

By: Ellis

S.B. No. 1952

A BILL TO BE ENTITLED

AN ACT

relating to the reorganization of, efficiency in, regulation by,  
and other reform measures applying to state government; providing  
penalties.

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

ARTICLE 1. ABOLITION OF TEXAS COMMISSION ON PRIVATE SECURITY

SECTION 1.01. Subchapter A, Chapter 1702, Occupations Code,  
is amended by adding Section 1702.005 to read as follows:

Sec. 1702.005. COMMISSION ABOLISHED AND FUNCTIONS  
TRANSFERRED. (a) The commission is abolished, and all powers,  
duties, personnel, property, assets, and obligations of the  
commission are transferred to the Department of Public Safety of  
the State of Texas. The validity of a prior action of the  
commission is not affected by the abolishment.

(b) All rules of the commission relating to a transferred  
power or duty remain in effect as rules of the Department of Public  
Safety of the State of Texas until amended or repealed by the  
Department of Public Safety of the State of Texas.

(c) A reference in this chapter or another law to the  
commission means the Department of Public Safety of the State of  
Texas.

ARTICLE 2. IMPOSITION OF CERTAIN FEES

SECTION 2.01. Subchapter B, Chapter 1052, Occupations Code,  
is amended by adding Section 1052.0541 to read as follows:

Sec. 1052.0541. FEE INCREASE. (a) The fee for the

1 issuance of a certificate of registration under this chapter and  
2 the fee for the renewal of a certificate of registration under this  
3 chapter is increased by \$200.

4 (b) Of each fee increase collected, \$50 shall be deposited  
5 in the foundation school fund and \$150 shall be deposited in the  
6 general revenue fund.

7 SECTION 2.02. Subchapter B, Chapter 1053, Occupations Code,  
8 is amended by adding Section 1053.0521 to read as follows:

9 Sec. 1053.0521. FEE INCREASE. (a) The fee for the  
10 issuance of a certificate of registration under this chapter and  
11 the fee for the renewal of a certificate of registration under this  
12 chapter is increased by \$200.

13 (b) Of each fee increase collected, \$50 shall be deposited  
14 in the foundation school fund and \$150 shall be deposited in the  
15 general revenue fund.

16 SECTION 2.03. Subchapter D, Chapter 1071, Occupations Code,  
17 is amended by adding Section 1071.1521 to read as follows:

18 Sec. 1071.1521. FEE INCREASE. (a) The fee for the  
19 issuance of a certificate of registration to a registered  
20 professional land surveyor under this chapter and the fee for the  
21 renewal of a certificate of registration for a registered  
22 professional land surveyor under this chapter is increased by \$200.

23 (b) Of each fee increase collected, \$50 shall be deposited  
24 in the foundation school fund and \$150 shall be deposited in the  
25 general revenue fund.

26 (c) This section does not apply to state agency employees  
27 who are employed by the state as land surveyors.

1       SECTION 2.04. Subchapter B, Chapter 1152, Occupations Code,  
2 is amended by adding Section 1152.053 to read as follows:

3       Sec. 1152.053. FEE INCREASE. (a) The fee for the  
4 registration of a person under this chapter and the fee for the  
5 renewal of a registration under this chapter is increased by \$200.

6       (b) Of each fee increase collected, \$50 shall be deposited  
7 in the foundation school fund and \$150 shall be deposited in the  
8 general revenue fund.

9       SECTION 2.05. The change in law made by this article applies  
10 only to the issuance or renewal of a certificate of registration  
11 under Chapter 1052, 1053, or 1071, Occupations Code, or the  
12 issuance or renewal of a registration under Chapter 1152,  
13 Occupations Code, on or after the effective date of this article. A  
14 certificate of registration or registration issued or renewed  
15 before the effective date of this article is governed by the law in  
16 effect on the date of the issuance or renewal, and the former law is  
17 continued in effect for that purpose.

18       ARTICLE 3. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES

19       SECTION 3.01. Subchapter E, Chapter 2165, Government Code,  
20 is amended by adding Section 2165.2035 to read as follows:

21       Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS  
22 AND GARAGES. (a) In this section, "lease" includes a management  
23 agreement.

24       (b) The commission shall develop private, commercial uses  
25 for state-owned parking lots and garages located in the City of  
26 Austin at locations the commission determines are appropriate for  
27 commercial uses outside of normal business hours.

1        (c) The commission may contract with a private vendor to  
2 manage the commercial use of state-owned parking lots and garages.

3        (d) Money received from a lease under this program shall be  
4 deposited to the credit of the general revenue fund.

5        (e) On or before December 1 of each even-numbered year, the  
6 commission shall submit a report to the legislature and the  
7 Legislative Budget Board describing the effectiveness of the  
8 program under this section.

9        (f) The limitation on the amount of space allocated to  
10 private tenants prescribed by Section 2165.205(b) does not apply to  
11 the lease of a state-owned parking lot or garage under this section.

12        (g) Any lease of a state-owned parking lot or garage under  
13 this section must contain a provision that allows state employees  
14 who work hours other than regular working hours under Section  
15 658.005 to retain their parking privileges in a state-owned parking  
16 lot or garage.

17        (h) Nonprofit, charitable, and other community  
18 organizations may apply to use state parking lots and garages  
19 located in the City of Austin in the area bordered by West Fourth  
20 Street, Lavaca Street, West Third Street, and Nueces Street free of  
21 charge or at a reduced rate. The executive director shall develop a  
22 form to be used to make such applications. The form shall require  
23 information related to:

24                (1) the dates and times of the free use requested;  
25                (2) the nature of the applicant's activities  
26 associated with the proposed use of state parking lots and garages;  
27 and

1           (3) any other information determined by the executive  
2 director to be necessary to evaluate an application.

3           (i) To be considered timely, an application must be  
4 submitted at least one month before the proposed use, unless this  
5 provision is waived by the executive director.

6           (j) The executive director may approve or reject an  
7 application made under Subsection (h).

8       ARTICLE 4.   MANAGEMENT AND CONSTRUCTION OF STATE AGENCY OFFICE  
9                               SPACE AND OTHER FACILITIES

10       SECTION 4.01.   Subchapter A, Chapter 2165, Government Code,  
11 is amended by adding Section 2165.007 to read as follows:

12       Sec. 2165.007.   FACILITIES MANAGEMENT SERVICES.   (a) In  
13 this section, "facilities management services" means any state  
14 agency facilities management service that is not unique to carrying  
15 out a program of the agency. The term includes services related to  
16 facilities construction, facilities management, general building  
17 and grounds maintenance, cabling, and facility reconfiguration.

18       (b) Notwithstanding any other law, the commission shall  
19 provide facilities management services in relation to all state  
20 agency facilities in Travis County or a county adjacent to Travis  
21 County. The commission's duty does not apply to:

22           (1) a facility owned or operated by an institution of  
23 higher education;

24           (2) military facilities;

25           (3) facilities owned or operated by the Texas  
26 Department of Criminal Justice;

27           (4) facilities owned or operated by the Texas Youth

1 Commission;

2 (5) facilities owned or operated by the Texas  
3 Department of Transportation;

4 (6) the Capitol, including the Capitol Extension, the  
5 General Land Office building, the Bob Bullock Texas State History  
6 Museum, and any museum located on the Capitol grounds;

7 (7) a facility determined by the commission to be  
8 completely residential; or

9 (8) state agency facilities that serve as regional or  
10 field offices.

11 SECTION 4.02. Subchapter B, Chapter 2165, Government Code,  
12 is amended by adding Section 2165.057 to read as follows:

13 Sec. 2165.057. MANAGEMENT OF FACILITIES. (a) The  
14 commission shall develop and implement policies that clearly define  
15 the responsibilities of the commission and the commission's staff  
16 that relate to conducting facilities management services for state  
17 agency facilities under Section 2165.007.

18 (b) The state energy conservation office shall provide  
19 utility management services for state agency facilities for which  
20 the commission provides facilities management services under  
21 Section 2165.007.

22 SECTION 4.03. Subsection (c), Section 2165.104, Government  
23 Code, is amended to read as follows:

24 (c) To the extent possible without sacrificing critical  
25 public or client services, the commission may not allocate usable  
26 office space, as defined by the commission, to a state agency under  
27 Article I, II, V, VI, VII, or VIII of the General Appropriations Act

1 or to the Texas Higher Education Coordinating Board, the Texas  
2 Education Agency, the State Board for Educator Certification, the  
3 Telecommunications Infrastructure Fund Board, or the Office of  
4 Court Administration of the Texas Judicial System in an amount that  
5 exceeds an average of 135 ~~[153]~~ square feet per agency employee for  
6 each agency site. To the extent that any of those agencies  
7 allocates its own usable office space, as defined by the  
8 commission, the agency shall allocate the space to achieve the  
9 required ratio. This subsection does not apply to:

10 (1) an agency site at which there are so few employees  
11 that it is not practical to apply this subsection to that site, as  
12 determined by the commission ~~[fewer than 16 employees are located];~~  
13 and

14 (2) an agency site at which it is not practical to  
15 apply this subsection because of the site's type of space or use of  
16 space, as determined by the commission ~~[warehouse space,~~

17 ~~[(3) laboratory space,~~

18 ~~[(4) storage space exceeding 1,000 gross square feet,~~

19 ~~[(5) library space,~~

20 ~~[(6) space for hearing rooms used to conduct hearings~~  
21 ~~required under the administrative procedure law, Chapter 2001, or~~

22 ~~[(7) another type of space specified by commission~~  
23 ~~rule, if the commission determines that it is not practical to apply~~  
24 ~~this subsection to that space].~~

25 SECTION 4.04. On September 1, 2003:

26 (1) all powers and duties of a state agency that relate  
27 to the facilities management services treated by Subsection (b),

1 Section 2165.007, Government Code, as added by this article, are  
2 transferred to the Texas Building and Procurement Commission or the  
3 state energy conservation office, as appropriate;

4 (2) all obligations and contracts of a state agency  
5 that relate to the transferred services are transferred to the  
6 Texas Building and Procurement Commission or the state energy  
7 conservation office, as appropriate;

8 (3) all records and other property in the custody of a  
9 state agency that relate to the transferred services and all funds  
10 appropriated by the legislature to a state agency that relate to the  
11 transferred services are transferred to the Texas Building and  
12 Procurement Commission or the state energy conservation office, as  
13 appropriate;

14 (4) all complaints and investigations that are pending  
15 before a state agency that relate to the transferred services are  
16 transferred without change in status to the Texas Building and  
17 Procurement Commission or the state energy conservation office, as  
18 appropriate; and

19 (5) a rule or form adopted by a state agency that  
20 relates to the transferred services is considered to be a rule or  
21 form of the Texas Building and Procurement Commission and remains  
22 in effect until altered by the commission or the state energy  
23 conservation office, as appropriate.

