
8  ~~received by employers against their federal unemployment tax rate,~~  
9  ~~or~~

10  ~~(2) determines that payment of interest on a federal~~  
11  ~~loan may be avoided by keeping the balance of the compensation fund~~  
12  ~~positive].~~

13 SECTION 6.04. Section 203.105, Labor Code, is amended to  
14 read as follows:

15 Sec. 203.105. UNEMPLOYMENT OBLIGATION ASSESSMENT  
16 ~~[ADDITIONAL TAX]~~. (a) An unemployment obligation assessment  
17 shall be imposed as provided by this section ~~[In addition to other~~  
18  ~~taxes, a separate tax is imposed on each employer eligible for an~~  
19  ~~experience tax rate]~~ if after January 1 of a year:

20 (1) an interest payment on an advance from the federal  
21 trust fund will be due~~[+]~~ and

22 ~~[(2)]~~ the estimated amount necessary to make the  
23 interest payment is not available in the obligation trust fund or  
24 [will not be] available otherwise; or

25 (2) bond obligations are due and the amount necessary  
26 to pay in full those obligations, including bond administrative  
27 expenses, is not available in the obligation trust fund or

1 available otherwise.

2 (b) The unemployment obligation assessment rate is the  
3 total of the amounts required to make the payments necessary under  
4 Subsections (a)(1) and (2). The commission shall set the  
5 unemployment obligation assessment rate [~~of an additional tax under~~  
6 ~~this section~~] in an amount sufficient to ensure timely payment of  
7 interest under Subsection (a)(1), but not exceeding two-tenths of  
8 one percent. The commission shall set the unemployment obligation  
9 assessment rate in an amount sufficient to ensure timely payment of  
10 the bond obligations, including administrative expenses, and to  
11 provide an amount necessary in the commission's judgment to enhance  
12 investor acceptance of the bonds. The rate shall be based on a  
13 formula prescribed by commission rule, using the employer's  
14 experience rating from the previous year. The unemployment  
15 obligation assessment rate applies to the same wage base to which  
16 the employer's unemployment tax applies for the [~~that~~] year.

17 (c) The unemployment obligation assessment [~~An additional~~  
18 ~~tax under this section~~] is due at the same time, collected in the  
19 same manner, and [~~on the date set by the commission and is~~] subject  
20 to the same penalties and interest as other contributions assessed  
21 under this subtitle [~~penalty for late payment as the unemployment~~  
22 ~~tax~~].

23 (d) Revenue from the unemployment obligation assessment [~~an~~  
24 ~~additional tax~~] under this section shall be deposited to the credit  
25 of the obligation [~~advance interest~~] trust fund under Section  
26 203.102.

27 SECTION 6.05. Chapter 203, Labor Code, is amended by adding

1 Subchapter F to read as follows:

2 SUBCHAPTER F. ISSUANCE OF FINANCIAL OBLIGATIONS

3 FOR UNEMPLOYMENT COMPENSATION FUND

4 Sec. 203.251. FINDINGS AND PURPOSE. (a) The legislature  
5 finds that:

6 (1) it is an essential governmental function to  
7 maintain funds in an amount sufficient to pay unemployment benefits  
8 when due;

9 (2) at the time of the enactment of this subchapter,  
10 borrowing from the federal government was the only option available  
11 to obtain sufficient funds to pay benefits when the balance in the  
12 compensation fund is depleted;

13 (3) alternative methods of replenishing the  
14 unemployment compensation fund may reduce the costs of providing  
15 unemployment benefits and employers' cost of doing business in the  
16 state; and

17 (4) funds representing revenues received from the  
18 unemployment obligation assessment authorized under this  
19 subchapter and any income from the investment of those funds are not  
20 state property.

21 (b) The purpose of this subchapter is to provide appropriate  
22 methods through which the state may continue the unemployment  
23 compensation program at the lowest possible cost to the state and  
24 employers in the state.

25 Sec. 203.252. DEFINITIONS; GENERAL PROVISION. (a) In this  
26 subchapter:

27 (1) "Authority" means the Texas Public Finance

1 Authority.

2 (2) "Bond" means any type of revenue obligation,  
3 including a bond, note, certificate, or other instrument, payable  
4 from and secured by a pledge of revenues received from the  
5 unemployment obligation assessment and amounts on deposit in the  
6 obligation trust fund to the extent provided in the proceedings  
7 authorizing the obligation.

8 (3) "Bond administrative expenses" means expenses  
9 incurred to administer bonds issued under this subchapter,  
10 including fees for paying agents, trustees, and attorneys, and for  
11 other professional services necessary to ensure compliance with  
12 applicable state or federal law.

13 (4) "Bond obligations" means the principal of a bond  
14 and any premium and interest on a bond issued under this subchapter,  
15 together with any amount owed under a related credit agreement.

16 (5) "Credit agreement" means a loan agreement, a  
17 revolving credit agreement, an agreement establishing a line of  
18 credit, a letter of credit, an interest rate swap agreement, an  
19 interest rate lock agreement, a currency swap agreement, a forward  
20 payment conversion agreement, an agreement to provide payments  
21 based on levels of or changes in interest rates or currency exchange  
22 rates, an agreement to exchange cash flows or a series of payments,  
23 an option, put, or call to hedge payment, currency, interest rate,  
24 or other exposure, or another agreement that enhances the  
25 marketability, security, or creditworthiness of a bond issued under  
26 this subchapter.

27 (b) An amount owed by the authority under a credit agreement

1 shall be payable from and secured by a pledge of revenues received  
2 from the unemployment obligation assessment and amounts on deposit  
3 in the obligation trust fund to the extent provided in the  
4 proceedings authorizing the credit agreement.

5 Sec. 203.253. REQUEST FOR BOND ISSUANCE. (a) If the  
6 commission determines that the issuance of bonds is necessary to  
7 reduce or avoid the need to borrow or obtain a federal advance under  
8 Section 1201, Social Security Act (42 U.S.C. Section 1321), as  
9 amended, or any similar federal law, or to refinance a previous loan  
10 or advance received by the commission and that bond financing is the  
11 most cost-effective method of funding the payment of benefits, the  
12 commission may request the authority to issue bonds on its behalf.  
13 Before making a request of the authority under this subsection, the  
14 commission must by resolution determine that the issuance of bonds  
15 for the purposes established by this section will result in a  
16 savings to the state and to employers in this state as compared to  
17 the cost of borrowing or obtaining an advance under Section 1201,  
18 Social Security Act (42 U.S.C. Section 1321), as amended, or any  
19 similar federal law.

20 (b) The commission shall specify in the commission's  
21 request to the authority the maximum principal amount of the bonds,  
22 not to exceed \$2 billion for any separate bond issue, and the  
23 maximum term of the bonds, not to exceed 10 years.

24 (c) The principal amount determined by the commission under  
25 Subsection (b) may be increased to include an amount sufficient to:

26 (1) pay the costs of issuance of the authority;

27 (2) provide a bond reserve fund; and

1           (3) capitalize interest for the period determined  
2 necessary by the commission, not to exceed two years.

3           Sec. 203.254. ISSUANCE OF BONDS BY AUTHORITY. (a) The  
4 authority shall issue bonds on request by the commission, in  
5 accordance with the requirements of Chapter 1232, Government Code,  
6 and other provisions of Title 9, Government Code, that apply to bond  
7 issuance by a state agency.

8           (b) The authority shall determine the method of sale, type  
9 of bond, bond form, maximum interest rates, and other terms of the  
10 bonds that, in the authority's judgment, best achieve the economic  
11 goals of the commission and effect the borrowing at the lowest  
12 practicable cost.

13           (c) The authority may enter into a credit agreement in  
14 connection with the bonds.

15           Sec. 203.255. BOND PROCEEDS. (a) The proceeds of bonds  
16 issued by the authority under this subchapter may be deposited with  
17 a trustee selected by the authority and the commission or held by  
18 the comptroller in a dedicated trust fund outside the state  
19 treasury in the custody of the comptroller.

20           (b) Bond proceeds, including investment income, shall be  
21 held in trust for the exclusive use and benefit of the commission.  
22 The commission may use the proceeds to:

23           (1) repay the principal and interest of previous  
24 advances from the federal trust fund;

25           (2) pay unemployment benefits by depositing the  
26 proceeds in the unemployment compensation fund, as defined in  
27 Subchapter B;

1           (3) pay the costs of issuing the bonds;  
2           (4) provide a bond reserve; and  
3           (5) pay capitalized interest on the bonds for the  
4 period determined necessary by the commission, not to exceed two  
5 years.

6           (c) Any excess money remaining after the purposes for which  
7 the bonds were issued is satisfied may be used to purchase or redeem  
8 outstanding bonds.

9           (d) If there are no outstanding bonds or bond interest to be  
10 paid, the remaining proceeds shall be transferred to the  
11 unemployment compensation fund.

12           Sec. 203.256. REPAYMENT OF COMMISSION'S FINANCIAL  
13 OBLIGATIONS. (a) The commission shall assess an unemployment  
14 obligation assessment annually on each employer entitled to an  
15 experience rating under Chapter 204 if any bonds issued under this  
16 subchapter are outstanding.

17           (b) With regard to outstanding bonds issued by the authority  
18 under this subchapter, the authority shall notify the commission of  
19 the amount of the bond obligations and the estimated amount of bond  
20 administrative expenses each year in sufficient time, as determined  
21 by the commission, to permit the commission to assess the annual  
22 rate of the unemployment obligation assessment, subject to  
23 verification by a financial advisor of the commission or as  
24 otherwise specified in the proceedings authorizing the bonds.

25           (c) The commission shall deposit all revenue collected from  
26 the unemployment obligation assessment into the obligation trust  
27 fund. Money deposited in the fund may be invested as permitted by

1 general law. Money in the obligation trust fund required to be used  
2 to pay bond obligations and bond administrative expenses shall be  
3 transferred to the authority or used by the commission in the manner  
4 and at the time specified in the resolution adopted in connection  
5 with the bond issue to ensure timely payment of obligations and  
6 expenses, or as otherwise provided by the bond documents.

7 (d) For bonds issued by the authority for the commission,  
8 the commission shall provide for the payment of the bond  
9 obligations and the bond administrative expenses by irrevocably  
10 pledging revenues received from the unemployment obligation  
11 assessment and amounts on deposit in the obligation trust fund,  
12 together with any bond reserve fund, as provided in the proceedings  
13 authorizing the bonds and related credit agreements.

14 Sec. 203.257. BOND PAYMENTS. (a) Revenues received from  
15 the unemployment obligation assessment may be applied only as  
16 provided by this subchapter.

17 (b) The commission may pay bond obligations with other  
18 legally available funds.

19 (c) Bond obligations are payable only from sources provided  
20 for payment in this subchapter.

21 Sec. 203.258. EXCESS REVENUE COLLECTIONS AND INVESTMENT  
22 EARNINGS. Revenue collected from the unemployment obligation  
23 assessment in any year that exceeds the amount of the bond  
24 obligations and bond administrative expenses payable in that year  
25 and interest earned on the obligation trust fund may, in the  
26 discretion of the commission, be:

27 (1) used to pay bond obligations payable in the



1 subsequent year, offsetting the amount of the assessment that would  
2 otherwise have to be levied for the year under this subchapter;

3 (2) used to redeem or purchase outstanding bonds;

4 (3) deposited in the unemployment compensation fund;

5 or

6 (4) used to pay principal and interest on advances  
7 from the federal trust fund.

8 Sec. 203.259. STATE DEBT NOT CREATED. (a) A bond issued  
9 under this subchapter, and any related credit agreement, is not a  
10 debt of the state or any state agency or political subdivision of  
11 the state and is not a pledge of the faith and credit of any of them.  
12 A bond or credit agreement is payable solely from revenue as  
13 provided by this subchapter.

14 (b) A bond, and any related credit agreement, issued under  
15 this chapter must contain on its face a statement to the effect  
16 that:

17 (1) neither the state nor a state agency, political  
18 corporation, or political subdivision of the state is obligated to  
19 pay the principal of or interest on the bond except as provided by  
20 this subchapter; and

21 (2) neither the faith and credit nor the taxing power  
22 of the state or any state agency, political corporation, or  
23 political subdivision of the state is pledged to the payment of the  
24 principal of or interest on the bond.

25 Sec. 203.260. STATE NOT TO IMPAIR BOND OBLIGATIONS. If  
26 bonds under this subchapter are outstanding, the state may not:

27 (1) take action to limit or restrict the rights of the

1 commission to fulfill its responsibility to pay bond obligations;  
2 or

3 (2) in any way impair the rights and remedies of the  
4 bond owners until the bonds are fully discharged.

5 Sec. 203.261. EXEMPTION FROM TAXATION. A bond issued under  
6 this subchapter, any transaction relating to the bond, and profits  
7 made from the sale of the bond are exempt from taxation by this  
8 state or by a municipality or other political subdivision of this  
9 state.

10 Sec. 203.262. NO PERSONAL LIABILITY. The members of the  
11 commission, commission employees, the board of directors of the  
12 authority, and the employees of the authority are not personally  
13 liable as a result of exercising the rights and responsibilities  
14 granted under this subchapter.

15 SECTION 6.06. The heading to Section 204.063, Labor Code,  
16 is amended to read as follows:

17 Sec. 204.063. DEFICIT ASSESSMENT [~~TAX~~].

18 SECTION 6.07. Subsection (b), Section 204.064, Labor Code,  
19 is amended to read as follows:

20 (b) The numerator is computed by subtracting the balance of  
21 the compensation fund, considering any federal advance [~~or other~~  
22 ~~liability of the fund~~], from the floor of the compensation fund.

23 SECTION 6.08. Section 203.103, Labor Code, is repealed.

24 SECTION 6.09. The advance interest trust fund established  
25 under Section 203.102, Labor Code, as that section existed before  
26 the effective date of this article, is abolished on the effective  
27 date of this article. All money in that fund on that date is

1 transferred to the obligation trust fund established by Section  
2 203.102, Labor Code, as amended by this article.

3 ARTICLE 7. PARTIAL TRANSFERS OF UNEMPLOYMENT

4 COMPENSATION EXPERIENCE RATES

5 SECTION 7.01. Section 204.084, Labor Code, is amended by  
6 amending Subsection (c) and adding Subsection (d) to read as  
7 follows:

8 (c) Except as provided by Subsection (d), the ~~[The]~~  
9 commission shall approve an application if:

10 (1) immediately after the acquisition the successor  
11 employing unit continues operation of substantially the same part  
12 of the organization, trade, or business acquired;

13 (2) the predecessor employer waives in writing all  
14 rights to an experience rating computed on the compensation  
15 experience attributable to the part of the organization, trade, or  
16 business acquired by the successor employing unit, unless the  
17 acquisition results from the death of the predecessor employer;

18 (3) a definitely identifiable and segregable part of  
19 the predecessor employer's compensation experience is attributable  
20 to the part of the organization, trade, or business acquired; ~~and~~

21 (4) for a successor employing unit that is not an  
22 employer at the time of the acquisition, the successor employing  
23 unit elects to become an employer on the date of the acquisition or  
24 otherwise becomes an employer during the year in which the  
25 acquisition occurs;

26 (5) the application was filed with the commission not  
27 later than the first anniversary of the effective date of the

1 acquisition; and

2 (6) the applicants have shown that:

3 (A) the acquired part of the organization, trade,  
4 or business is capable of operating independently and separately  
5 from the predecessor employer; and

6 (B) the wages attributable to the acquired part  
7 of the organization, trade, or business are solely attributable to  
8 services provided on behalf of the acquired part of the  
9 organization, trade, or business.

10 (d) The commission may deny a transfer of compensation  
11 experience under this section if the commission determines based on  
12 credible evidence that the acquisition was done primarily to  
13 qualify for a reduced unemployment insurance tax rate by:

14 (1) circumventing the experience rating system; or

15 (2) manipulating the experience rating system by  
16 minimizing the impact of chargebacks to the predecessor employer's  
17 tax account.

18 SECTION 7.02. The changes in law made by this article to  
19 Section 204.084, Labor Code, apply only to an acquisition of an  
20 organization, trade, or business that occurs on or after the  
21 effective date of this Act. An acquisition of an organization,  
22 trade, or business that occurs before the effective date of this Act  
23 is governed by the law in effect on the date the acquisition  
24 occurred, and that law is continued in effect for that purpose.

25 ARTICLE 7A. OTHER UNEMPLOYMENT COMPENSATION ISSUES

26 SECTION 7A.01. Section 204.022, Labor Code, is amended by  
27 amending Subsection (a) and adding Subsections (c), (d), and (e) to

1 read as follows:

2 (a) Benefits computed on benefit wage credits of an employee  
3 or former employee may not be charged to the account of an employer  
4 if the employee's last separation from the employer's employment  
5 before the employee's benefit year:

6 (1) was required by a federal statute;

7 (2) was required by a statute of this state or an  
8 ordinance of a municipality of this state;

9 (3) would have disqualified the employee under Section  
10 207.044, 207.045, 207.051, or 207.053 if the employment had been  
11 the employee's last work;

12 (4) imposes a disqualification under Section 207.044,  
13 207.045, 207.051, or 207.053;

14 (5) was caused by a medically verifiable illness of  
15 the employee or the employee's minor child;

16 (6) was based on a natural disaster that results in a  
17 disaster declaration by the president of the United States under  
18 the Robert T. Stafford Disaster Relief and Emergency Assistance Act  
19 (42 U.S.C. Section 5121 et seq.), if the employee would have been  
20 entitled to unemployment assistance benefits under Section 410 of  
21 that act (42 U.S.C. Section 5177) had the employee not received  
22 state unemployment compensation benefits;

23 (7) was caused by a natural disaster, fire, flood, or  
24 explosion that causes employees to be separated from one employer's  
25 employment; ~~or~~

26 (8) resulted from the employee's resigning from  
27 partial employment to accept other employment that the employee

1 reasonably believed would increase the employee's weekly wage; or

2 (9) resulted from the employee leaving the employee's  
3 workplace to protect the employee from family violence or stalking  
4 as evidenced by:

5 (A) an active or recently issued protective order  
6 documenting family violence against, or the stalking of, the  
7 employee or the potential for family violence against, or the  
8 stalking of, the employee;

9 (B) a police record documenting family violence  
10 against, or the stalking of, the employee; and

11 (C) a physician's statement or other medical  
12 documentation of family violence against the employee.

13 (c) Except as provided by law, evidence regarding an  
14 employee described by Subsection (a)(9) may not be disclosed to any  
15 person without the consent of the employee.

16 (d) For purposes of Subsection (a)(9):

17 (1) "Family violence" has the meaning assigned by  
18 Section 71.004, Family Code.

19 (2) "Stalking" means conduct described by Section  
20 42.072, Penal Code.

21 (e) Benefits may not be charged to the account of an  
22 employer, regardless of whether the liability for the chargeback  
23 arises in the employee's current benefit year or in a subsequent  
24 benefit year, if the employee's last separation from the employer's  
25 employment before the employee's benefit year was or would have  
26 been excepted from disqualification under Section 207.052(b).

27 SECTION 7A.02. Subchapter C, Chapter 212, Labor Code, is

1 amended by adding Section 212.106 to read as follows:

2 Sec. 212.106. RULES REGARDING HEARINGS CONDUCTED BY  
3 TELEPHONE CONFERENCE. The commission by rule shall develop  
4 procedures to ensure that an appeal tribunal makes every effort in a  
5 hearing conducted by telephone conference under this subchapter to  
6 obtain all relevant facts and evidence from the parties to the  
7 appeal.

8 SECTION 7A.03. Subsection (d), Section 207.045, Labor Code,  
9 is amended to read as follows:

10 (d) Notwithstanding any other provision of this section, an  
11 individual who is available to work may not be disqualified for  
12 benefits because the individual left work because of:

13 (1) a medically verified illness of the individual or  
14 the individual's minor child;

15 (2) injury;

16 (3) disability; ~~or~~

17 (4) pregnancy; or

18 (5) an involuntary separation as described by Section  
19 207.046.

20 SECTION 7A.04. Section 207.046, Labor Code, is amended to  
21 read as follows:

22 Sec. 207.046. INVOLUNTARY SEPARATION. (a) An individual  
23 is not disqualified for benefits under this subchapter if:

24 (1) the work-related reason for the individual's  
25 separation from employment was urgent, compelling, and necessary so  
26 as to make the separation involuntary; or

27 (2) the individual leaves the workplace to protect the

1 individual from family violence or stalking as evidenced by:

2 (A) an active or recently issued protective order  
3 documenting family violence against, or the stalking of, the  
4 employee or the potential for family violence against, or the  
5 stalking of, the employee;

6 (B) a police record documenting family violence  
7 against, or the stalking of, the employee; and

8 (C) a physician's statement or other medical  
9 documentation of family violence against the employee.

10 (b) Except as provided by law, evidence regarding an  
11 employee described by Subsection (a)(2) may not be disclosed to any  
12 person without the consent of the employee.

13 (c) In this section:

14 (1) "Family violence" has the meaning assigned by  
15 Section 71.004, Family Code.

16 (2) "Stalking" means conduct described by Section  
17 42.072, Penal Code.

18 SECTION 7A.05. The changes in law made by this Act to  
19 Section 204.022, Subsection (d), Section 207.045, and Section  
20 207.046, Labor Code, apply only to eligibility for unemployment  
21 compensation benefits based on an unemployment compensation claim  
22 that is filed with the Texas Workforce Commission on or after the  
23 effective date of this Act. A claim filed before the effective date  
24 of this Act is governed by the law in effect on the date the claim  
25 was filed, and the former law is continued in effect for that  
26 purpose.



ARTICLE 8. CAREER SCHOOLS AND COLLEGES

PART 1. SUBSTANTIVE CHANGES REGARDING CAREER

SCHOOLS AND COLLEGES

SECTION 8.01. Section 132.001, Education Code, is amended by amending Subdivisions (1) through (8), (10), and (12) and adding Subdivision (13) to read as follows:

(1) "Career school or college" [~~"Proprietary school"~~] means any business enterprise operated for a profit~~[7]~~ or on a nonprofit basis~~[7]~~ that maintains a place of business within this state~~[7]~~ or solicits business within this state, [~~and~~] that is not specifically exempted by this chapter, and:

(A) that offers or maintains a course or courses of instruction or study; or

(B) at which place of business such a course or courses of instruction or study are [~~is~~] available through classroom instruction or by distance education [~~correspondence~~], or both, to a person for the purpose of training or preparing the person for a field of endeavor in a business, trade, technical, or industrial occupation, or for avocational or personal improvement.

(2) "Owner" of a career school or college [~~proprietary school~~] means:

(A) in the case of a career school or college owned by an individual, that individual;

(B) in the case of a career school or college owned by a partnership, all full, silent, and limited partners;

(C) in the case of a career school or college owned by a corporation, the corporation, its directors, officers,

1 and each shareholder owning shares of issued and outstanding stock  
2 aggregating at least 10 percent of the total of the issued and  
3 outstanding shares;

4 (D) in the case of a career school or college in  
5 which the ownership interest is held in trust, the beneficiary of  
6 that trust; or

7 (E) in the case of a career school or college  
8 owned by another legal entity, a person who owns at least 10 percent  
9 ownership interest in the entity.

10 (3) "School employee" means any person, other than an  
11 owner, who directly or indirectly receives compensation from a  
12 career [~~proprietary~~] school or college for services rendered.

13 (4) "Representative" means a person employed by a  
14 career [~~proprietary~~] school or college, whether the school or  
15 college is located within or without this state, to act as an agent,  
16 solicitor, broker, or independent contractor to directly procure  
17 students for the school or college by solicitation within or  
18 without this state at any place.

19 (5) "Agency administrator" means the agency  
20 administrator of the Texas Workforce Commission or a person,  
21 knowledgeable in the administration of regulating career  
22 [~~proprietary~~] schools and colleges, designated by the agency  
23 administrator to administer this chapter.

24 (6) "Notice to the career school or college"  
25 [~~proprietary school~~] means written correspondence sent to the  
26 address of record for legal service contained in the application  
27 for a certificate of approval. "Date of Notice" means the date the

1 notice is mailed by the commission.

2 (7) "Support" or "supported" means the primary source  
3 and means by which a career [~~proprietary~~] school or college derives  
4 revenue to perpetuate its operation.

5 (8) "Person" means any individual, firm, partnership,  
6 association, corporation, or other private entity or combination  
7 [~~thereof~~].

8 (10) "Small career school or college" [~~proprietary~~  
9 ~~school~~] means a career [~~proprietary~~] school or college that does  
10 not receive any payment from federal funds under 20 U.S.C. Section  
11 1070 et seq. and its subsequent amendments or a prepaid federal or  
12 state source as compensation in whole or in part for any student  
13 tuition and fees or other charges and either:

14 (A) has an annual gross income from student  
15 tuition and fees that is less than or equal to \$100,000 for programs  
16 regulated by the agency;

17 (B) exclusively offers programs to assist  
18 students to prepare for an undergraduate or graduate course of  
19 study at a college or university; or

20 (C) exclusively offers programs to assist  
21 students, who have obtained, or who are in the process of obtaining,  
22 degrees after completing an undergraduate or graduate course of  
23 study at a college or university, to prepare for an examination.