24 SECTION 4.05. The change in law made by Section 4.03 of this  
25 article applies only to a lease for usable office space entered into  
26 or renewed on or after September 1, 2003. A lease entered into or  
27 renewed before September 1, 2003, shall be reviewed by the Texas



1 Building and Procurement Commission as the lease comes up for  
2 renewal to determine whether it would be cost-effective to bring  
3 the lease into compliance with Subsection (c), Section 2165.104,  
4 Government Code, as amended by this article.

5 SECTION 4.06. Notwithstanding any other law, including  
6 Subchapter A, Chapter 2254, and Chapters 2165, 2166, and 2167,  
7 Government Code, and Sections 202.052, 202.053, 203.051, 203.052,  
8 and 223.001, Transportation Code, the Texas Department of  
9 Transportation may enter into one or more agreements with a private  
10 entity offering the best value to the state that includes:

11 (1) both design and construction of the department's  
12 several district office headquarters facilities;

13 (2) a lease of department-owned real property to the  
14 private entity;

15 (3) provisions authorizing the private entity to  
16 construct and retain ownership of buildings on property leased to  
17 the private entity under Subdivision (2) of this section;

18 (4) provisions under which the department agrees to  
19 enter into an agreement to lease with an option or options to  
20 purchase for the buildings constructed on the leased property; and

21 (5) any other provisions the department considers  
22 advantageous to the state.

23 ARTICLE 5. DISPOSAL OF SURPLUS AND SALVAGE PROPERTY

24 SECTION 5.01. Section 2175.061, Government Code, is amended  
25 by adding Subsections (c) and (d) to read as follows:

26 (c) The commission may by rule determine the best method of  
27 disposal for surplus and salvage property of the state under this

1 chapter.

2 (d) The commission may not provide for the disposal of real  
3 property of the state under this chapter.

4 SECTION 5.02. Section 2175.134, Government Code, is amended  
5 by amending Subsection (a) and adding Subsection (c) to read as  
6 follows:

7 (a) Proceeds from the sale of surplus or salvage property,  
8 less the cost of advertising the sale, the cost of selling the  
9 surplus or salvage property, including the cost of auctioneer  
10 services, and the amount of the fee collected under Section  
11 2175.131, shall be deposited to the credit of the general revenue  
12 fund of the state treasury [~~appropriate appropriation item of the~~  
13 ~~state agency for which the sale was made~~].

14 (c) Proceeds from the sale of surplus and salvage property  
15 of the State Aircraft Pooling Board shall be deposited to the credit  
16 of the board.

17 SECTION 5.03. Subsection (a), Section 2175.182, Government  
18 Code, is amended to read as follows:

19 (a) The commission is responsible for the disposal of  
20 surplus or salvage property under this subchapter. The commission  
21 may take physical possession of the property. [~~A state agency~~  
22 ~~maintains ownership of property throughout the disposal process.~~]

23 SECTION 5.04. Subsection (b), Section 2175.185, Government  
24 Code, is amended to read as follows:

25 (b) On receiving notice under this section, the comptroller  
26 shall, if necessary, [+  
27

[~~(1) debit and credit the proper appropriations, and~~

1           ~~[(2)]~~ adjust state property accounting records.

2           SECTION 5.05. Section 2175.191, Government Code, is amended  
3 by amending Subsection (a) and adding Subsection (c) to read as  
4 follows:

5           (a) Proceeds from the sale of surplus or salvage property,  
6 less the cost of advertising the sale, the cost of selling the  
7 surplus or salvage property, including the cost of auctioneer  
8 services, and the amount of the fee collected under Section  
9 2175.188, shall be deposited to the credit of the general revenue  
10 fund of the state treasury ~~[appropriate appropriation item of the~~  
11 ~~state agency for which the sale was made]~~.

12           (c) Proceeds from the sale of surplus and salvage property  
13 of the State Aircraft Pooling Board shall be deposited to the credit  
14 of the board.

15           SECTION 5.06. Section 2175.361, Government Code, is amended  
16 to read as follows:

17           Sec. 2175.361. DEFINITIONS. In this subchapter:

18           (1) "Federal act" means the Federal Property and  
19 Administrative Services Act of 1949 (40 U.S.C. Section 541 et seq.  
20 [484]), as amended, or any other federal law providing for the  
21 disposal of federal surplus property.

22           (2) "Federal property" means federal surplus property  
23 acquired:

24                   (A) by the commission or under the commission's  
25 jurisdiction under this subchapter; and

26                   (B) under 40 U.S.C. Section 483c, 549, or 550, or  
27 under any other federal law providing for the disposal ~~[Section~~

1 ~~484(j) or (k)] of [the] federal surplus property [act]. [The term~~  
2 ~~includes federal real property acquired under Section 484(k) of the~~  
3 ~~federal act.]~~

4 SECTION 5.07. Subsection (a), Section 2175.362, Government  
5 Code, is amended to read as follows:

6 (a) The commission is the designated state agency under 40  
7 U.S.C. Section 549 and any other federal law providing for the  
8 disposal ~~[484(j)]~~ of ~~[the]~~ federal surplus property ~~[act]~~.

9 SECTION 5.08. Section 2175.364, Government Code, is amended  
10 to read as follows:

11 Sec. 2175.364. COMMISSION ASSISTANCE IN PROCUREMENT AND USE  
12 OF PROPERTY. The commission may:

13 (1) disseminate information and assist a potential  
14 applicant regarding the availability of federal real property;

15 (2) assist in the processing of an application for  
16 acquisition of federal real property and related personal property  
17 under 40 U.S.C. Section 550 or any other federal law providing for  
18 the disposal ~~[484(k)]~~ of ~~[the]~~ federal surplus property ~~[act]~~;

19 (3) act as an information clearinghouse for an entity  
20 that may be eligible to acquire federal property and, as necessary,  
21 assist the entity to obtain federal property;

22 (4) assist in assuring use of the property; and

23 (5) engage in an activity relating to the use of  
24 federal property by another state agency, institution, or  
25 organization engaging in or receiving assistance under a federal  
26 program.

27 SECTION 5.09. Section 2175.367, Government Code, is amended

to read as follows:

Sec. 2175.367. CONTRACTS. The commission may enter into an agreement, including:

(1) a cooperative agreement with a federal agency under 40 U.S.C. Section 549 or any other federal law providing for the disposal ~~[484(n)]~~ of ~~[the]~~ federal surplus property ~~[act]~~;

(2) an agreement with a state agency for surplus property of a state agency that will promote the administration of the commission's functions under this subchapter; or

(3) an agreement with a group or association of state agencies for surplus property that will promote the administration of the commission's functions under this subchapter.

SECTION 5.10. Subsection (b), Section 2175.134, and Subsection (b), Section 2175.191, Government Code, are repealed.

SECTION 5.11. This article applies only to surplus and salvage property of the state sold on or after September 1, 2003.

ARTICLE 6. CREDIT ESTABLISHED IN STATE RETIREMENT SYSTEMS

SECTION 6.01. Section 812.003, Government Code, is amended by amending Subsection (d) and adding Subsections (e) through (h) to read as follows:

(d) For persons whose employment or office holding begins on or after September 1, 2005, membership ~~[Membership]~~ in the employee class begins on the first day the ~~[a]~~ person is employed or holds office.

(e) For persons whose employment or office holding begins before September 1, 2005, membership in the employee class begins on the 91st day after the first day a person is employed or holds

1 office.

2 (f) A person who is reemployed or who again holds office  
3 after withdrawing contributions under Subchapter B for previous  
4 service credited in the employee class begins membership in the  
5 employee class on the 91st day after the first day the person is  
6 reemployed or again holds office.

7 (g) Notwithstanding any other provision of law, a member may  
8 establish service credit only as provided by Section 813.514 for  
9 service performed during the 90-day waiting period provided by  
10 Subsection (e) or (f).

11 (h) Subsections (e), (f), and (g) and this subsection expire  
12 September 1, 2005.

13 SECTION 6.02. Subchapter F, Chapter 813, Government Code,  
14 is amended by adding Section 813.514 to read as follows:

15 Sec. 813.514. CREDIT PURCHASE OPTION FOR CERTAIN SERVICE.

16 (a) A member may establish service credit under this section in  
17 the employee class only for service performed during a 90-day  
18 waiting period to become a member after beginning employment or  
19 holding office.

20 (b) A member may establish service credit under this section  
21 by depositing with the retirement system, for each month of service  
22 credit, the actuarial present value, at the time of deposit, of the  
23 additional standard retirement annuity benefits that would be  
24 attributable to the purchase of the service credit under this  
25 section based on rates and tables recommended by the retirement  
26 system's actuary and adopted by the board of trustees.

27 (c) After a member makes the deposits required by this

1 section, the retirement system shall grant the member one month of  
2 equivalent membership service credit for each month of credit  
3 approved. A member may establish not more than three months of  
4 equivalent membership service credit under this section.

5 (d) The retirement system shall deposit the amount of the  
6 actuarial present value of the service credit purchased in the  
7 member's individual account in the employees saving account.

8 (e) The board of trustees may adopt rules to administer this  
9 section, including rules that impose restrictions on the  
10 application of this section as necessary to cost-effectively  
11 administer this section.

12 SECTION 6.03. Section 822.001, Government Code, is amended  
13 by adding Subsections (c) through (f) to read as follows:

14 (c) Membership in the retirement system begins on the 91st  
15 day after the first day a person is employed.

16 (d) A person who is reemployed after withdrawing  
17 contributions for previous service credit begins membership on the  
18 91st day after the first day the person is reemployed.

19 (e) Notwithstanding any other provision of law, a member may  
20 establish credit only as provided by Section 823.406 for service  
21 performed during the 90-day waiting period provided by Subsection  
22 (c) or (d).

23 (f) Subsections (c), (d), and (e) and this subsection expire  
24 September 1, 2005.

25 SECTION 6.04. Section 823.002, Government Code, is amended  
26 to read as follows:

27 Sec. 823.002. SERVICE CREDITABLE IN A YEAR. (a) The board

of trustees by rule shall determine how much service in any year is equivalent to one year of service credit, but in no case may all of a person's service in one school year be creditable as more than one year of service. Service that has been credited by the retirement system on annual statements for a period of five or more years may not be deleted or corrected because of an error in crediting unless the error concerns three or more years of service credit or was caused by fraud.