24 (12) "Division" means the division of education of  
25 [~~in~~] the commission.

26 (13) "Distance education" means a formal education  
27 process in which:

1           (A) the student and instructor are separated by  
2 physical distance; and

3           (B) a variety of communication technologies may  
4 be used to deliver synchronous or asynchronous instruction to the  
5 student.

6           SECTION 8.02. Subchapter A, Chapter 132, Education Code, is  
7 amended by adding Section 132.0015 to read as follows:

8           Sec. 132.0015. REFERENCE TO PROPRIETARY SCHOOL. A  
9 reference in this code or another law to a proprietary school means  
10 a career school or college.

11           SECTION 8.03. Section 132.002, Education Code, is amended  
12 by amending Subsections (a) and (d) and adding Subsections (e) and  
13 (f) to read as follows:

14           (a) The following schools or educational institutions may  
15 be exempted [~~are specifically exempt~~] from this chapter by the  
16 commission under Subsection (d) [~~and are not within the definition~~  
17 ~~of "proprietary school"]:~~

18           (1) a school or educational institution supported by  
19 taxation from either a local or state source;

20           (2) a nonprofit school [~~schools~~] owned, controlled,  
21 operated, and conducted by a bona fide religious, denominational,  
22 eleemosynary, or similar public institution [~~institutions~~] exempt  
23 from property taxation under the laws of this state[, ~~but such~~  
24 ~~schools may choose to apply for a certificate of approval~~  
25 ~~hereunder, and upon approval and issuance, are subject to this~~  
26 ~~chapter as determined by the commission)];~~

27           (3) a school or training program that offers

1 instruction of purely avocational or recreational subjects as  
2 determined by the commission;

3 (4) a course or courses of instruction or study  
4 sponsored by an employer for the training and preparation of its own  
5 employees, and for which no tuition fee is charged to the student;

6 (5) a course or courses of study or instruction  
7 sponsored by a recognized trade, business, or professional  
8 organization for the instruction of the members of the organization  
9 with a closed membership;

10 (6) a private college [~~colleges~~] or university  
11 [~~universities~~] that awards [~~award~~] a recognized baccalaureate, or  
12 higher degree, and that maintains [~~maintain~~] and operates [~~operate~~]  
13 educational programs for which a majority of the credits given are  
14 transferable to a college, junior college, or university supported  
15 entirely or partly by taxation from either a local or state source;

16 (7) a school or course that is otherwise regulated and  
17 approved under and pursuant to any other law or rulemaking process  
18 of this state or approved for continuing education credit by an  
19 organization that accredits courses for the maintenance of a  
20 license, except as provided by Subsection (c);

21 (8) an aviation school [~~schools~~] or instructor  
22 [~~instructors~~] approved by and under the supervision of the Federal  
23 Aviation Administration;

24 (9) a school that offers intensive review of a  
25 student's acquired education, training, or experience to prepare  
26 the student for an examination, other than a high school  
27 equivalency examination, that the student by law may not take

1 unless the student has completed or substantially completed a  
2 particular degree program, or that the student is required to take  
3 as a precondition for enrollment in or admission to a particular  
4 degree program;

5 (10) a private school offering primary or secondary  
6 education, which may include a kindergarten or prekindergarten  
7 program, and that satisfies the compulsory attendance requirements  
8 of Section 25.085 pursuant to Section 25.086(a)(1);

9 (11) a course or courses of instruction by bona fide  
10 electrical trade associations for the purpose of preparing students  
11 for electrical tests required for licensing and for the purpose of  
12 providing continuing education to students for the renewal of  
13 electrical licenses;

14 (12) a nonprofit arts organization that has as its  
15 primary purpose the provision of instruction in the dramatic arts  
16 and the communications media to persons younger than 19 years of  
17 age;

18 (13) a course or training program conducted by a  
19 nonprofit association of air conditioning and refrigeration  
20 contractors approved by the Air Conditioning and Refrigeration  
21 Contractors Advisory Board to provide instruction for technical,  
22 business, or license examination preparation programs relating to  
23 air conditioning and refrigeration contracting, as that term is  
24 defined by Chapter 1302, Occupations Code [~~the Air Conditioning and~~  
25 ~~Refrigeration Contractor License Law (Article 8861, Vernon's Texas~~  
26 ~~Civil Statutes)];~~

27 (14) a course of instruction by a plumbing trade

1 association to prepare students for a plumbing test or program  
2 required for licensing, certification, or endorsement or to provide  
3 continuing education approved by the Texas State Board of Plumbing  
4 Examiners; and

5 (15) a course of instruction in the use of  
6 technological hardware or software if the course is offered to a  
7 purchaser of the hardware or software or to the purchaser's  
8 employee by a person who manufactures and sells, or develops and  
9 sells, the hardware or software, and if the seller is not primarily  
10 in the business of providing courses of instruction in the use of  
11 the hardware or software, as determined by the commission.

12 (d) A school or educational institution is exempt from  
13 regulation under this chapter only if:

14 (1) the owner of the school or educational  
15 institution:

16 (A) applies to the commission for an exemption  
17 under this section; and

18 (B) provides to the commission any information  
19 considered necessary by the commission to support the owner's  
20 application for an exemption; and

21 (2) the commission declares that the school or  
22 educational institution is exempt after finding that the school or  
23 institution is a school or institution listed in Subsection (a).

24 (e) After a school or educational institution is declared  
25 exempt by the commission under this section, the commission may  
26 inspect the school or institution or require the owner of the school  
27 or institution to provide any information the commission considers

1 necessary for the commission to ensure the school or institution's  
2 continued compliance with the requirements of the exemption.

3 (f) A school or educational institution listed in  
4 Subsection (a) may seek a certificate of approval under  
5 ~~[Notwithstanding the exemptions listed in Subsection (a), a dispute~~  
6 ~~resolution organization, as defined by Section 154.001, Civil~~  
7 ~~Practice and Remedies Code, may seek a certificate of approval~~  
8 ~~pursuant to]~~ Subchapter C.

9 SECTION 8.04. Section 132.051, Education Code, is amended  
10 to read as follows:

11 Sec. 132.051. CERTIFICATE OF APPROVAL. (a) A career  
12 ~~[proprietary]~~ school or college may not maintain, advertise,  
13 solicit for, or conduct any course of instruction in this state  
14 before the later of:

15 (1) the 30th day after the date the school or college  
16 applies for a certificate of approval under this chapter; or

17 (2) the date the school or college receives a  
18 certificate of approval from the commission.

19 (b) Any contract entered into with any person for a course  
20 of instruction by or on behalf of any person operating any career  
21 ~~[proprietary]~~ school or college to which a certificate of approval  
22 has not been issued pursuant to this chapter is unenforceable in any  
23 action brought thereon. Any note, other instrument of  
24 indebtedness, or contract relating to payment for educational  
25 services obtained from a career school or college that does not hold  
26 a certificate of approval issued under this chapter is  
27 unenforceable in any action brought on the note, instrument, or



1 contract.

2 SECTION 8.05. Section 132.055, Education Code, is amended  
3 to read as follows:

4 Sec. 132.055. CRITERIA. The commission may approve the  
5 application of such career [~~proprietary~~] school or college when the  
6 school or college is found, upon investigation at the premises of  
7 the school or college, to have met the following criteria:

8 (a) The courses, curriculum, and instruction are of  
9 such quality, content, and length as may reasonably and adequately  
10 achieve the stated objective for which the courses, curriculum, or  
11 instruction are offered. Before a school or college conducts a  
12 course of instruction in court reporting, the school or college  
13 must produce evidence that the school or college has obtained  
14 approval for the curriculum from the Court Reporters Certification  
15 Board.

16 (b) There is in the school or college adequate space,  
17 equipment, instructional material, and instructor personnel to  
18 provide training of good quality.

19 (c) Educational and experience qualifications of  
20 directors, administrators, and instructors are adequate.

21 (d) The school or college maintains a written record  
22 of the previous education and training of the applicant student and  
23 clearly indicates that appropriate credit has been given by the  
24 school or college for previous education and training, with the new  
25 training period shortened where warranted through use of  
26 appropriate skills or achievement tests and the student so  
27 notified.

1           (e) A copy of the course outline; schedule of tuition,  
2 fees, refund policy, and other charges; regulations pertaining to  
3 absence, grading policy, and rules of operation and conduct;  
4 regulations pertaining to incomplete grades; the name, mailing  
5 address, and telephone number of the commission for the purpose of  
6 directing complaints to the agency; the current rates of job  
7 placement and employment of students issued a certificate of  
8 completion; and notification of the availability of the cost  
9 comparison information prepared under Section 132.021(b) through  
10 the commission will be furnished the student prior to enrollment.

11           (f) Except as provided by Section 132.062, on  
12 completion of training, the student is given a certificate by the  
13 school or college indicating the course and that training was  
14 satisfactorily completed.

15           (g) Adequate records as prescribed by the commission  
16 are kept to show attendance and progress or grades, and  
17 satisfactory standards relating to attendance, progress, and  
18 conduct are enforced.

19           (h) The school or college complies with all local,  
20 city, county, municipal, state, and federal regulations, such as  
21 fire, building, and sanitation codes. The commission may require  
22 such evidence of compliance as is deemed necessary.

23           (i) The school or college is financially sound and  
24 capable of fulfilling its commitments for training.

25           (j) The school's or college's administrators,  
26 directors, owners, and instructors are of good reputation and  
27 character.

1           (k) The school or college has, maintains, and  
2 publishes in its catalogue and enrollment contract the proper  
3 policy for the refund of the unused portion of tuition, fees, and  
4 other charges in the event the student enrolled by the school or  
5 college fails to take the course or withdraws or is discontinued  
6 therefrom at any time prior to completion.

7           (l) The school or college does not utilize erroneous  
8 or misleading advertising, either by actual statement, omission, or  
9 intimation as determined by the commission.

10          (m) Such additional criteria as may be required by the  
11 commission.

12          (n) The school or college does not use a name like or  
13 similar to an existing [~~tax-supported~~] school or college unless the  
14 commission approves the school's or college's use of the name [in  
15 the same area].

16          (o) The school or college furnishes to the commission  
17 the current rates of students who receive a certificate of  
18 completion and of job placement and employment of students issued a  
19 certificate of completion.

20          (p) The school or college furnishes to the commission  
21 for approval or disapproval student admission requirements for each  
22 course or program offered by the school or college.

23          (q) The school or college furnishes to the commission  
24 for approval or disapproval the course hour lengths and curriculum  
25 content for each course offered by the school or college.

26          (r) The school or college does not owe a penalty under  
27 Section 132.152, 132.155, or 132.157.

1 SECTION 8.06. Section 132.061, Education Code, is amended  
2 to read as follows:

3 Sec. 132.061. REFUND POLICY. (a) Except as provided by  
4 Subsection (g), as a condition for granting certification each  
5 career [~~proprietary~~] school or college must maintain a cancellation  
6 and settlement policy that must provide a full refund of all monies  
7 paid by a student if:

8 (1) the student cancels the enrollment agreement or  
9 contract within 72 hours (until midnight of the third day excluding  
10 Saturdays, Sundays, and legal holidays) after the enrollment  
11 contract is signed by the prospective student; or

12 (2) the enrollment of the student was procured as the  
13 result of any misrepresentation in advertising, promotional  
14 materials of the school or college, or representations by the owner  
15 or representatives of the school or college.