(b) The rules adopted by the board of trustees under Subsection (a) must provide that the 90-day waiting periods described by Sections 822.001(c) and (d) be applied with regard to contributions during a member's first year of service under either of those subsections in a manner that, to the greatest extent possible, minimizes the cost to the retirement system. This subsection expires September 1, 2005.

SECTION 6.05. Subchapter E, Chapter 823, Government Code, is amended by adding Section 823.406 to read as follows:

Sec. 823.406. CREDIT PURCHASE OPTION FOR CERTAIN SERVICE.

(a) A member may establish membership service credit under this section only for service performed during a 90-day waiting period to become a member after beginning employment.

(b) A member may establish service credit under this section by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement



1 system's actuary and adopted by the board of trustees.

2 (c) After a member makes the deposits required by this  
3 section, the retirement system shall grant the member one month of  
4 equivalent membership service credit for each month of credit  
5 approved.

6 (d) The retirement system shall deposit the amount of the  
7 actuarial present value of the service credit purchased in the  
8 member's individual account in the employees saving account.

9 (e) The board of trustees may adopt rules to administer this  
10 section.

11 SECTION 6.06. Section 812.003, Government Code, as amended  
12 by this article, and Section 813.514, Government Code, as added by  
13 this article, apply only to a person who is first employed by or  
14 begins to hold an office of the state on or after the effective date  
15 of this article and to a former employee or office holder who has  
16 withdrawn retirement contributions under Subchapter B, Chapter  
17 812, Government Code, and is reemployed by or begins to again hold  
18 an office of the state on or after the effective date of this  
19 article.

20 SECTION 6.07. Section 822.001, Government Code, as amended  
21 by this article, and Section 823.406, Government Code, as added by  
22 this article, apply only to a person who is first employed on or  
23 after the effective date of this article and to a former employee  
24 who has withdrawn retirement contributions under Section 822.003,  
25 Government Code, and is reemployed on or after the effective date of  
26 this article.

27 SECTION 6.08. The requirements of Subsection (b), Section

1 823.002, Government Code, as added by this article, apply to  
2 persons whose employment begins on or after the effective date of  
3 this article. The board of trustees of the Teacher Retirement  
4 System of Texas shall adopt rules implementing the requirements of  
5 that subsection as soon as practicable after the effective date of  
6 this article.

7 SECTION 6.09. This article takes effect July 1, 2003, if  
8 this Act receives a vote of two-thirds of all the members elected to  
9 each house, as provided by Section 39, Article III, Texas  
10 Constitution. If this Act does not receive the vote necessary for  
11 effect on that date, this article takes effect September 1, 2003.

12 ARTICLE 7. STATE AGENCY HUMAN RESOURCES STAFFING AND FUNCTIONS

13 SECTION 7.01. Subtitle B, Title 6, Government Code, is  
14 amended by adding Chapter 670 to read as follows:

15 CHAPTER 670. HUMAN RESOURCES STAFFING AND FUNCTIONS

16 Sec. 670.001. DEFINITIONS. In this chapter:

17 (1) "Human resources employee" does not include an  
18 employee whose primary job function is enforcement of Title VI or  
19 Title VII of the Civil Rights Act of 1964.

20 (2) "State agency" means a department, commission,  
21 board, office, authority, council, or other governmental entity in  
22 the executive branch of government that is created by the  
23 constitution or a statute of this state and has authority not  
24 limited to a geographical portion of the state. The term does not  
25 include a university system or institution of higher education as  
26 defined by Section 61.003, Education Code.

27 Sec. 670.002. HUMAN RESOURCES STAFFING FOR LARGE STATE

1 AGENCIES. A state agency with 500 or more full-time equivalent  
2 employees shall adjust the agency's human resources staff to  
3 achieve a human resources employee-to-staff ratio of not more than  
4 one human resources employee for every 85 staff members.

5 Sec. 670.003. HUMAN RESOURCES STAFFING FOR MEDIUM-SIZED AND  
6 SMALL STATE AGENCIES; OUTSOURCING. (a) The State Council on  
7 Competitive Government shall determine the cost-effectiveness of  
8 consolidating the human resources functions of or contracting with  
9 private entities to perform the human resources functions of state  
10 agencies that employ fewer than 500 full-time equivalent employees.

11 (b) If the council determines that contracting with private  
12 entities is cost-effective, the council shall issue a request for  
13 proposals for vendors to perform the human resources functions of  
14 the agencies.

15 (c) The council shall determine which human resources  
16 functions are subject to the contract and which functions the  
17 agency may select to perform itself.

18 (d) Each agency shall pay for the contracts for human  
19 resources functions out of the agency's human resources budget.

20 SECTION 7.02. (a) Not later than January 1, 2004, each  
21 state agency with 500 or more full-time equivalent employees shall  
22 comply with the human resources employee-to-staff ratio  
23 requirements in Section 670.002, Government Code, as added by this  
24 article.

25 (b) Not later than January 1, 2004, the State Council on  
26 Competitive Government shall conduct an initial feasibility study  
27 to determine the cost-effectiveness of consolidating the human

resources functions of or contracting with private entities to perform human resources functions of state agencies under Section 670.003, Government Code, as added by this article.

ARTICLE 8. AGENCY STAFFING AND PRODUCTIVITY

SECTION 8.01. Effective September 1, 2003, Section 651.004, Government Code, is amended by adding Subsections (c-1) and (d) to read as follows:

(c-1) A state agency in the executive branch of state government that employs more than 100 full-time equivalent employees may not, after August 31, 2004, employ more than one full-time equivalent employee in a management position for every eight full-time equivalent employees that the agency employs in nonmanagerial staff positions. This subsection expires September 1, 2005.

(d) A state agency that believes that the minimum management-to-staff ratios required by this section are inappropriate for that agency may appeal to the Legislative Budget Board. The Legislative Budget Board by rule shall adopt appeal procedures.

SECTION 8.02. Effective March 1, 2004, Section 651.004, Government Code, is amended by adding Subsection (c-2) to read as follows:

(c-2) A state agency in the executive branch of state government that employs more than 100 full-time equivalent employees may not, after August 31, 2005, employ more than one full-time equivalent employee in a management position for every nine full-time equivalent employees that the agency employs in

1 nonmanagerial staff positions. This subsection expires September  
2 1, 2006.

3 SECTION 8.03. Effective September 1, 2005, Section 651.004,  
4 Government Code, is amended by adding Subsection (c-3) to read as  
5 follows:

6 (c-3) A state agency in the executive branch of state  
7 government that employs more than 100 full-time equivalent  
8 employees may not, after August 31, 2006, employ more than one  
9 full-time equivalent employee in a management position for every 10  
10 full-time equivalent employees that the agency employs in  
11 nonmanagerial staff positions. This subsection expires September  
12 1, 2007.

13 SECTION 8.04. (a) Effective September 1, 2006, Section  
14 651.004, Government Code, is amended by adding Subsection (c) to  
15 read as follows:

16 (c) A state agency in the executive branch of state  
17 government that employs more than 100 full-time equivalent  
18 employees may not employ more than one full-time equivalent  
19 employee in a management position for every 11 full-time equivalent  
20 employees that the agency employs in nonmanagerial staff positions.

21 (b) A state agency in the executive branch of government  
22 shall achieve the management-to-staff ratio required by Subsection  
23 (c), Section 651.004, Government Code, as added by this section,  
24 not later than August 31, 2007.

25 SECTION 8.05. Subchapter K, Chapter 659, Government Code,  
26 is amended by adding Section 659.262 to read as follows:

27 Sec. 659.262. ADDITIONAL COMPENSATION FOR CERTAIN

1 CLASSIFIED STATE EMPLOYEES. (a) In this section, "state agency"  
2 means an agency of any branch of state government that employs  
3 individuals who are classified under Chapter 654.

4 (b) To enhance the recruitment of competent personnel for  
5 certain classified employee positions, a state agency may provide  
6 to a state employee, at the time of the employee's hiring for a  
7 classified position, additional compensation in the form of a  
8 one-time recruitment payment not to exceed \$5,000. If the employee  
9 discontinues employment with the state agency for any reason less  
10 than three months after the date of receiving the recruitment  
11 payment, the employee shall refund to the state agency the full  
12 amount of the recruitment payment. If the employee discontinues  
13 employment with the state agency for any reason three months or  
14 longer but less than 12 months after the date of receiving the  
15 recruitment payment, the employee shall refund to the state agency  
16 an amount computed by:

17 (1) subtracting from 12 months the number of complete  
18 calendar months the employee worked after the date of receiving the  
19 recruitment payment;

20 (2) dividing the number of months computed under  
21 Subdivision (1) by 12 months; and

22 (3) multiplying the fraction computed under  
23 Subdivision (2) by the amount of the recruitment payment.

24 (c) To enhance the retention of employees who are employed  
25 in certain classified positions that are identified by the chief  
26 administrator of a state agency as essential for the state agency's  
27 operations, a state agency may enter into a deferred compensation

1 contract with a classified employee to provide to the employee a  
2 one-time additional compensation payment not to exceed \$5,000 to be  
3 added to the employee's salary payment the month after the  
4 conclusion of the 12-month period of service under the deferred  
5 compensation contract.

6 (d) To be eligible to enter into a contract for deferred  
7 compensation under Subsection (c), a state employee must have  
8 already completed at least 12 months of service in a classified  
9 position.

10 (e) The chief administrator of a state agency shall  
11 determine whether additional compensation is necessary under this  
12 section on a case-by-case basis, considering:

13 (1) the criticality of the employee position in the  
14 operations of the state agency;

15 (2) evidence of high turnover rates among employees  
16 filling the position or an extended period during which the  
17 position is or has in the past been vacant;

18 (3) evidence of a shortage of employees qualified to  
19 fill the position or a shortage of qualified applicants; and

20 (4) other relevant factors.

21 (f) Before an agency provides or enters into a contract to  
22 provide additional compensation to an employee under this section,  
23 the chief administrator of the state agency must certify to the  
24 comptroller in writing the reasons why the additional compensation  
25 is necessary.

26 (g) Additional compensation paid to an employee under this  
27 section is specifically exempted from any limitation on salary or

1 salary increases prescribed by this chapter.