16 (b) Except as provided by Subsection (g), as a condition for  
17 granting certification each career [~~proprietary~~] school or college  
18 must maintain a policy for the refund of the unused portion of  
19 tuition, fees, and other charges in the event the student, after  
20 expiration of the 72-hour cancellation privilege, fails to enter  
21 the course, withdraws, or is discontinued therefrom at any time  
22 prior to completion, and such policy must provide:

23 (1) refunds for resident courses and synchronous  
24 distance education courses will be based on the period of  
25 enrollment computed on the basis of course time expressed in clock  
26 hours;

27 (2) the effective date of the termination for refund

1 purposes in residence schools or colleges will be the earliest of  
2 the following:

3 (A) the last date of attendance, if the student  
4 is terminated by the school or college;

5 (B) the date of receipt of written notice from  
6 the student; or

7 (C) 10 school days following the last date of  
8 attendance;

9 (3) if tuition and fees are collected in advance of  
10 entrance, and if, after expiration of the 72-hour cancellation  
11 privilege, the student does not enter the residence school or  
12 college, not more than \$100 shall be retained by the school or  
13 college;

14 (4) for the student who enters a residence or a  
15 synchronous distance education course of not more than 12 months in  
16 length, terminates, or withdraws, the school or college may retain  
17 \$100 of tuition and fees and the minimum refund of the remaining  
18 tuition and fees will be:

19 (A) during the first week or one-tenth of the  
20 course, whichever is less, 90 percent of the remaining tuition and  
21 fees;

22 (B) after the first week or one-tenth of the  
23 course, whichever is less, but within the first three weeks or  
24 one-fifth of the course, whichever is less, 80 percent of the  
25 remaining tuition and fees;

26 (C) after the first three weeks or one-fifth of  
27 the course, whichever is less, but within the first quarter of the

1 course, 75 percent of the remaining tuition and fees;

2 (D) during the second quarter of the course, 50  
3 percent of the remaining tuition and fees;

4 (E) during the third quarter of the course, 10  
5 percent of the remaining tuition and fees; or

6 (F) during the last quarter of the course, the  
7 student may be considered obligated for the full tuition and fees;

8 (5) for residence or synchronous distance education  
9 courses more than 12 months in length, the refund shall be applied  
10 to each 12-month period paid, or part thereof separately, and the  
11 student is entitled to a refund as provided by Subdivision (4);

12 (6) refunds of items of extra expense to the student,  
13 such as instructional supplies, books, student activities,  
14 laboratory fees, service charges, rentals, deposits, and all other  
15 such ancillary miscellaneous charges, where these items are  
16 separately stated and shown in the data furnished the student  
17 before enrollment, will be made in a reasonable manner acceptable  
18 to the commission;

19 (7) refunds based on enrollment in residence and  
20 synchronous distance education schools or colleges will be totally  
21 consummated within 60 days after the effective date of termination;

22 (8) refunds for asynchronous distance education  
23 [~~correspondence~~] courses will be computed on the basis of the  
24 number of lessons in the course;

25 (9) the effective date of the termination for refund  
26 purposes in asynchronous distance education [~~correspondence~~]  
27 courses will be the earliest of the following:

1 (A) the date of notification to the student if  
2 the student is terminated;

3 (B) the date of receipt of written notice from  
4 the student; or

5 (C) the end of the third calendar month following  
6 the month in which the student's last lesson assignment was  
7 received unless notification has been received from the student  
8 that the student wishes to remain enrolled;

9 (10) if tuition and fees are collected before any  
10 lessons have been completed, and if, after expiration of the  
11 72-hour cancellation privilege, the student fails to begin the  
12 course, not more than \$50 shall be retained by the school or  
13 college;

14 (11) in cases of termination or withdrawal after the  
15 student has begun the asynchronous distance education  
16 [~~correspondence~~] course, the school or college may retain \$50 of  
17 tuition and fees, and the minimum refund policy must provide that  
18 the student will be refunded the pro rata portion of the remaining  
19 tuition, fees, and other charges that the number of lessons  
20 completed and serviced by the school or college bears to the total  
21 number of lessons in the course; and

22 (12) refunds based on enrollment in asynchronous  
23 distance education [~~correspondence~~] schools or colleges will be  
24 totally consummated within 60 days after the effective date of  
25 termination.

26 (c) In lieu of the refund policy herein set forth, for  
27 programs of instruction not regularly offered to the public, the

1 commission may, for good cause shown, amend, modify, or substitute  
2 the terms of a career school's or college's [~~proprietary school's~~]  
3 policy due to the specialized nature and objective of the school's  
4 or college's [~~school's~~] course of instruction.

5 (d) If a course of instruction is discontinued by the career  
6 [~~proprietary~~] school or college and this prevents the student from  
7 completing the course, all tuition and fees paid are then due and  
8 refundable.

9 (e) If a refund is not made within the period required by  
10 this section, the career [~~proprietary~~] school or college shall pay  
11 a penalty. If the refund is made to a lending institution, the  
12 penalty shall also be paid to that institution and applied against  
13 the student's loan. The commission annually shall establish the  
14 level of the penalty at a level sufficient to provide a deterrent to  
15 the retention of student funds. The commission may exempt a school  
16 or college from the payment of the penalty if the school or college  
17 makes a good faith effort to refund the tuition, fees, and other  
18 charges but is unable to locate the student. The school or college  
19 shall provide to the commission on request documentation of the  
20 effort to locate the student.

21 (f) A career [~~proprietary~~] school or college shall record a  
22 grade of "incomplete" for a student who withdraws but is not  
23 entitled to a refund under Subsection (b)(4)(F) if the student  
24 requests the grade at the time the student withdraws and the student  
25 withdraws for an appropriate reason unrelated to the student's  
26 academic status. A student who receives a grade of incomplete may  
27 re-enroll in the program during the 12-month period following the



1 date the student withdraws and complete those incomplete subjects  
2 without payment of additional tuition.

3 (g) A program that is 40 hours or less of class time, or a  
4 seminar or workshop, is exempt from the 72-hour rule provided by  
5 Subsection (a). The career [~~proprietary~~] school or college shall  
6 maintain a policy for the refund of the unused portion of tuition,  
7 fees, and other charges in the event the student fails to enter the  
8 course, withdraws from the course, or is discontinued from the  
9 class at any time before completion of the course as provided by  
10 this section. The policy must provide that:

11 (1) refunds are based on the period of enrollment  
12 computed on the basis of course time expressed in clock hours;

13 (2) the effective date of the termination for refund  
14 purposes is the earlier of:

15 (A) the last date of attendance; or

16 (B) the date the school or college receives  
17 written notice from the student that the student is withdrawing  
18 from the class; and

19 (3) the student will be refunded the pro rata portion  
20 of tuition, fees, and other charges that the number of class hours  
21 remaining in the course after the effective date of the termination  
22 bears to the total number of class hours in the course.

23 (h) A closing career school or college shall make a full  
24 refund to each student of the school or college who is owed a refund  
25 under this section.

26 (i) Each owner of a closing career school or college to  
27 which a certificate of approval has not been issued under this

1 chapter is personally liable for the amount of any refund owed to a  
2 student under Subsection (h).

3 SECTION 8.07. Subsections (c) through (i), Section 132.152,  
4 Education Code, are amended to read as follows:

5 (c) If, after examination of a possible violation and the  
6 facts relating to that possible violation, the commission concludes  
7 that a violation has occurred, the commission shall issue a  
8 preliminary report that states the facts on which the conclusion is  
9 based, the fact that an administrative penalty is to be imposed  
10 ~~[recommended]~~, and the amount of the penalty to be assessed  
11 ~~[recommended]~~. Not later than the 10th day after the date on which  
12 the commission issues the preliminary report, the commission shall  
13 send a copy of the report ~~[by certified mail]~~ to the person charged  
14 with the violation, together with a statement of the right of the  
15 person to a hearing relating to the alleged violation and the amount  
16 of the penalty.

17 (d) Not later than the 20th day after the date on which the  
18 ~~[person receives the]~~ report is sent, the person charged must  
19 either make a written request for a hearing or remit the amount of  
20 the administrative penalty to the commission. Failure either to  
21 request a hearing or to remit the amount of the administrative  
22 penalty within the time provided by this subsection results in a  
23 waiver of a right to a hearing under this section. If the person  
24 charged requests a hearing, the hearing shall be conducted in the  
25 same manner as a hearing on the denial of certificate of approval  
26 under Section 132.101. If the hearing results in a finding that a  
27 violation has occurred, the commission shall:

1           (1) provide to the person written notice of:

2                   (A) the findings established at the hearing; and

3                   (B) the amount of the penalty; and

4           (2) enter an order requiring the person to pay the  
5 amount of the penalty ~~[by an administrative law judge of the State~~  
6 ~~Office of Administrative Hearings. The administrative law judge~~  
7 ~~shall make findings of fact and conclusions of law and promptly~~  
8 ~~issue to the commission a proposal for a decision about the~~  
9 ~~occurrence of the violation and the amount of the proposed penalty.~~  
10 ~~Based on the findings of fact, conclusions of law, and proposal for~~  
11 ~~decision, the commission by order may:~~

12                   ~~[(1) find that a violation has occurred and impose a~~  
13 ~~penalty; or~~

14                   ~~[(2) find that a violation has not occurred].~~

15           ~~(e) [The notice of the commission's order given to the~~  
16 ~~person under Chapter 2001, Government Code, must include a~~  
17 ~~statement of the person's right to judicial review of the order.~~

18           ~~[(f)]~~ Not later than the 30th day after the date the person  
19 receives the order entered by the commission under Subsection (d)  
20 ~~[commission's order is final under Section 2001.144, Government~~  
21 ~~Code], the person shall:~~

22                   (1) pay the amount of the penalty;

23                   (2) remit ~~[pay]~~ the amount of the penalty to the  
24 commission for deposit in an escrow account and file a petition for  
25 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 and file with the court a  
5 sworn affidavit stating that the person is financially unable to  
6 pay the amount of the penalty.

7           (f) The commission's order is subject to judicial review in  
8 the same manner as an appeal of a decision to deny a certificate of  
9 approval under Section 132.102.

10           (g) If on review the court does not sustain the occurrence  
11 of the violation or finds that the amount of the penalty should be  
12 reduced, the commission shall remit the appropriate amount to the  
13 person charged with the violation not later than the 30th day after  
14 the date the court's judgment becomes final [~~Within the period~~  
15 ~~prescribed by Subsection (f), a person who acts under Subsection~~  
16 ~~(f)(3) may:~~

17           ~~[(1) stay enforcement of the penalty by:~~

18                   ~~[(A) paying the amount of the penalty to the~~  
19 ~~court for placement in an escrow account, or~~

20                   ~~[(B) giving to the court a supersedeas bond~~  
21 ~~approved by the court that is in the amount of the penalty and that~~  
22 ~~is effective until all judicial review of the commission's order is~~  
23 ~~final, or~~

24           ~~[(2) request the court to stay enforcement of the~~  
25 ~~penalty by:~~

26                   ~~[(A) filing with the court a sworn affidavit of~~  
27 ~~the person stating that the person is financially unable to pay the~~

1 ~~amount of the penalty and is financially unable to give the~~  
2 ~~supersedeas bond; and~~

3 ~~[(B) giving a copy of the affidavit to the~~  
4 ~~commission by certified mail].~~

5 (h) If the court sustains the occurrence of the violation:

6 (1) the court:

7 (A) shall order the person to pay the amount of  
8 the penalty; and

9 (B) may award to the commission the attorney's  
10 fees and court costs incurred by the commission in defending the  
11 action; and

12 (2) the commission shall remit the amount of the  
13 penalty to the comptroller for deposit in the general revenue fund  
14 ~~[The commission may file with the court a contest to an affidavit~~  
15 ~~received under Subsection (g)(2) not later than the fifth day after~~  
16 ~~the date the commission receives the copy. The court shall hold a~~  
17 ~~hearing on the facts alleged in the affidavit as soon as practicable~~  
18 ~~and shall stay the enforcement of the penalty on finding that the~~  
19 ~~alleged facts are true. The person who files an affidavit has the~~  
20 ~~burden of proving that the person is financially unable to pay the~~  
21 ~~amount of the penalty and to give a supersedeas bond].~~

22 (i) If the person does not pay the amount of the penalty  
23 after the commission's order becomes final for all purposes ~~and~~  
24 ~~the enforcement of the penalty is not stayed],~~ the commission may  
25 refer the matter to the attorney general for collection of the  
26 amount of the penalty.

27 SECTION 8.08. Chapter 132, Education Code, is amended by

1 adding Subchapter J to read as follows:

2 SUBCHAPTER J. CEASE AND DESIST ORDERS

3 Sec. 132.301. HEARING; NOTICE. (a) The commission may set  
4 a hearing on whether to issue a cease and desist order against a  
5 person under Section 132.303 if:

6 (1) the commission has reason to believe that the  
7 person is operating a career school or college without a  
8 certificate issued by the commission in violation of Section  
9 132.151; and

10 (2) the person has not responded to more than one  
11 written notice from the commission regarding the person's  
12 noncompliance with Section 132.151.

13 (b) The commission shall serve on the person a statement of  
14 charges and a notice of hearing, including a copy of the applicable  
15 rules of the commission.

16 Sec. 132.302. HEARING. Except as agreed by the parties with  
17 prior written approval of the commission, a hearing under this  
18 subchapter must be held not earlier than the fifth day or later than  
19 the 30th day after the date of service of the statement and notice  
20 required under Section 132.301.

21 Sec. 132.303. CEASE AND DESIST ORDER. After a hearing held  
22 under this subchapter, the commission may issue against the person  
23 charged with operating a career school or college without a  
24 certificate issued by the commission an order that requires that  
25 the person immediately cease and desist from violating this  
26 chapter.

27 Sec. 132.304. ENFORCEMENT; REFERRAL TO THE ATTORNEY

1 GENERAL. The commission may refer the matter to the consumer  
2 protection division of the attorney general's office for  
3 enforcement if the commission has reason to believe that a person  
4 has violated or failed to respond to a cease and desist order issued  
5 under this subchapter.