2 SECTION 8.06. Subsection (b), Section 656.048, Government  
3 Code, is repealed.

4 ARTICLE 9. ABANDONMENT OF PROCEEDS ON DEMUTUALIZATION

5 SECTION 9.01. Section 72.101, Property Code, is amended by  
6 adding Subsections (c) and (d) to read as follows:

7 (c) Property distributable in the course of a  
8 demutualization, rehabilitation, or related reorganization of an  
9 insurance company is presumed abandoned on the first anniversary of  
10 the date the property becomes distributable if, on that date:

11 (1) the last known address of the owner according to  
12 the records of the holder of the property is known to be incorrect  
13 or the distribution or statements related to the distribution are  
14 returned by the post office as undeliverable; and

15 (2) the owner has not:

16 (A) communicated in writing with the holder of  
17 the property or the holder's agent regarding the interest; or

18 (B) otherwise communicated with the holder  
19 regarding the interest as evidenced by a memorandum or other record  
20 on file with the holder or its agents.

21 (d) Property distributable in the course of a  
22 demutualization, rehabilitation, or related reorganization of an  
23 insurance company that is not subject to Subsection (c) is presumed  
24 abandoned as otherwise provided by this section.

25 SECTION 9.02. Section 74.301, Property Code, is amended by  
26 amending Subsection (a) and adding Subsection (d) to read as  
27 follows:



1           (a) Except as provided by Subsection (c) or (d), each holder  
2 who on June 30 holds property that is presumed abandoned under  
3 Chapter 72, 73, or 75 shall deliver the property to the comptroller  
4 on or before the following November 1 accompanied by the report  
5 required to be filed under Section 74.101.

6           (d) If the property subject to delivery under Subsection (a)  
7 is proceeds from the demutualization, rehabilitation, or related  
8 reorganization of an insurance company, the holder shall deliver  
9 the property and required report to the comptroller on or before the  
10 following August 1.

11           SECTION 9.03. This article takes effect June 30, 2003, if  
12 this Act receives a vote of two-thirds of all the members elected to  
13 each house, as provided by Section 39, Article III, Texas  
14 Constitution. If this Act does not receive the vote necessary for  
15 this article to take effect on that date, this article takes effect  
16 September 1, 2003.

17           ARTICLE 10. SALES TAX ON MOTOR VEHICLES

18           SECTION 10.01. Section 152.002, Tax Code, is amended by  
19 adding Subsection (f) to read as follows:

20           (f) Notwithstanding Subsection (a), the total consideration  
21 of a used motor vehicle is the amount on which the tax is computed as  
22 provided by Section 152.0412.

23           SECTION 10.02. Subsection (a), Section 152.041, Tax Code,  
24 is amended to read as follows:

25           (a) The tax assessor-collector of the county in which an  
26 application for registration or for a Texas certificate of title is  
27 made shall collect taxes imposed by this chapter, subject to

1 Section 152.0412, unless another person is required by this chapter  
2 to collect the taxes.

3 SECTION 10.03. Subchapter C, Chapter 152, Tax Code, is  
4 amended by adding Section 152.0412 to read as follows:

5 Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX  
6 ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive  
7 value" means the average retail value of a motor vehicle as  
8 determined by the Texas Department of Transportation, based on a  
9 nationally recognized motor vehicle industry reporting service.

10 (b) If the amount paid for a motor vehicle subject to the tax  
11 imposed by this chapter is equal to or greater than the standard  
12 presumptive value of the vehicle, a county tax assessor-collector  
13 shall compute the tax on the amount paid.

14 (c) If the amount paid for a motor vehicle subject to the tax  
15 imposed by this chapter is less than the standard presumptive value  
16 of the vehicle, a county tax assessor-collector shall compute the  
17 tax on the standard presumptive value unless the purchaser  
18 establishes the retail value of the vehicle as provided by  
19 Subsection (d).

20 (d) A county tax assessor-collector shall compute the tax  
21 imposed by this chapter on the retail value of a motor vehicle if:

22 (1) the retail value is shown on an appraisal  
23 certified by an adjuster licensed under Article 21.07-4, Insurance  
24 Code, or by a motor vehicle dealer operating under Subchapter B,  
25 Chapter 503, Transportation Code;

26 (2) the appraisal is on a form prescribed by the  
27 comptroller for that purpose; and

1           (3) the purchaser of the vehicle obtains the appraisal  
2 not later than the 20th day after the date of purchase.

3           (e) On request, a motor vehicle dealer operating under  
4 Subchapter B, Chapter 503, Transportation Code, shall provide a  
5 certified appraisal of the retail value of a motor vehicle. The  
6 comptroller by rule shall establish a fee that a dealer may charge  
7 for providing the certified appraisal. The county tax  
8 assessor-collector shall retain a copy of a certified appraisal  
9 received under this section for a time period to be promulgated by  
10 the comptroller.

11           (f) The Texas Department of Transportation shall maintain  
12 information on the standard presumptive values of motor vehicles as  
13 part of the department's registration and title system. The  
14 department shall update the information at least quarterly each  
15 calendar year.

16           SECTION 10.04. (a) Not later than September 1, 2003, the  
17 Texas Department of Transportation shall:

18                   (1) establish standard presumptive values for motor  
19 vehicles as provided by Section 152.0412, Tax Code, as added by this  
20 Act;

21                   (2) modify the department's registration and title  
22 system as needed to include that information and administer that  
23 section; and

24                   (3) make that information available through the system  
25 to all county tax assessor-collectors.

26           (b) The comptroller shall certify the date on which the  
27 Texas Department of Transportation's registration and title

1 system, as modified under Subsection (a) of this section, is in use  
2 by the 25 county tax assessor-collectors that remitted to the  
3 comptroller the largest amount of taxes imposed under Chapter 152,  
4 Tax Code, during the state fiscal year ending August 31, 2003.

5 (c) If the date certified by the comptroller under  
6 Subsection (b) of this section is later than September 23, 2003, the  
7 Texas Department of Transportation shall transfer \$8 million from  
8 the state highway fund to the general revenue fund on the first day  
9 of each month after that date until the earlier of:

10 (1) the date the comptroller issues the certification  
11 under Subsection (b) of this section; or

12 (2) the date the total amount transferred under this  
13 subsection equals the lesser of:

14 (A) \$200 million; or

15 (B) the total amount in the state highway fund  
16 that is not allocated as the result of a requirement in the Texas  
17 Constitution.

18 ARTICLE 11. INSURANCE FOR VOLUNTEER MEMBERS OF STATE BOARDS

19 SECTION 11.01. Subsection (c), Section 1551.101, Insurance  
20 Code, as effective June 1, 2003, is amended to read as follows:

21 (c) Subject to Section 1551.321, an ~~An~~ individual is  
22 eligible to participate in the group benefits program as provided  
23 by Subsection (a) if the individual is appointed, subject to  
24 confirmation by the senate, as a member of the governing body with  
25 administrative responsibility over a statutory state agency that  
26 has statewide jurisdiction and whose employees are covered by this  
27 chapter.

1           SECTION 11.02. Subchapter G, Chapter 1551, Insurance Code,  
2 as effective June 1, 2003, is amended by adding Section 1551.321 to  
3 read as follows:

4           Sec. 1551.321. STATE CONTRIBUTION FOR CERTAIN INDIVIDUALS.

5           (a) The state or a state agency may not make any contribution to  
6 the cost of any coverages or benefits provided under this chapter  
7 for an individual described by Section 1551.101(c) or a dependent  
8 of the individual.

9           (b) An individual described by Section 1551.101(c) who  
10 participates in the group benefits program shall pay to the  
11 trustee, in the manner specified by the trustee, the full cost of  
12 the coverages or benefits provided to the individual or a dependent  
13 of the individual.

14          SECTION 11.03. (a) The change in law made by this article  
15 by the addition of Section 1551.321, Insurance Code, applies only  
16 to group coverages provided under the group benefits program  
17 established under Chapter 1551, Insurance Code, on and after  
18 September 1, 2003.

19          (b) Not later than the 30th day after the effective date of  
20 Section 1551.321, Insurance Code, as added by this article, the  
21 Employees Retirement System of Texas shall notify each individual  
22 eligible to participate in the group benefits program under Chapter  
23 1551, Insurance Code, in accordance with Subsection (c), Section  
24 1551.101, Insurance Code, of the applicable requirements of Section  
25 1551.321, Insurance Code.

26                   ARTICLE 12. UNCLAIMED PROPERTY

27          SECTION 12.01. Subsection (a), Section 72.101, Property

Code, is amended to read as follows:

(a) Except as provided by this section and Sections 72.1015 and [Section] 72.102, personal property is presumed abandoned if, for longer than three years:

(1) the existence and location of the owner of the property is unknown to the holder of the property; and

(2) according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.

SECTION 12.02. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1015 to read as follows:

Sec. 72.1015. UNCLAIMED WAGES. (a) In this section, "wages" has the meaning assigned by Section 61.001, Labor Code.

(b) An amount of unclaimed wages is presumed abandoned if, for longer than one year:

(1) the existence and location of the person to whom the wages are owed is unknown to the holder of the wages; and

(2) according to the knowledge and records of the holder of the wages, a claim to the wages has not been asserted or an act of ownership of the wages has not been exercised.

#### ARTICLE 13. APPROVAL OF STATE SECURITY

SECTION 13.01. Section 1231.041, Government Code, is amended to read as follows:

Sec. 1231.041. APPROVAL OF STATE SECURITY. (a) An entity, including a state agency, may not issue a state security unless:

(1) the board approves the issuance; or

(2) the security is exempted under Section 1231.022(2).

(b) In this section, "state security" includes commercial paper or other similar short-term state security issued for the interim financing of a project that will be permanently financed with tuition revenue bonds or state securities secured by general revenue of the state.

ARTICLE 14. JOINT EMERGENCY ORDERS RELATING TO STATE AGENCIES

SECTION 14.01. Subchapter F, Chapter 401, Government Code, is amended by adding Section 401.105 to read as follows:

Sec. 401.105. JOINT EMERGENCY ORDERS. (a) In this section, "state agency" includes an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college. The term does not include a state agency that is headed by a statewide-elected official.

(b) For the purposes of this section, an emergency is the occurrence of gross fiscal mismanagement or misappropriation of funds or a natural or man-made disaster.

(c) If the governor determines that an emergency exists, the governor shall submit to the Legislative Budget Board a plan that:

(1) identifies the emergency in reasonable detail;  
(2) proposes changes in the organization and operations of a state agency that the governor considers necessary as a result of the emergency; and

(3) identifies changes in the budget or appropriation for the agency that are required as a result of the proposed changes in the organization and operations of the agency.