6 Sec. 132.305. EFFECT OF PRIOR PROCEEDINGS. The commission  
7 may proceed under this chapter or any other applicable law without  
8 regard to prior proceedings.

9 Sec. 132.306. RULES. The commission shall adopt rules as  
10 necessary to implement this subchapter.

11 SECTION 8.09. Subchapter I, Chapter 132, Education Code, is  
12 amended by adding Section 132.2415 to read as follows:

13 Sec. 132.2415. TUITION TRUST ACCOUNT. (a) The Texas  
14 Workforce Commission depository bonds guaranty trust account is  
15 renamed the career school or college tuition trust account. The  
16 career school or college tuition trust account is the account  
17 designated to receive all amounts related to the protection of  
18 career school or college tuition. The balance of the trust account  
19 may not exceed \$1 million.

20 (b) The commission may collect annually a fee from each  
21 career school or college to be deposited to the credit of the career  
22 school or college tuition trust account. The total amount of the  
23 fees collected in a year shall be set by the commission in the  
24 amount estimated as necessary to pay the liabilities of the trust  
25 account during that year, not to exceed 0.2 percent of the gross  
26 amount of tuition and fees charged by career schools and colleges in  
27 that year, excluding amounts refunded under Section 132.061.

1       (c) If, at the end of a fiscal year, the commission  
2 determines that the commission has collected fees under this  
3 chapter in excess of the amount necessary to defray the expense of  
4 administering this chapter, the commission may transfer any portion  
5 of the excess amount to the career school or college tuition trust  
6 account.

7       (d) From money in the career school or college tuition trust  
8 account, the commission shall attempt to provide a full refund to  
9 each student of a closed career school or college of the amount owed  
10 to the student as determined under Section 132.061. The commission  
11 may provide a partial refund to a student only if the commission  
12 determines that the amount in the trust account is insufficient to  
13 provide a full refund to the student. The commission shall consider  
14 the following factors in determining the amount of a partial refund  
15 to be paid to a student:

16               (1) the amount of money in the trust account;

17               (2) the cost and number of claims against the trust  
18 account resulting from closure of the school or college;

19               (3) the average cost of a claim paid from the trust  
20 account in the past; and

21               (4) the availability of other licensed career schools  
22 or colleges at which the student may complete the student's  
23 training.

24       (e) Notwithstanding Subsection (b), in the state fiscal  
25 year ending August 31, 2004, the commission may collect a fee under  
26 Subsection (b) only if on January 1 of that year the amount in the  
27 career school or college tuition trust account is less than



1 \$300,000. This subsection expires September 1, 2005.

2 SECTION 8.10. Section 132.242, Education Code, is amended  
3 to read as follows:

4 Sec. 132.242. CLOSED SCHOOL OR COLLEGE. (a) If a career  
5 ~~[proprietary]~~ school or college closes, the commission shall  
6 attempt to arrange for students of the closed school or college to  
7 attend another career ~~[proprietary]~~ school or college.

8 (b) The expense incurred by a career ~~[proprietary]~~ school or  
9 college in providing a teachout that is directly related to  
10 educating a student placed in the school or college under this  
11 section, including the applicable tuition for the period for which  
12 the student has paid tuition, shall be paid from the career  
13 ~~[proprietary]~~ school or college tuition trust account ~~[protection~~  
14 ~~fund]~~.

15 (c) If the student cannot be placed in another career  
16 ~~[proprietary]~~ school or college, the student's tuition and fees  
17 shall be refunded under Section 132.061(d).

18 (d) If a student does not accept a place that is available  
19 and reasonable in another career ~~[proprietary]~~ school or college,  
20 the student's tuition and fees shall be refunded under the refund  
21 policy maintained by the closing career ~~[proprietary]~~ school or  
22 college under Section 132.061~~[(b)]~~.

23 (e) For each closed career school or college, refunds shall  
24 be paid from the career school or college ~~[If the amount of the~~  
25 ~~closed proprietary school's bond under Section 132.060 is less than~~  
26 ~~the amount required for student refunds under Subsections (c) and~~  
27 ~~(d), the refunds shall be paid from the proprietary school]~~ tuition

1 trust account [~~protection fund~~] in an amount not to exceed \$150,000  
2 [~~\$50,000~~].

3 (f) If another career [~~proprietary~~] school or college  
4 assumes responsibility for the closed career school's or college's  
5 [~~proprietary school's~~] students with no significant changes in the  
6 quality of training, the student is not entitled to a refund under  
7 Subsection (c) or (d).

8 (g) Attorney's fees, court costs, or damages may not be paid  
9 from the career [~~proprietary~~] school or college tuition trust  
10 account [~~protection fund~~].

11 SECTION 8.11. The change in law made by this part to  
12 Subsection (b), Section 132.051, Education Code, applies only to a  
13 note or other instrument issued, or a contract entered into, on or  
14 after the effective date of this Act. A note or other instrument  
15 issued, or a contract entered into, before the effective date of  
16 this Act is governed by the law in effect on the date the note or  
17 other instrument was issued or the contract was entered into, and  
18 the former law is continued in effect for that purpose.

19 SECTION 8.12. The change in law made by this part to Section  
20 132.055, Education Code, applies only to an application for a  
21 certificate of approval filed with the Texas Workforce Commission  
22 on or after the effective date of this Act. An application for a  
23 certificate of approval filed before the effective date of this Act  
24 is governed by the law in effect on the date the application was  
25 filed, and the former law is continued in effect for that purpose.

26 SECTION 8.13. The changes in law made by this part to  
27 Subsection (b), Section 132.061, Education Code, apply only to the

1 refund policy of a career school or college to which a certificate  
2 of approval is granted or renewed by the Texas Workforce Commission  
3 on or after the effective date of this Act.

4 SECTION 8.14. The changes in law made by this part to  
5 Section 132.152, Education Code, apply only to an alleged violation  
6 of Section 132.151, Education Code, that occurs on or after the  
7 effective date of this Act. An alleged violation that occurs before  
8 the effective date of this Act is governed by the law in effect on  
9 the date the alleged violation occurred, and the former law is  
10 continued in effect for that purpose.

11 SECTION 8.15. On or after the effective date of this part,  
12 any amount remaining in or payable to the credit of the tuition  
13 protection fund under Section 132.241, Education Code, as that  
14 section existed before repeal by this Act, shall be transferred to  
15 the credit of the career school or college tuition trust account  
16 established under Section 132.2415, Education Code, as added by  
17 this part.

18 PART 2. CONFORMING AMENDMENTS REGARDING  
19 CAREER SCHOOLS AND COLLEGES

20 SECTION 8.16. Subsection (b), Section 52.32, Education  
21 Code, is amended to read as follows:

22 (b) If a loan applicant is enrolled at a career  
23 [~~proprietary~~] school or college in a degree program that is  
24 approved by the board, the applicant is not required to provide  
25 evidence that he is unable to obtain a guaranteed student loan from  
26 a commercial lender under Subsection (a)(2) of this section.

27 SECTION 8.17. Subdivision (5), Section 53.02, Education

1 Code, is amended to read as follows:

2 (5) "Institution of higher education" means (i) any  
3 institution of higher education as defined by Subdivision (8) of  
4 Section 61.003 of this code, or (ii) a degree-granting college or  
5 university corporation accredited by the Texas Education Agency or  
6 by a recognized accrediting agency, as defined by Subdivision (13)  
7 of Section 61.003 of this code, or (iii) a postsecondary career  
8 ~~[proprietary]~~ school or college accredited by the Association of  
9 Independent Colleges and Schools, the National Association of Trade  
10 and Technical Schools, or the National Accrediting Commission of  
11 Cosmetology Arts and Sciences.

12 SECTION 8.18. Section 54.6001, Education Code, is amended  
13 to read as follows:

14 Sec. 54.6001. PUBLIC PURPOSE. An educated population being  
15 necessary to the social development and economic health of this  
16 state, the legislature finds and declares it to be an urgent public  
17 necessity to assist young Texans in obtaining a higher education.  
18 Because the state's population is rapidly growing and is diverse,  
19 the state is required to use all of the higher education facilities  
20 and resources within the state, both public and private, to provide  
21 a wide variety of educational environments and instructional  
22 options and to preserve the partnership between the state and  
23 private or independent institutions of higher education and between  
24 the state and career ~~[proprietary]~~ schools and colleges, as defined  
25 by Section 132.001, that offer a two-year associate degree as  
26 approved by the Texas Higher Education Coordinating Board.  
27 Therefore, the prepaid higher education tuition program is

1 established to help Texas students attend the institution that best  
2 meets their individual needs.

3 SECTION 8.19. Subdivision (9), Section 54.601, Education  
4 Code, is amended to read as follows:

5 (9) "Career school or college" [~~"Proprietary school"~~]  
6 means a career [~~proprietary~~] school or college, as defined by  
7 Section 132.001, that offers a two-year associate degree as  
8 approved by the Texas Higher Education Coordinating Board.

9 SECTION 8.20. Subsection (a), Section 54.605, Education  
10 Code, is amended to read as follows:

11 (a) A prepaid tuition contract remains in effect after the  
12 program is terminated if, when the program is terminated, the  
13 beneficiary:

14 (1) has been accepted by or is enrolled in an  
15 institution of higher education, a private or independent  
16 institution of higher education, or a career [~~proprietary~~] school  
17 or college; or

18 (2) is projected to graduate from high school not  
19 later than the third anniversary of the date the program is  
20 terminated.

21 SECTION 8.21. Subsection (b), Section 54.618, Education  
22 Code, is amended to read as follows:

23 (b) The board may:

24 (1) adopt an official seal;

25 (2) adopt rules to implement this subchapter;

26 (3) sue and be sued;

27 (4) enter into contracts and other necessary

1 instruments;

2 (5) enter into agreements or other transactions with  
3 the United States, state agencies, including institutions of higher  
4 education, private or independent institutions of higher  
5 education, career [~~proprietary~~] schools and colleges, and local  
6 governments;

7 (6) appear in its own behalf before governmental  
8 agencies;

9 (7) contract for necessary goods and services and  
10 engage the services of private consultants, actuaries, trustees,  
11 records administrators, managers, legal counsel, and auditors for  
12 administrative or technical assistance;

13 (8) solicit and accept gifts, grants, loans, and other  
14 aid from any source or participate in any other way in any  
15 government program to carry out this subchapter;

16 (9) impose administrative fees;

17 (10) contract with a person to market the program;

18 (11) purchase liability insurance covering the board  
19 and employees and agents of the board; and

20 (12) establish other policies, procedures, and  
21 eligibility criteria to implement this subchapter.

22 SECTION 8.22. Subsection (h), Section 54.619, Education  
23 Code, is amended to read as follows:

24 (h) Notwithstanding other provisions of this subchapter,  
25 any contract benefits purchased under this subchapter may be  
26 applied to the payment of tuition and required fees at a career  
27 [~~proprietary~~] school or college as if the [~~proprietary~~] school or

1 college were an institution of higher education or private or  
2 independent institution of higher education. On the purchaser's  
3 request, the board shall apply, in accordance with Section 54.628,  
4 any existing amount of prepaid tuition contract benefits to the  
5 payment of tuition and required fees at a career [~~proprietary~~]  
6 school or college. The board is not responsible for the payment of  
7 tuition and required fees at the career [~~proprietary~~] school or  
8 college in excess of that amount. The board may adopt rules as  
9 necessary to implement this subsection.

10 SECTION 8.23. The heading of Chapter 132, Education Code,  
11 is amended to read as follows:

12 CHAPTER 132. CAREER [~~PROPRIETARY~~] SCHOOLS AND COLLEGES

13 SECTION 8.24. Subsections (a) and (b), Section 132.021,  
14 Education Code, are amended to read as follows:

15 (a) The commission shall exercise jurisdiction and control  
16 of the system of career [~~proprietary~~] schools and colleges, and the  
17 commission shall carry out supervision of the provisions of this  
18 chapter, and enforce minimum standards for approval of career  
19 [~~proprietary~~] schools and colleges under the operating regulations  
20 and policies hereinafter set forth and as may be adopted pursuant to  
21 this chapter.

22 (b) The commission shall prepare a comparison of the cost to  
23 a student of courses of instruction or training programs at career  
24 [~~proprietary~~] schools and colleges to the cost to a student of  
25 similar courses or programs at schools that are exempt from this  
26 chapter under Section 132.002.

27 SECTION 8.25. Section 132.022, Education Code, is amended

1 to read as follows:

2           Sec. 132.022. DUTIES OF COMMISSION. The commission shall  
3 carry out the policies of this chapter and enforce the rules adopted  
4 under this chapter. The commission shall also certify the names of  
5 those career [~~proprietary~~] schools and colleges meeting the  
6 requirements for a certificate of approval.