1        (d) If the Legislative Budget Board agrees that an emergency  
2 exists, the board may agree with the governor's proposed plan or may  
3 propose modifications in the plan submitted under Subsection (c).  
4 Upon agreement, the governor and the board may jointly issue an  
5 emergency order requiring the agency to implement the changes in  
6 its organization and operations as provided in the order.

7        (e) An emergency order issued jointly by the governor and  
8 the Legislative Budget Board under this section has the force and  
9 effect of law.

10       (f) The governor and the Legislative Budget Board may  
11 jointly amend or rescind an emergency order issued under this  
12 section at any time.

13       ARTICLE 15. TEXAS HIGHER EDUCATION COORDINATING BOARD

14       SECTION 15.01. Section 61.022, Education Code, is amended  
15 to read as follows:

16       Sec. 61.022. MEMBERS OF BOARD; APPOINTMENT; TERMS OF  
17 OFFICE. The board shall consist of nine ~~[18]~~ members appointed by  
18 the governor so as to provide representation from all areas of the  
19 state with the advice and consent of the senate, and as the  
20 constitution provides. Members of the board serve staggered  
21 six-year terms. The terms of one-third of the members expire August  
22 31 of each odd-numbered year. ~~[Of the initial appointments to the~~  
23 ~~board six shall be for terms which shall expire August 31, 1967, six~~  
24 ~~for terms which shall expire August 31, 1969, and six for terms~~  
25 ~~which shall expire on August 31, 1971, or at such time as their~~  
26 ~~successors are appointed and have qualified. Thereafter, the~~  
27 ~~governor shall appoint members for terms of six years. Members of~~



~~the Texas Commission on Higher Education are eligible for~~  
~~appointment to the board.]~~ No member may be employed  
professionally for remuneration in the field of education during  
his term of office.

SECTION 15.02. To achieve an orderly transition from 18 to 9  
positions on the Texas Higher Education Coordinating Board, the  
governor on August 31, 2003, or September 1, 2003, shall appoint  
only three persons to the coordinating board for terms expiring on  
August 31, 2009. On, or as soon as possible after, August 31, 2005,  
the governor shall appoint only four members to the coordinating  
board for terms expiring on August 31, 2011. On, or as soon as  
possible after, August 31, 2007, the governor shall appoint only  
two members to the coordinating board for terms expiring on August  
31, 2013. As terms on the coordinating board expire on and after  
August 31, 2009, the governor shall appoint three members to the  
coordinating board in accordance with Section 61.022, Education  
Code, as amended by this Act.

# ARTICLE 16. REVIEW OF UNIVERSITY SYSTEM ADMINISTRATION

SECTION 16.01. Subchapter C, Chapter 61, Education Code, is  
amended by adding Section 61.0515 to read as follows:

## Sec. 61.0515. REVIEW OF UNIVERSITY SYSTEM ADMINISTRATION.

(a) The board shall perform a review of the organization and  
operations of each university system office to:

(1) identify appropriate organizational structures  
for university systems and system offices;

(2) identify and quantify workforce and other  
resources at each system office used to provide services and

1 functions common to each system office; and

2 (3) determine the extent to which system  
3 administration employees are performing services and functions  
4 that are also provided by employees of individual component  
5 institutions of each university system.

6 (b) In the review, the board shall identify the number and  
7 types of administrative and executive positions in the  
8 administration of each university system, and shall examine each  
9 major function, service, or activity performed by university system  
10 offices, including:

- 11 (1) central administration;  
12 (2) academic affairs coordination and support;  
13 (3) general counsel and other legal services;  
14 (4) budgeting, accounting, and data reporting;  
15 (5) fiscal management;  
16 (6) facilities planning and construction;  
17 (7) governmental relations;  
18 (8) audit services;  
19 (9) real estate management;  
20 (10) information technology services; and  
21 (11) aircraft operation and usage.

22 (c) Not later than November 1, 2004, the board shall prepare  
23 a report of the review and deliver the report to the governor,  
24 lieutenant governor, speaker of the house of representatives,  
25 Legislative Budget Board, and chair of the standing committee of  
26 each house of the legislature with primary jurisdiction over higher  
27 education. In the report, the board shall state its findings and

1 identify opportunities for legislative and administrative action  
2 relating to:

3 (1) the reorganization of university system offices  
4 and functions;

5 (2) the consolidation or reorganization of university  
6 systems; and

7 (3) the consolidation or centralization of functions,  
8 services, or activities of university system offices.

9 (d) In the report, the board shall identify potential  
10 reductions in personnel and other cost savings associated with each  
11 legislative or administrative action the board identifies under  
12 Subsection (c).

13 (e) This section expires September 1, 2005.

14 ARTICLE 17. FEES FOR RAIL SAFETY PROGRAM

15 SECTION 17.01. Article 6448a, Revised Statutes, is amended  
16 to read as follows:

17 Art. 6448a. IMPLEMENTATION OF FEDERAL RAILROAD SAFETY ACT  
18 OF 1970

19 Sec. 1. The Railroad Commission of Texas is hereby  
20 authorized to perform any act and issue any rules and orders as  
21 permitted by the Federal Railroad Safety Act of 1970 (45 U.S.C.A.  
22 431 et seq.).

23 Sec. 2. (a) The Railroad Commission of Texas by rule shall  
24 adopt and provide for the collection of reasonable fees to be  
25 assessed annually against railroads operating within this state.  
26 The amount of a fee imposed under this article may not exceed an  
27 amount estimated by the commission to be sufficient in the

1 aggregate to recover the costs of administering the commission's  
2 rail safety program.

3 (b) To provide for the equitable allocation of the cost of  
4 administering the commission's rail safety program among  
5 railroads, the commission may consider the gross ton miles for  
6 railroad operations within this state for each railroad operating  
7 in the state when assessing a fee.

8 (c) A fee collected under this section shall be deposited to  
9 the credit of the general revenue fund.

10 ARTICLE 18. ECONOMIC IMPACT OF LOTTERY CONTRACTS

11 SECTION 18.01. Section 466.101, Government Code, is amended  
12 by adding Subsections (f) through (i) to read as follows:

13 (f) In awarding a contract under this chapter or evaluating  
14 a bid or proposal relating to a contract, the executive director may  
15 consider a vendor's economic impact to the state or a political  
16 subdivision of the state.

17 (g) For contracts for which the executive director will  
18 consider a vendor's economic impact under Subsection (f), the  
19 commission by rule shall prescribe:

20 (1) the type of documentation a vendor must submit to  
21 demonstrate the vendor's potential economic impact; and

22 (2) the manner and methodology by which the executive  
23 director will evaluate a vendor's economic impact.

24 (h) The methodology developed under Subsection (g) to  
25 determine a vendor's economic impact to this state or a political  
26 subdivision of this state is subject to audit by the state auditor  
27 based on a risk assessment performed by the state auditor and

1 subject to the legislative audit committee's approval for inclusion  
2 of the work in the audit plan under Section 321.013(c).

3 (i) In this section, "economic impact" means the number of:

4 (1) current employees in this state and the amount of  
5 wages being paid to those employees, including any subcontractor's  
6 employees and wages; and

7 (2) full-time equivalent positions to be created in  
8 this state and the additional amount of wages to be paid to  
9 employees in this state as a result of awarding a contract,  
10 including a proposed subcontractor's employees and wages.

11 ARTICLE 19. WRITTEN COMMENTS BY THE GENERAL LAND OFFICE ON TEXAS  
12 BUILDING AND PROCUREMENT COMMISSION LEASES

13 SECTION 19.01. The following sections are repealed:

14 (1) Section 2165.154, Government Code; and

15 (2) Section 2165.204, Government Code.

16 ARTICLE 20. DEFINITION OF RECYCLED PRODUCT

17 SECTION 20.01. Section 2155.445, Government Code, is  
18 amended by adding Subsection (d) to read as follows:

19 (d) In addition to the products covered by the definition  
20 adopted by rule under this section, in this section "recycled  
21 product" includes recycled steel products. The preference for  
22 recycled steel products under this section applies also to products  
23 purchased in connection with projects described by Section  
24 2166.003.

25 ARTICLE 21. JOINT INTERIM COMMITTEE ON POSTCONVICTION  
26 EXONERATIONS

27 SECTION 21.01. (a) The joint interim committee on

1 postconviction exonerations is established to:

2 (1) study the causes of and investigate wrongful  
3 criminal convictions;

4 (2) identify appropriate improvements in the criminal  
5 justice system to prevent future wrongful convictions;

6 (3) recommend policies, procedures, practices, and  
7 legislation needed to prevent future wrongful convictions; and

8 (4) assess the procedures used by counties to ensure  
9 due process and suggest a statewide model for procedures ensuring  
10 due process.

11 (b) The joint interim committee is composed of the following  
12 nine members:

13 (1) an attorney who represents the state in the  
14 prosecution of felonies, as appointed by the attorney general;

15 (2) two members of the criminal justice committee of  
16 the senate who are appointed by the lieutenant governor;

17 (3) two members of the criminal jurisprudence  
18 committee of the house of representatives who are appointed by the  
19 speaker of the house of representatives;

20 (4) a member of the judiciary who is appointed by the  
21 chief justice of the supreme court;

22 (5) two law professors who are appointed by the  
23 chancellor of The University of Texas System, one of whom works in  
24 the forensic science field; and

25 (6) a criminal defense attorney who is appointed by  
26 the Texas Criminal Defense Lawyers Association.

27 (c) The lieutenant governor shall designate one of the

1 members of the criminal justice committee of the senate appointed  
2 to the joint interim committee as described by Subsection (b) of  
3 this section to serve as the chair of the interim committee.

4 (d) The joint interim committee shall meet initially at the  
5 call of the chair of the interim committee, and the interim  
6 committee shall subsequently hold meetings and public hearings at  
7 the call of the chair. To the extent that it is financially  
8 possible, the interim committee shall hold public hearings in  
9 multiple locations across this state.

10 (e) The interim committee may issue process as provided by  
11 the senate and house of representatives rules of procedure and by  
12 Section 301.024, Government Code, and has all other powers and  
13 duties provided to special committees by the senate and house of  
14 representatives rules of procedure, by Subchapter B, Chapter 301,  
15 Government Code, and by policies of the committees on  
16 administration.

17 (f) From the contingent expense fund of the senate and the  
18 contingent expense fund of the house of representatives equally,  
19 the members of the interim committee shall be reimbursed for  
20 expenses incurred in carrying out the provisions of this Act in  
21 accordance with the senate and house of representatives rules of  
22 procedure and the policies of the committees on administration.  
23 Other necessary expenses of operation shall be paid from the  
24 contingent expense fund of the senate and the contingent expense  
25 fund of the house of representatives equally.

26 (g) Not later than October 1, 2004, the joint interim  
27 committee shall prepare and deliver to the governor, the lieutenant

1 governor, and the speaker of the house of representatives copies of  
2 a report containing the interim committee's findings and  
3 recommendations.

4 SECTION 21.02. A person or association required to appoint  
5 a member to the joint interim committee on postconviction  
6 exonerations shall make the appointment not later than October 1,  
7 2003.

8 ARTICLE 22. ECONOMIC DEVELOPMENT PROGRAMS

9 SECTION 22.01. Subchapter B, Chapter 481, Government Code,  
10 is amended by adding Section 481.0215 to read as follows:

11 Sec. 481.0215. COORDINATION OF ECONOMIC DEVELOPMENT  
12 EFFORTS. (a) The executive director of the department shall work  
13 with the legislature and state agencies to identify grants and  
14 programs at all levels of government and to maximize access to  
15 federal funds for economic development.

16 (b) At the direction of the governor, the executive director  
17 of the department shall work with each state agency that  
18 administers a program relating to job training or job creation,  
19 including the Texas Workforce Commission, the Council on Workforce  
20 and Economic Competitiveness, the Department of Agriculture, and  
21 the Office of Rural Affairs, to address the challenges facing the  
22 agencies relating to job training and job creation.

23 (c) The executive director of the department may form  
24 partnerships or enter into agreements with private entities and  
25 develop connections with existing businesses in this state for the  
26 purpose of improving the marketing of this state through networking  
27 and clarifying the potential of the businesses for expansion.



1           SECTION 22.02. Subchapter E, Chapter 481, Government Code,  
2 is amended by adding Section 481.078 to read as follows:

3           Sec. 481.078. TEXAS ENTERPRISE FUND. (a) The Texas  
4 enterprise fund is an account in the general revenue fund.

5           (b) The following amounts shall be deposited in the fund:

6                   (1) any amounts appropriated by the legislature for  
7 the fund;

8                   (2) interest earned on the investment of money in the  
9 fund; and

10                   (3) gifts, grants, and other donations received for  
11 the fund.

12           (c) The fund may be used for economic development,  
13 infrastructure development, community development, job training  
14 programs, and business incentives, and new military missions at  
15 Texas military installations.

16           (d) The fund may be temporarily used by the comptroller for  
17 cash management purposes.

18           (e) The governor may negotiate on behalf of the state to  
19 grant money from the fund and may only direct the use of money from  
20 the fund with the express written consent of the lieutenant  
21 governor and the speaker of the house of representatives.

22           (f) Before granting money from the fund, the governor may  
23 enter into a written agreement with the entity being granted funds  
24 specifying that:

25                   (1) if all or any portion of the amount of the grant is  
26 used to build infrastructure or make any other type of capital  
27 improvement, the state must:

1           (A) retain a lien or other interest in the  
2 capital improvement in proportion to the percentage of the grant  
3 amount used to pay for the capital improvement; and

4           (B) ensure that if the capital improvement is  
5 sold, the recipient repays the department, with interest at the  
6 agreed rate and terms, any state money used to pay for the capital  
7 improvement and shares with this state a proportionate amount of  
8 any profit realized from the sale; and

9           (2) if, on the expiration of a date provided in the  
10 agreement, the grant recipient fails to use an amount awarded under  
11 this section for any of the purposes for which the grant was  
12 intended, the recipient shall repay that amount and any related  
13 interest to the state at the agreed rate and on the agreed terms.

14           SECTION 22.03. Subchapter K, Chapter 481, Government Code,  
15 is amended by adding Section 481.169 to read as follows:

16           Sec. 481.169. ADVISORY BOARD OF ECONOMIC DEVELOPMENT  
17 STAKEHOLDERS. (a) An advisory board of economic development  
18 stakeholders is created to assist the department.

19           (b) The advisory board is composed of seven members who  
20 serve staggered four-year terms. The governor shall appoint three  
21 members, the lieutenant governor shall appoint two members, and the  
22 speaker of the house of representatives shall appoint two members  
23 to the advisory board. The governor, lieutenant governor, and  
24 speaker of the house of representatives shall each appoint one of  
25 the initial members to a two-year term. Thereafter, each member of  
26 the advisory board shall be appointed to a four-year term.

27           (c) The advisory board shall collect and disseminate

1 information on federal, state, local, and private community  
2 economic development programs, including loans, grants, and other  
3 funding sources.

4 SECTION 22.04. Section 311.0125, Tax Code, is amended by  
5 adding Subsection (e) to read as follows:

6 (e) The Texas Department of Economic Development may  
7 recommend that a taxing unit enter into a tax abatement agreement  
8 with a person under this chapter. In determining whether to approve  
9 an agreement to abate taxes on real property in a reinvestment zone  
10 under Subsection (b), the board of directors of the reinvestment  
11 zone and the governing body of a taxing unit shall consider any  
12 recommendation made by the Texas Department of Economic  
13 Development.

14 SECTION 22.05. Section 312.204, Tax Code, is amended by  
15 adding Subsection (g) to read as follows:

16 (g) The Texas Department of Economic Development may  
17 recommend that a taxing unit enter into a tax abatement agreement  
18 with a person under this chapter. In determining whether to enter  
19 into a tax abatement agreement under this section, the governing  
20 body of a municipality shall consider any recommendation made by  
21 the Texas Department of Economic Development.

22 SECTION 22.06. Section 312.402, Tax Code, is amended by  
23 adding Subsection (f) to read as follows:

24 (f) The Texas Department of Economic Development may  
25 recommend that a taxing unit enter into a tax abatement agreement  
26 with a person under this chapter. In determining whether to enter  
27 into a tax abatement agreement under this section, the

1 commissioners court of a county shall consider any recommendation  
2 made by the Texas Department of Economic Development.

3 SECTION 22.07. Section 313.025, Tax Code, is amended by  
4 adding Subsection (g) to read as follows:

5 (g) The Texas Department of Economic Development may  
6 recommend that a school district grant a person a limitation on  
7 appraised value under this chapter. In determining whether to  
8 grant an application, the governing body of the school district  
9 shall consider any recommendation made by the Texas Department of  
10 Economic Development.

11 ARTICLE 23. BOARD OF PARDONS AND PAROLES

12 SECTION 23.01. Section 508.001, Government Code, is amended  
13 by amending Subdivision (8) and adding Subdivision (10) to read as  
14 follows:

15 (8) "Parole commissioner" means a person employed by  
16 the board to perform the duties described by Section 508.0441  
17 ~~["Policy board" means the Board of Pardons and Paroles Policy~~  
18 ~~Board].~~

19 (10) "Presiding officer" means the presiding officer  
20 of the Board of Pardons and Paroles.

21 SECTION 23.02. Subsection (a), Section 508.031, Government  
22 Code, is amended to read as follows:

23 (a) The board consists of seven ~~[18]~~ members appointed by  
24 the governor with the advice and consent of the senate.

25 SECTION 23.03. Section 508.034, Government Code, is amended  
26 to read as follows:

27 Sec. 508.034. GROUNDS FOR REMOVAL. (a) It is a ground for

removal from the board that a member:

(1) does not have at the time of taking office the qualification required by Section 508.032(b) for appointment to the board;

(2) is ineligible for membership under Section 508.033;

(3) is unable to discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(4) is absent from more than half of the regularly scheduled board or panel meetings that the member is eligible to attend during each calendar year, except when the absence is excused by ~~[majority vote of]~~ the presiding officer ~~[board]~~.

~~(b) [It is a ground for removal from the board and the policy board if a member of the policy board is absent from more than half of the regularly scheduled policy board meetings that the member is eligible to attend during each calendar year.]~~

~~[(c)]~~ The board administrator or the board administrator's designee shall provide to members of the board~~[, to members of the policy board]~~ and to employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(c) ~~[(d)]~~ The validity of an action of~~+~~

~~[(1)]~~ the board or panel is not affected by the fact that the action is taken when a ground for removal of a board member exists~~[, and~~

1           ~~[(2) the policy board is not affected by the fact that~~  
2 ~~the action is taken when a ground for removal of a member of the~~  
3 ~~policy board exists].~~

4           (d) ~~[(e)]~~ If the general counsel to the board has knowledge  
5 that a potential ground for removal exists, the general counsel  
6 shall notify the presiding officer of the board of the potential  
7 ground. The presiding officer shall notify the governor and the  
8 attorney general that a potential ground for removal exists. If the  
9 potential ground for removal involves the presiding officer, the  
10 general counsel to the board shall notify the governor and the  
11 attorney general that a potential ground for removal exists.

12           (e) ~~[(f)]~~ It is a ground for removal from the board that a  
13 member fails to comply with policies or rules adopted by the  
14 ~~[policy]~~ board.

15           SECTION 23.04. Section 508.035, Government Code, is amended  
16 by amending Subsection (c) and adding Subsection (d) to read as  
17 follows:

18           (c) The presiding officer reports directly to the governor  
19 and serves as the administrative head of the ~~[policy board and the]~~  
20 board.

21           (d) The presiding officer may:

22                   (1) delegate responsibilities and authority to other  
23 members of the board, parole commissioners, or to employees of the  
24 board;

25                   (2) appoint advisory committees from the membership of  
26 the board or from parole commissioners to further the efficient  
27 administration of board business; and

1           (3) establish policies and procedures to further the  
2 efficient administration of the business of the board.