7           SECTION 8.26. Section 132.023, Education Code, is amended  
8 to read as follows:

9           Sec. 132.023. MEMORANDUM OF UNDERSTANDING FOR REGULATION OF  
10 CAREER [~~PROPRIETARY~~] SCHOOLS AND COLLEGES. (a) The commission  
11 shall develop, in consultation with the Texas Guaranteed Student  
12 Loan Corporation and each state agency that regulates career  
13 [~~proprietary~~] schools and colleges in this state, a comprehensive  
14 strategy to reduce default rates at the regulated career  
15 [~~proprietary~~] schools and colleges and to improve the overall  
16 quality of the programs operated by these schools and colleges.

17           (b) The commission shall execute a memorandum of  
18 understanding outlining the strategy with the corporation and each  
19 state agency regulating career [~~proprietary~~] schools and colleges  
20 and shall adopt rules to carry out the commission's [~~its~~] duties  
21 under this section. The Texas Guaranteed Student Loan Corporation  
22 shall adopt the memorandum of understanding as procedures of the  
23 corporation, and each agency by rule shall adopt the memorandum of  
24 understanding.

25           (c) The memorandum of understanding shall:

26                   (1) require the development and monitoring of  
27 indicators that identify career [~~proprietary~~] schools and colleges



1 that have excessive loan default rates, poor program performance,  
2 or both;

3 (2) require the sharing of specific information  
4 relating to the indicators between the commission and the Texas  
5 Guaranteed Student Loan Corporation or other agency; and

6 (3) require the application of specific sanctions by  
7 the commission or by the Texas Guaranteed Student Loan Corporation  
8 or other agency, as appropriate, to lower the default rates,  
9 improve program performance, or both.

10 (d) If the commission enters a memorandum of understanding  
11 with the Texas Guaranteed Student Loan Corporation related to the  
12 regulation of career [~~proprietary~~] schools and colleges, the  
13 commission may require each career [~~proprietary~~] school or college  
14 governed by this chapter to provide information to the commission  
15 that is necessary for the purposes of the memorandum of  
16 understanding.

17 SECTION 8.27. Section 132.052, Education Code, is amended  
18 to read as follows:

19 Sec. 132.052. APPLICATION FOR CERTIFICATE OF APPROVAL.  
20 Every career [~~proprietary~~] school or college desiring to operate in  
21 this state or do business in this state shall make written  
22 application to the commission for a certificate of approval. Such  
23 application shall be verified, be in such form as may be prescribed  
24 by the commission, and shall furnish the commission such  
25 information as the commission may require.

26 SECTION 8.28. Section 132.053, Education Code, is amended  
27 to read as follows:

1           Sec. 132.053. STATUTORY WAIVER AUTHORITY.           (a) The  
2 commission may establish rules that waive, alter, suspend, or  
3 replace any of the following provisions governing small career  
4 ~~[proprietary]~~ schools and colleges:

5           (1) the fee schedule authorized under Section 132.201,  
6 provided that fees under a fee schedule established by rule may not  
7 be less than the reasonable administrative cost for regulation or  
8 more than the amount that a small career ~~[proprietary]~~ school or  
9 college would otherwise pay if it were not classified as a small  
10 career ~~[proprietary]~~ school or college;

11           (2) participation in the career ~~[proprietary]~~ school  
12 or college tuition trust account ~~[protection fund]~~ required by  
13 Section 132.2415 ~~[132.241]~~;

14           (3) the refund policy provisions of Section 132.061;

15           (4) ~~[the bonding requirements of Section 132.060,~~

16           ~~(5)]~~ the examination of a school or college for  
17 compliance under Section 132.056(f);

18           (5) ~~(6)]~~ the reporting requirements of Section  
19 132.055(o); and

20           (6) ~~(7)]~~ the term for which a certificate of approval  
21 is issued under Section 132.056(b), provided that a rule adopted  
22 under this section may not provide for a term that exceeds three  
23 years or is less than one year.

24           (b) A rule proposed under this section may be adopted only  
25 if it will reduce the regulatory burden for small career  
26 ~~[proprietary]~~ schools and colleges and will adequately safeguard  
27 the interests of the students of small career ~~[proprietary]~~ schools

1 and colleges to receive either the education for which they have  
2 contracted or an appropriate refund.

3 SECTION 8.29. Section 132.054, Education Code, is amended  
4 to read as follows:

5 Sec. 132.054. SMALL SCHOOL OR COLLEGE EXEMPTION. The  
6 commission may exempt small career [~~proprietary~~] schools and  
7 colleges from any requirement of this chapter to reduce the cost to  
8 small schools and colleges of receiving a certificate of approval.

9 SECTION 8.30. Section 132.056, Education Code, is amended  
10 to read as follows:

11 Sec. 132.056. ISSUANCE OF CERTIFICATE OF APPROVAL; RENEWAL.  
12 (a) The commission, upon review of an application for a  
13 certificate of approval duly submitted in accordance with Section  
14 132.052 and meeting the requirements of Section 132.055, shall  
15 issue a certificate of approval to the applicant career  
16 [~~proprietary~~] school or college. The certificate of approval shall  
17 be in a form prescribed by the commission and shall state in a clear  
18 and conspicuous manner at least the following information:

19 (1) date of issuance, effective date, and term of  
20 approval;

21 (2) correct name and address of the school or college;

22 (3) authority for approval and conditions of approval,  
23 if any, referring specifically to the approved catalogue or  
24 bulletin published by the school or college;

25 (4) signature of the agency administrator; and

26 (5) any other fair and reasonable representations that  
27 are consistent with this chapter and deemed necessary by the

1 commission.

2 (b) The term for which a certificate of approval shall be  
3 issued may not exceed one year.

4 (c) The certificate of approval shall be issued to the owner  
5 of the applicant career [~~proprietary~~] school or college and is  
6 nontransferable. In the event of a change in ownership of the  
7 school or college, a new owner must, at least 30 days prior to the  
8 change in ownership, apply for a new certificate of approval.

9 (d) At least 30 days prior to expiration of a certificate of  
10 approval, the career [~~proprietary~~] school or college shall forward  
11 to the commission an application for renewal. The commission shall  
12 reexamine the premises of the school or college as frequently as the  
13 commission considers necessary and renew, revoke, or deny renewal  
14 of the school's or college's certificate of approval. If a school  
15 or college fails to file a complete application for renewal at least  
16 30 days before the expiration date of the certificate of approval,  
17 the school or college, as a condition of renewal, must pay, in  
18 addition to the annual renewal fee, a late renewal fee in an amount  
19 established by commission rule of at least \$100.

20 (e) A career [~~proprietary~~] school or college not yet in  
21 operation when its application for certificate of approval is filed  
22 may not begin operation until receipt of certificate of approval.

23 (f) The commission shall visit a career [~~proprietary~~]  
24 school or college to reexamine the school or college for compliance  
25 with the criteria provided by Section 132.055 not later than three  
26 months after the date the [~~a~~] school or college begins operation or  
27 after a change in ownership of the [~~a~~] school or college.

1 SECTION 8.31. Section 132.058, Education Code, is amended  
2 to read as follows:

3 Sec. 132.058. REVOCATION OF CERTIFICATE OF APPROVAL.

4 (a) The commission may revoke an issued certificate of approval or  
5 place reasonable conditions upon the continued approval  
6 represented by the certificate. Prior to revocation or imposition  
7 of conditions upon a certificate of approval, the commission shall  
8 notify the holder of the certificate, in writing, of the impending  
9 action and set forth the grounds for the action. The commission may  
10 reexamine a career [~~proprietary~~] school or college two or more  
11 times during each year in which a notice relating to the school or  
12 college has been issued or conditions have been imposed on the  
13 school or college under this subsection.

14 (b) A certificate of approval may be revoked or made  
15 conditional if the commission has reasonable cause to believe that  
16 the career [~~proprietary~~] school or college is guilty of a violation  
17 of this chapter or of any rules adopted under this chapter.

18 SECTION 8.32. Subsections (a), (b), and (d), Section  
19 132.059, Education Code, are amended to read as follows:

20 (a) All representatives employed by a career [~~proprietary~~]  
21 school or college shall register with the commission. Application  
22 for registration may be made at any time and shall be based on  
23 information submitted in accordance with the provisions of Section  
24 132.052.

25 (b) Registration of a representative is effective upon  
26 receipt of notice from the commission and remains in effect for a  
27 period not in excess of 12 calendar months. Renewal of

1 representative registration shall be in accordance with the renewal  
2 application form forwarded to the career [~~proprietary~~] school or  
3 college by the commission.

4 (d) Career [~~Proprietary~~] schools and colleges domiciled or  
5 having their principal place of business outside of this state that  
6 engage representatives to canvass, solicit, or contract with any  
7 person within this state, are subject to the requirements for  
8 registration of representatives.

9 SECTION 8.33. Section 132.062, Education Code, is amended  
10 to read as follows:

11 Sec. 132.062. WITHHOLDING RECORDS. A career [~~proprietary~~]  
12 school or college may withhold a student's transcript or  
13 certificate of completion of training until the student has  
14 fulfilled the student's financial obligation to the school or  
15 college.

16 SECTION 8.34. Section 132.063, Education Code, is amended  
17 to read as follows:

18 Sec. 132.063. APPROVED DEGREES. A career [~~proprietary~~]  
19 school or college may offer a degree approved by the Texas Higher  
20 Education Coordinating Board.

21 SECTION 8.35. Section 132.064, Education Code, is amended  
22 to read as follows:

23 Sec. 132.064. NONQUALIFICATION AS SMALL CAREER  
24 [~~PROPRIETARY~~] SCHOOL AND COLLEGE. (a) A career [~~proprietary~~]  
25 school or college operating as a small career [~~proprietary~~]  
26 or college but that has an annual gross income from tuition and fees  
27 that exceeds \$100,000 (other than a test preparation school

1 described by Section 132.001(10)(B) or (C)) that intends to receive  
2 a payment from federal funds under 20 U.S.C. Section 1070 et seq. or  
3 intends to receive prepayment of tuition, fees, or other charges  
4 from federal or state funds shall send written notice to the  
5 commission. The notice must be sent not later than the following  
6 date, as applicable:

7 (1) the 60th day after the date on which annual gross  
8 income is determined to exceed the maximum;

9 (2) the day before receiving a payment of federal  
10 funds under 20 U.S.C. Section 1070 et seq.; or

11 (3) the day before enrolling a student who will prepay  
12 tuition, a fee, or another charge in whole or in part from federal  
13 or state funds.

14 (b) A career [~~proprietary~~] school or college that no longer  
15 qualifies as a small career [~~proprietary~~] school or college shall  
16 apply for an initial certificate of approval as a career  
17 [~~proprietary~~] school or college within 30 days after the date the  
18 school has notified the commission that it no longer qualifies as a  
19 small career [~~proprietary~~] school or college. The commission may  
20 apply or prorate any fees paid by the school or college as a small  
21 career [~~proprietary~~] school or college.

22 (c) A career [~~proprietary~~] school or college that no longer  
23 qualifies as a small career [~~proprietary~~] school or college shall  
24 submit to the commission an amount of money equal to the difference  
25 between the fee for the small career [~~proprietary~~] school or  
26 college certificate of approval submitted by the school or college  
27 and the fee that the school or college would be required to submit

1 after its qualifications as a small career [~~proprietary~~] school or  
2 college cease.

3 (d) The authority of a career [~~proprietary~~] school or  
4 college to operate under a small career [~~proprietary~~] school or  
5 college certificate of approval terminates on the final  
6 determination of issuance or denial of an initial certificate of  
7 approval. If a school or college fails to file a complete  
8 application within the period required by Subsection (b), the  
9 school or college, as a condition of issuance, must pay a late fee  
10 in an amount established by commission rule of at least \$100.

11 SECTION 8.36. Section 132.151, Education Code, is amended  
12 to read as follows:

13 Sec. 132.151. PROHIBITIONS. A person may not:

14 (1) operate a career [~~proprietary~~] school or college  
15 without a certificate of approval issued by the commission;

16 (2) solicit prospective students for or on behalf of a  
17 career [~~proprietary~~] school or college without being registered as  
18 a representative of the career [~~proprietary~~] school or college as  
19 required by this chapter;

20 (3) accept contracts or enrollment applications from a  
21 representative who is not bonded as required by this chapter;

22 (4) utilize advertising designed to mislead or deceive  
23 prospective students;

24 (5) fail to notify the commission of the  
25 discontinuance of the operation of any career [~~proprietary~~] school  
26 or college within 72 hours of cessation of classes and make  
27 available accurate records as required by this chapter;



1           (6) fail to secure and file within 30 days an increased  
2 bond as required by this chapter;

3           (7) negotiate any promissory instrument received as  
4 payment of tuition or other charge prior to completion of 75 percent  
5 of the course, provided that prior to such time, the instrument may  
6 be transferred by assignment to a purchaser who shall be subject to  
7 all the defenses available against the career [~~proprietary~~] school  
8 or college named as payee; or

9           (8) violate any provision of this chapter.