3           SECTION 23.05. Section 508.036, Government Code, is amended  
4 to read as follows:

5           Sec. 508.036. [~~POLICY BOARD: COMPOSITION,~~] GENERAL  
6 ADMINISTRATIVE DUTIES. (a) The presiding officer [~~governor shall~~  
7 ~~designate six members of the board to serve as the Board of Pardons~~  
8 ~~and Paroles Policy Board. The governor shall designate the~~  
9 ~~presiding officer of the board as one of the six members of the~~  
10 ~~policy board, and the presiding officer of the board shall serve as~~  
11 ~~presiding officer of the policy board. Service on the policy board~~  
12 ~~is an additional duty of office for members appointed to the policy~~  
13 ~~board.~~

14           [~~(b) Members of the board designated as members of the~~  
15 ~~policy board serve on the policy board for six-year terms that are~~  
16 ~~concurrent with their six-year terms on the board, with the service~~  
17 ~~of two members expiring February 1 of each odd-numbered year.~~

18           [~~(c) The policy board~~] shall:

19           (1) develop and implement policies that clearly  
20 separate the policy-making responsibilities of the board and the  
21 management responsibilities of the board administrator, parole  
22 commissioners, and the staff of the board [~~adopt rules relating to~~  
23 ~~the decision-making processes used by the board and parole panels~~];

24           (2) establish caseloads and required work hours for  
25 members of the board and parole commissioners [~~assign duties to~~  
26 ~~members of the policy board that are in addition to the duties those~~  
27 ~~members have in handling a caseload~~];

1           (3) update parole guidelines, assign precedential  
2 value to previous decisions of the board relating to the granting of  
3 parole and the revocation of parole or mandatory supervision, and  
4 develop policies to ensure that members of the board and parole  
5 commissioners use guidelines and previous decisions of the board  
6 and parole commissioners in making decisions under this chapter;

7           (4) require members of the board and parole  
8 commissioners to file activity reports~~[, on forms provided by the~~  
9 ~~policy board,~~] that provide information on release decisions made  
10 by members of the board and parole commissioners, the workload and  
11 hours worked of the members of the board and parole commissioners,  
12 and the use of parole guidelines by members of the board and parole  
13 commissioners; and

14           (5) report at least annually to the governor and the  
15 legislature on the [board] activities of the board and parole  
16 commissioners, parole release decisions, and the use of parole  
17 guidelines by the board and parole commissioners.

18           (b) The board shall:

19                 (1) adopt rules relating to the decision-making  
20 processes used by the board and parole panels;

21                 (2) prepare information of public interest describing  
22 the functions of the board and make the information available to the  
23 public and appropriate state agencies;

24                 (3) comply with federal and state laws related to  
25 program and facility accessibility; and

26                 (4) prepare annually a complete and detailed written  
27 report that meets the reporting requirements applicable to



1 financial reporting provided in the General Appropriations Act and  
2 accounts for all funds received and disbursed by the board during  
3 the preceding fiscal year.

4 (c) The board administrator shall prepare and maintain a  
5 written plan that describes how a person who does not speak English  
6 can be provided reasonable access to the board's programs and  
7 services.

8 (d) The board, in performing its duties, is subject to the  
9 open meetings law, Chapter 551, and the administrative procedure  
10 law, Chapter 2001. This subsection does not affect the provisions  
11 of Section 2001.223 exempting hearings and interviews conducted by  
12 the board or the division from Section 2001.038 and Subchapters  
13 C-H, Chapter 2001.

14 SECTION 23.06. Section 508.0362, Government Code, is  
15 amended to read as follows:

16 Sec. 508.0362. TRAINING REQUIRED. (a)(1) A person who is  
17 appointed to and qualifies for office as a member of the board [~~or~~  
18 ~~the policy board~~] may not vote, deliberate, or be counted as a  
19 member in attendance at a meeting of the board [~~or policy board~~]  
20 until the person completes at least one course of a training program  
21 that complies with this section.

22 (2) A parole commissioner employed by the board may  
23 not vote or deliberate on a matter described by Section 508.0441  
24 until the person completes at least one course of a training program  
25 that complies with this section.

26 (b) A training program must provide information to the  
27 person regarding:

1           (1) the enabling legislation that created the board  
2 ~~[and the policy board]~~;

3           (2) the programs operated by the board;

4           (3) the role and functions of the board and parole  
5 commissioners;

6           (4) the rules of the board;

7           (5) the current budget for the board;

8           (6) the results of the most recent formal audit of the  
9 board;

10          (7) the requirements of the:

11               (A) open meetings law, Chapter 551;

12               (B) open records law, Chapter 552; and

13               (C) administrative procedure law, Chapter 2001;

14          (8) the requirements of the conflict of interest laws  
15 and other laws relating to public officials; and

16          (9) any applicable ethics policies adopted by the  
17 ~~[policy]~~ board or the Texas Ethics Commission.

18          (c) A person appointed to the board ~~[or policy board]~~ is  
19 entitled to reimbursement, as provided by the General  
20 Appropriations Act, for the travel expenses incurred in attending  
21 the training program regardless of whether the attendance at the  
22 program occurs before or after the person qualifies for office.

23          SECTION 23.07. Subsection (a), Section 508.040, Government  
24 Code, is amended to read as follows:

25          (a) The presiding officer is responsible for the employment  
26 and supervision of ~~[policy board shall employ and supervise]~~:

27               (1) parole commissioners;

1           (2) a general counsel to the board;

2           (3) [~~(2)~~] a board administrator to manage the  
3 day-to-day activities of the board;

4           (4) [~~(3)~~] hearing officers;

5           (5) [~~(4)~~] personnel to assist in clemency and hearing  
6 matters; and

7           (6) [~~(5)~~] secretarial or clerical personnel.

8           SECTION 23.08. Section 508.041, Government Code, is amended  
9 to read as follows:

10           Sec. 508.041. DESIGNEE TRAINING; HANDBOOK. (a) The  
11 [~~policy~~] board shall develop and implement:

12           (1) a training program that each newly hired employee  
13 of the board designated to conduct hearings under Section 508.281  
14 must complete before conducting a hearing without the assistance of  
15 a board member or experienced parole commissioner or designee; and

16           (2) a training program to provide an annual update to  
17 designees of the board on issues and procedures relating to the  
18 revocation process.

19           (b) The [~~policy~~] board shall prepare and biennially update a  
20 procedural manual to be used by designees of the board. The  
21 [~~policy~~] board shall include in the manual:

22           (1) descriptions of decisions in previous hearings  
23 determined by the [~~policy~~] board to have value as precedents for  
24 decisions in subsequent hearings;

25           (2) laws and court decisions relevant to decision  
26 making in hearings; and

27           (3) case studies useful in decision making in

1 hearings.

2 (c) The [~~policy~~] board shall prepare and update as necessary  
3 a handbook to be made available to participants in hearings under  
4 Section 508.281, such as defense attorneys, persons released on  
5 parole or mandatory supervision, and witnesses. The handbook must  
6 describe in plain language the procedures used in a hearing under  
7 Section 508.281.

8 SECTION 23.09. Section 508.042, Government Code, is amended  
9 to read as follows:

10 Sec. 508.042. TRAINING PROGRAM FOR MEMBERS AND PAROLE  
11 COMMISSIONERS. (a) The [~~policy~~] board shall develop for board  
12 members and parole commissioners a comprehensive training and  
13 education program on the criminal justice system, with special  
14 emphasis on the parole process.

15 (b)(1) A new member may not participate in a vote of the  
16 board or a panel, deliberate, or be counted as a member in  
17 attendance at a meeting of the board [~~or policy board~~] until the  
18 member completes the program.

19 (2) A new parole commissioner may not participate in a  
20 vote of a panel until the commissioner completes the program. This  
21 subdivision does not apply to a new parole commissioner who as a  
22 board member completed the program.

23 SECTION 23.10. Subchapter B, Chapter 508, Government Code,  
24 is amended by amending Section 508.044 and adding Section 508.0441  
25 to read as follows:

26 Sec. 508.044. POWERS AND DUTIES OF BOARD. [~~(a)~~] A board  
27 member shall give full time to the duties of the member's office,

1 including~~[-~~

2 ~~[(b) In addition to performing the]~~ duties imposed on the  
3 board by the Texas Constitution and other law.

4 Sec. 508.0441. RELEASE AND REVOCATION DUTIES. (a) Board~~[-~~  
5 ~~board]~~ members and parole commissioners shall determine:

6 (1) which inmates are to be released on parole or  
7 mandatory supervision;

8 (2) conditions of parole or mandatory supervision,  
9 including special conditions;

10 (3) the modification and withdrawal of conditions of  
11 parole or mandatory supervision;

12 (4) which releasees may be released from supervision  
13 and reporting; and

14 (5) the continuation, modification, and revocation of  
15 parole or mandatory supervision.

16 (b) ~~[(c)]~~ The ~~[policy]~~ board shall develop and implement a  
17 policy that clearly defines circumstances under which a board  
18 member or parole commissioner should disqualify himself or herself  
19 from voting on:

20 (1) a parole decision; or

21 (2) a decision to revoke parole or mandatory  
22 supervision.

23 (c) ~~[(d)]~~ The ~~[policy]~~ board may adopt reasonable rules as  
24 ~~[the policy board considers]~~ proper or necessary relating to:

25 (1) the eligibility of an inmate for release on parole  
26 or release to mandatory supervision;

27 (2) the conduct of a parole or mandatory supervision

1 hearing; or

2 (3) conditions to be imposed on a releasee.

3 (d) ~~[(e)]~~ The presiding officer ~~[policy board]~~ may provide  
4 a written plan for the administrative review of actions taken by a  
5 parole panel by a review panel ~~[the entire membership or by a subset~~  
6 ~~of the entire membership of the board]~~.

7 (e) ~~[(f)]~~ Board members and parole commissioners shall, at  
8 the direction of the presiding officer, file activity reports on  
9 duties performed under this chapter.

10 SECTION 23.11. Section 508.045, Government Code, is amended  
11 to read as follows:

12 Sec. 508.045. PAROLE PANELS. (a) Except as provided by  
13 Section 508.046, board members and parole commissioners shall act  
14 in panels composed of three ~~[persons each]~~ in matters of:

15 (1) release on parole;

16 (2) release to mandatory supervision; and

17 (3) revocation of parole or mandatory supervision.

18 (b) The presiding officer ~~[of the board]~~ shall designate the  
19 composition of each panel, and may designate panels composed only  
20 of board members, composed only of parole commissioners, or  
21 composed of any combination of members and parole commissioners.

22 (c) A parole panel may:

23 (1) grant, deny, or revoke parole;

24 (2) revoke mandatory supervision; and

25 (3) conduct parole revocation hearings and mandatory  
26 supervision revocation hearings.

27 SECTION 23.12. Subsection (a), Section 508.047, Government

Code, is amended to read as follows:

(a) The members of the [~~policy~~] board shall meet at least once in each quarter of the calendar year at a site determined by the presiding officer.

SECTION 23.13. Subsection (b), Section 508.047, Government Code, is amended to read as follows:

(b) Except as provided by Article 48.011, Code of Criminal Procedure, the [~~The~~] members of the board are not required to meet as a body to perform the members' duties in clemency matters.

SECTION 23.14. Section 508.049, Government Code, is amended to read as follows:

Sec. 508.049. MISSION STATEMENT. (a) The [~~policy~~] board, after consultation with the governor and the Texas Board of Criminal Justice, shall adopt a mission statement that reflects the responsibilities for the operation of the parole process that are assigned to the [~~policy board, the~~] board, the division, the department, or the Texas Board of Criminal Justice.

(b) The [~~policy~~] board shall include in the mission statement a description of specific locations at which the board intends to conduct business related to the operation of the parole process.

SECTION 23.15. Section 508.082, Government Code, is amended to read as follows:

Sec. 508.082. RULES. The [~~policy~~] board shall adopt rules relating to:

(1) the submission and presentation of information and arguments to the board, a parole panel, and the department for and

1 in behalf of an inmate; and

2 (2) the time, place, and manner of contact between a  
3 person representing an inmate and:

4 (A) a member of the board or a parole  
5 commissioner;

6 (B) an employee of the board; or

7 (C) an employee of the department.

8 SECTION 23.16. Subsection (b), Section 508.144, Government  
9 Code, is amended to read as follows:

10 (b) If a board member or parole commissioner deviates from  
11 the parole guidelines in voting on a parole decision, the member or  
12 parole commissioner shall:

13 (1) produce a brief written statement describing the  
14 circumstances regarding the departure from the guidelines; and

15 (2) place a copy of the statement in the file of the  
16 inmate for whom the parole decision was made.

17 SECTION 23.17. Subsection (b), Section 508.153, Government  
18 Code, is amended to read as follows:

19 (b) If more than one person is entitled to appear in person  
20 before the board members or parole commissioners, only the person  
21 chosen by all persons entitled to appear as the persons' sole  
22 representative may appear [~~before the board members~~].

23 SECTION 23.18. Subsection (a), Section 508.281, Government  
24 Code, is amended to read as follows:

25 (a) A releasee, a person released although ineligible for  
26 release, or a person granted a conditional pardon is entitled to a  
27 hearing before a parole panel or a designated agent of the board



1 under the rules adopted by the [~~policy~~] board and within a period  
2 that permits a parole panel, a designee of the board, or the  
3 department to dispose of the charges within the periods established  
4 by Sections 508.282(a) and (b) if the releasee or person:

5 (1) is accused of a violation of the releasee's parole  
6 or mandatory supervision or the person's conditional pardon, on  
7 information and complaint by a peace officer or parole officer; or

8 (2) is arrested after an ineligible release.

9 SECTION 23.19. Subsection (c), Section 508.313, Government  
10 Code, is amended to read as follows:

11 (c) The department may provide information that is  
12 confidential and privileged under Subsection (a) to:

13 (1) the governor;

14 (2) a member of the board or a parole commissioner;

15 (3) the Criminal Justice Policy Council in performing  
16 duties of the council under Section 413.017; or

17 (4) an eligible entity requesting information for a  
18 law enforcement, prosecutorial, correctional, clemency, or  
19 treatment purpose.

20 SECTION 23.20. Section 492.0131, Government Code, is  
21 amended to read as follows:

22 Sec. 492.0131. PAROLE RULES, POLICIES, PROCEDURES. The  
23 board and the presiding officer of the Board of Pardons and Paroles  
24 [~~Policy Board~~] shall jointly review all rules, policies, and  
25 procedures of the department and the Board of Pardons and Paroles  
26 that relate to or affect the operation of the parole process. The  
27 board and the presiding officer of the Board of Pardons and Paroles

1 ~~[policy board]~~ shall identify areas of inconsistency between the  
2 department and the Board of Pardons and Paroles and shall amend  
3 rules or change policies and procedures as necessary for consistent  
4 operation of the parole process.

5 SECTION 23.21. Section 551.124, Government Code, is amended  
6 to read as follows:

7 Sec. 551.124. BOARD OF PARDONS AND PAROLES. At the call of  
8 the presiding officer of the Board of Pardons and Paroles, the board  
9 may hold a hearing on clemency matters by telephone conference  
10 call. Other than the deliberations of the board, the proceedings at  
11 the telephone conference call hearing shall be recorded and made  
12 available to the public in the same manner as if the members of the  
13 board had met as a body to hold the hearing.

14 SECTION 23.22. Chapter 48, Code of Criminal Procedure, is  
15 amended by adding Article 48.011 to read as follows:

16 Art. 48.011. MEETINGS: CAPITAL CASE. (a) In a capital  
17 case, the members of the Board of Pardons and Paroles shall perform  
18 the members' duties in clemency matters by meeting as a body or by  
19 participating in a telephone conference call as permitted by  
20 Section 551.124, Government Code.

21 (b) The Board of Pardons and Paroles shall deliberate  
22 privately, but at the conclusion of deliberations each board member  
23 shall announce publicly the member's individual decision as to  
24 whether to recommend clemency and shall sign the member's name with  
25 the member's written recommendation and reasons for that  
26 recommendation.

27 (c) The Board of Pardons and Paroles shall adopt rules as

1 necessary to implement the requirements of this article.

2 SECTION 23.23. Section 508.0361, Government Code, is  
3 repealed.

4 SECTION 23.24. (a) The governor shall appoint new members  
5 to the Board of Pardons and Paroles on or before January 1, 2004,  
6 and the terms of members serving on December 31, 2003, expire on the  
7 appointment of the new members. The governor may appoint but is not  
8 required to appoint as new members persons who served on the board  
9 before January 1, 2004.

10 (b) Of the new members of the Board of Pardons and Paroles,  
11 the governor shall appoint two to serve terms expiring February 1,  
12 2005, two to serve terms expiring February 1, 2007, and three to  
13 serve terms expiring February 1, 2009. On the expiration of the  
14 terms of the initial members of the new board, the term of a member  
15 appointed by the governor is six years.

16 (c) On September 1, 2003, a rule of the Board of Pardons and  
17 Paroles Policy Board is a rule of the Board of Pardons and Paroles.

18 SECTION 23.25. (a) The changes in law made by Sections  
19 23.13, 23.21, and 23.22 of this article apply only to a  
20 consideration by the Board of Pardons and Paroles regarding a  
21 clemency matter in a capital case that occurs on or after the  
22 effective date of this article.

23 (b) The Board of Pardons and Paroles shall adopt the rules  
24 required by Subsection (c), Article 48.011, Code of Criminal  
25 Procedure, as added by this article, not later than October 1, 2003.

26 ARTICLE 24. TEACHER PAPERWORK AND EDUCATION PROGRAMS AND SERVICES

27 SECTION 24.01. Section 11.164, Education Code, is amended

to read as follows:

Sec. 11.164. RESTRICTING WRITTEN INFORMATION [~~REPORTS~~].

(a) The [~~On an annual basis, the~~] board of trustees of each school district shall limit redundant requests for information and [~~after soliciting recommendations from each campus-level committee and the district-level committee, consider~~] the number and length of written reports that a classroom teacher is [~~employees of the district are~~] required to prepare. A classroom teacher may not be required to prepare any written information other than:

(1) any report concerning the health, safety, or welfare of a student;

(2) a report of a student's grade on an assignment or examination;

(3) a report of a student's academic progress in a class or course;

(4) a report of a student's grades at the end of each grade reporting period;

(5) a textbook report;

(6) a unit or weekly lesson plan that outlines, in a brief and general manner, the information to be presented during each period at the secondary level or in each subject or topic at the elementary level;

(7) an attendance report;

(8) any report required for accreditation review;

(9) any information required by a school district that relates to a complaint, grievance, or actual or potential litigation and that requires the classroom teacher's involvement;

1 or

2 (10) any information specifically required by law,  
3 rule, or regulation.

4 (b) The board of trustees shall review paperwork  
5 requirements imposed on classroom teachers and shall transfer to  
6 existing noninstructional staff a reporting task that can  
7 reasonably be accomplished by that staff.

8 (c) This section does not preclude a school district from  
9 collecting essential information, in addition to information  
10 specified under Subsection (a), from a classroom teacher on  
11 agreement between the classroom teacher and the district.

12 SECTION 24.02. Subchapter C, Chapter 29, Education Code, is  
13 amended by adding Section 29.089 to read as follows:

14 Sec. 29.089. MENTORING SERVICES PROGRAM. (a) Each school  
15 district may provide a mentoring services program to students at  
16 risk of dropping out of school, as defined by Section 29.081.

17 (b) A district that provides a mentoring services program  
18 using funds allocated under Section 42.152 must meet standards  
19 adopted by the governor under the mentoring initiative established  
20 by the governor.

21 (c) The board of trustees of the district shall obtain the  
22 consent of a student's parent or guardian before allowing the  
23 student to participate in the program.

24 (d) The board of trustees of the district may arrange for  
25 any public or private community-based organization to come to the  
26 district's schools and implement the program.

27 SECTION 24.03. Section 42.152, Education Code, is amended

1 by adding Subsection (c-1) to read as follows:

2 (c-1) Notwithstanding Subsection (c), funds allocated under  
3 this section may be used to fund a district's mentoring services  
4 program under Section 29.089.

5 SECTION 24.04. (a) Chapter 32, Education Code, is amended  
6 by adding Subchapter D to read as follows:

7 SUBCHAPTER D. EDUCATION INTERNET PORTAL

8 Sec. 32.151. DEFINITION. In this subchapter, "portal"  
9 means the education Internet portal required by this subchapter.

10 Sec. 32.152. EDUCATION INTERNET PORTAL; GENERAL PURPOSES.

11 (a) The agency, with assistance from the Department of Information  
12 Resources and with participation by the Texas Higher Education  
13 Coordinating Board, interested school districts, and interested  
14 persons in the private sector, shall establish and maintain an  
15 education Internet portal for use by school districts, teachers,  
16 parents, and students.

17 (b) The portal must serve as a single point of access to  
18 educational resources. In addition to any other purpose specified  
19 by this subchapter or any other educational purpose, the portal may  
20 be used to:

21 (1) alleviate inequities in access to educational  
22 resources by providing access to on-line courses;

23 (2) improve student academic performance by providing  
24 access to tutorial materials, instructional materials that have  
25 been shown to improve academic performance, and other interactive  
26 materials, including materials that assess an individual student's  
27 knowledge and prepare the student for the administration of a

1 standardized assessment instrument, including an assessment  
2 instrument administered