10          SECTION 8.37. Section 132.153, Education Code, is amended  
11 to read as follows:

12          Sec. 132.153. COMPETITIVE BIDDING; ADVERTISING. The  
13 commission may not adopt rules to restrict competitive bidding or  
14 advertising by a career [~~proprietary~~] school or college except to  
15 prohibit false, misleading, or deceptive competitive bidding or  
16 advertising practices. Those rules may not restrict:

17           (1) the use of an advertising medium;

18           (2) the size or duration of an advertisement; or

19           (3) advertisement under a trade name.

20          SECTION 8.38. Subsection (a), Section 132.154, Education  
21 Code, is amended to read as follows:

22          (a) Whenever the commission has probable cause to believe  
23 that any career [~~proprietary~~] school or college has committed any  
24 acts that would be in violation of this chapter, the commission  
25 shall apply for an injunction restraining the commission of such  
26 acts.

27          SECTION 8.39. Section 132.156, Education Code, is amended

1 to read as follows:

2           Sec. 132.156. SANCTIONS.       (a) If the commission has  
3 reasonable cause to believe that a career [~~proprietary~~] school or  
4 college has violated this chapter or a rule adopted under this  
5 chapter, the commission may:

6                   (1) order a peer review of the school or college; or

7                   (2) suspend the admission of students to the school or  
8 college.

9           (b) A peer review ordered under this section shall be  
10 conducted by a peer review team composed of knowledgeable persons  
11 selected by the commission. The commission shall attempt to  
12 provide a balance on each team between members assigned to the team  
13 who are from this state and those who are from other states. The  
14 team shall provide the commission with an objective assessment of  
15 the content of the career school's or college's [~~proprietary~~  
16 ~~school's~~] curriculum and its application. The costs of providing a  
17 peer review team shall be paid by the school or college.

18           SECTION 8.40. Subsections (a) through (d), Section 132.157,  
19 Education Code, are amended to read as follows:

20           (a) If a career [~~proprietary~~] school or college fails to  
21 timely comply with the requirements of Section 132.064, in addition  
22 to any other penalties authorized by law, the commission may assess  
23 a penalty in an amount not greater than two times the amount that  
24 the school or college would have paid in fees and other charges if  
25 the school or college had complied with the requirements of Section  
26 132.064 or may assess a penalty in the amount of the tuition or fee  
27 charge to any students whose tuition or fees were contracted to be

1 funded by a prepaid federal or state source.

2 (b) If the commission finds that the career [~~proprietary~~  
3 school or college acted intentionally, the commission may, in  
4 addition to any other remedy available under law, assess a penalty  
5 against the owner in an amount not greater than four times the  
6 amount of the fees and charges that the school or college should  
7 have paid or four times the amount of the student tuition that was  
8 contracted to be funded from a prepaid federal or state source.

9 (c) The failure to notify the commission within four months  
10 after the career school's or college's [~~proprietary school's~~  
11 earnings exceed that of a small career [~~proprietary~~ school or  
12 college gives rise to a rebuttable presumption of intent for  
13 purposes of assessment of a penalty.

14 (d) The failure to notify the commission within 10 days  
15 after a career [~~proprietary~~ school or college has enrolled a  
16 student whose tuition or fees are paid in whole or in part from a  
17 prepaid federal or state source gives rise to a rebuttable  
18 presumption of intent for purposes of assessment of a penalty.

19 SECTION 8.41. Subsections (a), (c) through (f), (h), and  
20 (i), Section 132.201, Education Code, are amended to read as  
21 follows:

22 (a) Certificate and registration fees, except those charged  
23 pursuant to Subsection (d), shall be collected by the commission.  
24 Each fee shall be in an amount set by the commission in an amount not  
25 to exceed 150 percent of each fee in the following schedule:

26 (1) the initial fee for a career [~~proprietary~~ school  
27 or college:

1 (A) for a certificate of approval is \$2,000; or

2 (B) for a small career [~~proprietary~~] school or  
3 college certificate of approval is \$1,000;

4 (2) the first renewal fee and each subsequent renewal  
5 fee for a career [~~proprietary~~] school or college is the greater of:

6 (A) an amount that is determined by applying a  
7 percentage, not to exceed 0.3 percent, to the gross tuition and  
8 fees, excluding refunds as provided by Section 132.061, of the  
9 school or college; or

10 (B) \$500;

11 (3) the initial registration fee for a representative  
12 is \$60;

13 (4) the annual renewal fee for a representative is  
14 \$30;

15 (5) the fee for a change of a name of a career  
16 [~~proprietary~~] school or college or owner is \$100;

17 (6) the fee for a change of an address of a career  
18 [~~proprietary~~] school or college is \$180;

19 (7) the fee for a change in the name or address of a  
20 representative or a change in the name or address of a career  
21 [~~proprietary~~] school or college that causes the reissuance of a  
22 representative permit is \$10;

23 (8) the application fee for an additional course is  
24 \$150, except for seminar and workshop courses, for which the fee is  
25 \$25;

26 (9) the application fee for a director, administrative  
27 staff member, or instructor is \$15;

1           (10) the application fee for the authority to grant  
2 degrees is \$2,000;

3           (11) the application fee for an additional degree  
4 course is \$250; and

5           (12) the fee for an inspection required by commission  
6 rule of classroom facilities that are separate from the main campus  
7 is \$250.

8           (c) For purposes of this section, the gross amount of annual  
9 student fees and tuition for a career [~~proprietary~~] school or  
10 college is the amount determined by the commission based on any  
11 report submitted by the school or college to the commission or other  
12 information obtained by the commission.

13           (d) In connection with the regulation of any career  
14 [~~proprietary~~] school or college or course through a memorandum of  
15 understanding pursuant to Section 132.002(c), the commission shall  
16 set an application and annual renewal fee, not to exceed \$2,000.  
17 The fee shall be an amount reasonably calculated to cover the  
18 administrative costs associated with assuming the additional  
19 regulation.

20           (e) The fee for an investigation at a career [~~proprietary~~]  
21 school or college to resolve a complaint filed against the school or  
22 college is \$600. The fee may be charged only if:

23           (1) the complaint could not have been resolved by  
24 telephone or written correspondence only;

25           (2) a representative of the commission visits the  
26 school or college as a part of the complaint resolution process; and

27           (3) the school or college is found to be at fault.

1           (f) The commission may allow payment of any fee authorized  
2 under this section or under Section 132.2415 [~~132.241~~] that exceeds  
3 \$1,000 to be paid by installment. The commission shall provide for  
4 appropriate interest charges and late penalties in addition to any  
5 other remedy that is provided for by law for the late payment of a  
6 fee installment authorized under this section. The commission may  
7 assess a reasonable service charge or interest to be paid by a  
8 career [~~proprietary~~] school or college that pays a fee by  
9 installment in an amount not to exceed 10 percent annually of the  
10 fee that is to be paid by installment.

11           (h) The commission may apply or prorate a fee paid by a small  
12 career [~~proprietary~~] school or college that has complied with the  
13 notification requirements of Section 132.064 toward an initial  
14 certificate as a career [~~proprietary~~] school or college in the  
15 event that a career [~~proprietary~~] school or college has ceased to  
16 qualify as a small career [~~proprietary~~] school or college during a  
17 certification period.

18           (i) The commission may charge each career [~~proprietary~~]  
19 school or college a fee for the cost of a service that collects,  
20 analyzes, and reports student-level data in order to assess the  
21 outcome of students who attend career [~~proprietary~~] schools and  
22 colleges. The total amount of the fees charged under this  
23 subsection must not exceed the cost of the service to the  
24 commission.

25           SECTION 8.42. Subsection (b), Section 52.013, Government  
26 Code, is amended to read as follows:

27           (b) The board may:

- 1 (1) appoint any necessary or proper subcommittee;
- 2 (2) hire necessary employees;
- 3 (3) pay all reasonable expenses from available funds;
- 4 (4) approve curriculum for court reporter career
- 5 ~~[proprietary]~~ schools and colleges as provided by Section 132.055,
- 6 Education Code;
- 7 (5) approve court reporter programs in technical
- 8 institutes and public community colleges for purposes of
- 9 certification under Section 61.051, Education Code; and
- 10 (6) approve continuing professional education courses
- 11 for persons certified as court reporters.

12 SECTION 8.43. Subdivision (3), Section 305.002, Labor Code,

13 is amended to read as follows:

14 (3) "Eligible institution" means a career

15 ~~[proprietary]~~ school or college in this state that:

16 (A) holds a certificate of approval under Chapter

17 132, Education Code; and

18 (B) is approved by the commission under Section

19 305.023 for its students to participate in the grant program

20 established under this chapter.

21 SECTION 8.44. Section 305.023, Labor Code, is amended to

22 read as follows:

23 Sec. 305.023. APPROVAL OF INSTITUTIONS. The commission

24 shall approve a career ~~[proprietary]~~ school or college for its

25 students to participate in the grant program established under this

26 chapter if the school or college:

- 27 (1) has been accredited for not less than five years by

1 an accrediting agency recognized by the United States Department of  
2 Education and maintains that accreditation;

3 (2) has held a certificate of approval under Chapter  
4 132, Education Code, for at least five years; and

5 (3) offers one or more qualified education programs.

6 SECTION 8.45. Section E, Article 2.23A, Texas Non-Profit  
7 Corporation Act (Article 1396-2.23A, Vernon's Texas Civil  
8 Statutes), is amended to read as follows:

9 E. This article does not apply to:

10 (1) a corporation that solicits funds only from its  
11 members;

12 (2) a corporation which does not intend to solicit and  
13 receive and does not actually raise or receive contributions from  
14 sources other than its own membership in excess of \$10,000 during a  
15 fiscal year;

16 (3) a career [~~proprietary~~] school or college that has  
17 received a certificate of approval from the Texas Workforce  
18 Commission [~~State Commissioner of Education~~], a public institution  
19 of higher education and foundations chartered for the benefit of  
20 such institutions or any component part thereof, a private or  
21 independent institution of higher education as defined by Section  
22 61.003, Education Code, a postsecondary educational institution  
23 with a certificate of authority to grant a degree issued by the  
24 Texas Higher Education Coordinating Board, [~~Texas College and~~  
25 ~~University System,~~] or an elementary or secondary school;

26 (4) religious institutions which shall be limited to  
27 churches, ecclesiastical or denominational organizations, or other



1 established physical places for worship at which religious services  
2 are the primary activity and such activities are regularly  
3 conducted;

4 (5) a trade association or professional society whose  
5 income is principally derived from membership dues and assessments,  
6 sales, or services;

7 (6) any insurer licensed and regulated by the Texas  
8 Department [~~State Board~~] of Insurance;

9 (7) an organization whose charitable activities  
10 relate to public concern in the conservation and protection of  
11 wildlife, fisheries, and allied natural resources;

12 (8) an alumni association of a public or private  
13 institution of higher education in this state, provided that such  
14 association is recognized and acknowledged by the institution as  
15 its official alumni association.

16 ARTICLE 9. REPEALER

17 SECTION 9.01. The following laws are repealed:

18 (1) Section 132.060, Education Code;

19 (2) Subsections (j) through (m), Section 132.152,  
20 Education Code;

21 (3) Section 132.241, Education Code;

22 (4) Section 201.002, Labor Code;

23 (5) Section 301.006, Labor Code, as added by  
24 Subsection (a), Section 5.82, Chapter 76, Acts of the 74th  
25 Legislature, Regular Session, 1995;

26 (6) Subsection (c), Section 301.061, Labor Code; and

27 (7) Subsection (k), Section 302.005, Labor Code.

ARTICLE 10. GENERAL CONFORMING AMENDMENTS

SECTION 10.01. Section 30.103, Education Code, is amended to read as follows:

Sec. 30.103. MEMORANDUM OF UNDERSTANDING. The Texas Youth Commission with the assistance of the Texas Workforce [~~Employment~~] Commission and the Council on Workforce and Economic Competitiveness shall by rule adopt a memorandum of understanding that establishes the respective responsibility of those entities to provide through local workforce development boards job training and employment assistance programs to children committed or formerly sentenced to the Texas Youth Commission. The Texas Youth Commission shall coordinate the development of the memorandum of understanding and include in its annual report information describing the number of children in the preceding year receiving services under the memorandum.

SECTION 10.02. Subsection (d), Section 501.095, Government Code, is amended to read as follows:

(d) The Texas Workforce [~~Employment~~] Commission shall coordinate the development of the memorandum of understanding.

SECTION 10.03. Subsection (b), Section 531.045, Government Code, is amended to read as follows:

(b) The task force is composed of:

(1) a representative of:

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

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

1 (C) the commission, appointed by the  
2 commissioner;

3 (D) the Texas Department of Health, appointed by  
4 the commissioner of public health;

5 (E) the Texas Department of Human Services,  
6 appointed by the commissioner of human services;

7 (F) the Texas Workforce Commission, appointed by  
8 the executive director [~~presiding officer~~] of that agency; and

9 (G) the Texas Rehabilitation Commission,  
10 appointed by the commissioner of that agency; and

11 (2) two representatives of each of the following  
12 groups, appointed by the comptroller:

13 (A) retailers who maintain electronic benefits  
14 transfer point-of-sale equipment;

15 (B) banks or owners of automatic teller machines;  
16 and

17 (C) consumer or client advocacy organizations.

18 SECTION 10.04. Subsection (c), Section 572.003, Government  
19 Code, is amended to read as follows:

20 (c) The term means a member of:

21 (1) the Public Utility Commission of Texas;

22 (2) the Texas Department of Economic Development  
23 [~~Commerce~~];

24 (3) the Texas [~~Natural Resource Conservation~~]  
25 Commission on Environmental Quality;

26 (4) the Texas Alcoholic Beverage Commission;

27 (5) The Finance Commission of Texas;

- 1           (6) the Texas Building and Procurement [~~General~~  
2 ~~Services~~] Commission;
- 3           (7) the Texas Board of Criminal Justice;
- 4           (8) the board of trustees of the Employees Retirement  
5 System of Texas;
- 6           (9) the Texas Transportation Commission;
- 7           (10) the Texas Workers' Compensation Commission;
- 8           (11) the Texas Department [~~State Board~~] of Insurance;
- 9           (12) the Parks and Wildlife Commission;
- 10          (13) the Public Safety Commission;
- 11          (14) the Texas Ethics Commission;
- 12          (15) the State Securities Board;
- 13          (16) the Texas Water Development Board;
- 14          (17) the governing board of a public senior college or  
15 university as defined by Section 61.003, Education Code, or of The  
16 University of Texas Southwestern Medical Center at Dallas, The  
17 University of Texas Medical Branch at Galveston, The University of  
18 Texas Health Science Center at Houston, The University of Texas  
19 Health Science Center at San Antonio, The University of Texas  
20 System Cancer Center, The University of Texas Health Science Center  
21 at Tyler, University of North Texas Health Science Center at Fort  
22 Worth, Texas Tech University Health Sciences Center, Texas State  
23 Technical College--Harlingen, Texas State Technical  
24 College--Marshall, Texas State Technical College--Sweetwater, or  
25 Texas State Technical College--Waco;
- 26          (18) the Texas Higher Education Coordinating Board;
- 27          (19) the Texas Workforce [~~Employment~~] Commission;

- 1           (20)   the State Banking Board;
- 2           (21)   the board of trustees of the Teacher Retirement
- 3 System of Texas;
- 4           (22)   the Credit Union Commission;
- 5           (23)   the School Land Board;
- 6           (24)   the board of the Texas Department of Housing and
- 7 Community Affairs;
- 8           (25)   the Texas Racing Commission;
- 9           (26)   the State Board of Dental Examiners;
- 10          (27)   ~~[the Texas Board of Licensure for Nursing Home~~
- 11 ~~Administrators;~~
- 12          ~~[(28)]~~   the Texas State Board of Medical Examiners;
- 13          (28) ~~[(29)]~~   the Board of Pardons and Paroles;
- 14          (29) ~~[(30)]~~   the Texas State Board of Pharmacy;
- 15          (30) ~~[(31)]~~   the Department of Information Resources
- 16 governing board;
- 17          (31) ~~[(32)]~~   the Motor Vehicle Board;
- 18          (32) ~~[(33)]~~   the Texas Real Estate Commission;
- 19          (33) ~~[(34)]~~   the board of directors of the State Bar of
- 20 Texas;
- 21          (34) ~~[(35)]~~   the bond review board;
- 22          (35) ~~[(36)]~~   the Texas Board of Health;
- 23          (36) ~~[(37)]~~   the Texas Board of Mental Health and
- 24 Mental Retardation;
- 25          (37) ~~[(38)]~~   the Texas Board on Aging;
- 26          (38) ~~[(39)]~~   the Texas Board of Human Services;
- 27          (39) ~~[(40)]~~   the Texas Funeral Service Commission;

1           (40) [~~(41)~~] the board of directors of a river  
2 authority created under the Texas Constitution or a statute of this  
3 state; or

4           (41) [~~(42)~~] the Texas Lottery Commission.

5           SECTION 10.05. Section 656.001, Government Code, is amended  
6 to read as follows:

7           Sec. 656.001. STATE AGENCY EMPLOYMENT OPENINGS. Any  
8 agency, board, bureau, commission, committee, council, court,  
9 department, institution, or office in the executive or judicial  
10 branch of state government that has an employment opening for which  
11 persons from outside the agency will be considered shall list the  
12 opening with the Texas Workforce [~~Employment~~] Commission.

13           SECTION 10.06. Subdivision (1), Section 656.021,  
14 Government Code, is amended to read as follows:

15           (1) "Commission" means the Texas Workforce  
16 [~~Employment~~] Commission.

17           SECTION 10.07. Section 657.009, Government Code, is amended  
18 to read as follows:

19           Sec. 657.009. PUBLIC ENTITIES TO LIST POSITIONS WITH TEXAS  
20 WORKFORCE [~~EMPLOYMENT~~] COMMISSION. (a) A public entity shall  
21 provide to the Texas Workforce [~~Employment~~] Commission, under rules  
22 adopted under this section by the commission, information regarding  
23 an open position that is subject to the hiring preference required  
24 by this chapter.

25           (b) The Texas Workforce [~~Employment~~] Commission shall make  
26 available to the public the information provided by a public entity  
27 under Subsection (a).

1 (c) To promote the purposes of this chapter, the Texas  
2 Workforce [~~Employment~~] Commission shall adopt rules under this  
3 section that facilitate the exchange of employment information  
4 between public entities and individuals entitled to a preference  
5 under this chapter.

6 (d) The Texas Workforce [~~Employment~~] Commission shall adopt  
7 forms and procedures necessary to administer this section.

8 SECTION 10.08. Subsection (a), Section 772.0031,  
9 Government Code, is amended to read as follows:

10 (a) The Human Resource Task Force is composed of a  
11 representative of:

12 (1) the governor's office, appointed by the governor;

13 (2) the state auditor's office, appointed by the state  
14 auditor;

15 (3) the comptroller's office, appointed by the  
16 comptroller;

17 (4) the attorney general's office, appointed by the  
18 attorney general;

19 (5) the Commission on Human Rights, appointed by the  
20 presiding officer of that agency;

21 (6) the Employees Retirement System of Texas,  
22 appointed by the presiding officer of the board of trustees of that  
23 agency;

24 (7) the Texas Workforce Commission, appointed by the  
25 executive director [~~presiding officer~~] of that agency;

26 (8) the Texas Workers' Compensation Commission,  
27 appointed by the presiding officer of that agency;

1 (9) the Legislative Budget Board, appointed by the  
2 presiding officer of the board;

3 (10) the State Agency Coordinating Council, appointed  
4 by the presiding officer of that entity;

5 (11) the Texas Small State Agency Task Force,  
6 appointed by the presiding officer of that entity;

7 (12) the Texas State Personnel Administrators  
8 Association, appointed by the presiding officer of that entity; and

9 (13) each eligible state employee organization  
10 certified by the comptroller under Section 403.0165, who must be  
11 the chief elected representative of the organization.

12 SECTION 10.09. Subsection (a), Section 2162.051,  
13 Government Code, is amended to read as follows:

14 (a) The State Council on Competitive Government consists of  
15 the following individuals or the individuals they designate:

16 (1) the governor;

17 (2) the lieutenant governor;

18 (3) the comptroller;

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

20 (5) the commission's presiding officer; and

21 (6) the commissioner of the Texas Workforce  
22 [~~Employment~~] Commission representing labor.

23 SECTION 10.10. Subsection (c), Section 115.002, Human  
24 Resources Code, is amended to read as follows:

25 (c) The ex officio members are:

26 (1) the executive director [~~chair~~] of the Texas  
27 Workforce [~~Employment~~] Commission;



1           (2) the commissioner of the Texas Rehabilitation  
2 Commission;

3           (3) the executive director of the Texas Commission for  
4 the Blind;

5           (4) the executive director of the Texas Commission for  
6 the Deaf and Hard of Hearing; and

7           (5) other officials designated by the governor who  
8 serve with other state agencies that provide services to persons  
9 with disabilities.

10           SECTION 10.11. Subsection (a), Section 61.005, Labor Code,  
11 is amended to read as follows:

12           (a) In the case of contumacy or other refusal by a person to  
13 obey a subpoena issued by [~~a member of~~] the commission or an  
14 authorized representative of the commission to that person, any  
15 county or district court of this state in the jurisdiction of which  
16 the inquiry is carried on or in the jurisdiction of which the person  
17 guilty of contumacy or refusal to obey is found, resides, or  
18 transacts business has jurisdiction, on application by the  
19 commission or its representative, to issue to the person an order  
20 requiring the person to appear before [~~a commissioner,~~] the  
21 commission[~~7~~] or its authorized representative to:

22                   (1) produce evidence if so ordered; or

23                   (2) testify regarding the matter under investigation  
24 or in question.

25           SECTION 10.12. Subsection (c), Section 62.107, Labor Code,  
26 is amended to read as follows:

27           (c) The commissioner shall furnish a copy of each order

1 establishing a piece rate to the Texas Workforce [~~Employment~~]  
2 Commission.

3 SECTION 10.13. Subdivision (8), Section 201.011, Labor  
4 Code, is amended to read as follows:

5 (8) "Commission" means the Texas Workforce  
6 [~~Employment~~] Commission.

7 SECTION 10.14. Subsections (a) and (b), Section 306.007,  
8 Labor Code, are amended to read as follows:

9 (a) To assist in the reintegration into the labor force of  
10 persons formerly sentenced to the institutional division or the  
11 state jail division, the commission through Project RIO shall  
12 provide:

13 (1) to those persons:

14 (A) information from local workforce development  
15 boards on job training and employment referral services;

16 (B) information from the Texas Commission on  
17 Alcohol and Drug Abuse on substance abuse treatment services;

18 (C) information from the Texas Department of  
19 Housing and Community Affairs on housing services;

20 (D) information from the Texas Veterans  
21 Commission on services for veterans; and

22 (E) information [~~from the Texas Department of~~  
23 ~~Human Services~~] on tax refund voucher programs under Subchapter H  
24 [~~D~~], Chapter 301 [~~31, Human Resources Code~~]; and

25 (2) to the employers and potential employers of those  
26 persons:

27 (A) information from the Texas Department of

1 Economic Development [~~Commerce~~] on the enterprise zone program [~~and~~  
2 ~~smart jobs fund program~~]; and

3 (B) information from local workforce development  
4 boards on services listed in Section 2308.304, Government Code.

5 (b) The commission shall adopt a memorandum of  
6 understanding with each of the following agencies that establishes  
7 the respective responsibilities of the commission and the agencies  
8 in providing information described by Subsection (a) to persons  
9 formerly sentenced to the institutional division or the state jail  
10 division of the Texas Department of Criminal Justice, to employers  
11 or potential employers of those persons, and to local workforce  
12 development boards:

13 (1) the Texas Commission on Alcohol and Drug Abuse;

14 (2) the Texas Department of Housing and Community  
15 Affairs;

16 (3) the Texas Veterans Commission;

17 (4) the Texas Department of Human Services;

18 (5) the Texas Department of Economic Development  
19 [~~Commerce~~]; and

20 (6) the Council on Workforce and Economic Competitiveness.

21 ARTICLE 11. EFFECTIVE DATE

22 SECTION 11.01. This Act takes effect September 1, 2003,  
23 except that Article 6 of this Act takes effect immediately if this  
24 Act receives a vote of two-thirds of all the members elected to each  
25 house, as provided by Section 39, Article III, Texas Constitution.  
26 If this Act does not receive the vote necessary for immediate  
27 effect, Article 6 takes effect September 1, 2003.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 280 passed the Senate on April 23, 2003, by a viva-voce vote; May 24, 2003, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2003, House granted request of the Senate; June 1, 2003, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 280 passed the House, with amendments, on May 21, 2003, by the following vote: Yeas 144, Nays 0, one present not voting; May 26, 2003, House granted request of the Senate for appointment of Conference Committee; June 1, 2003, House adopted Conference Committee Report by the following vote: Yeas 145, Nays 1, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor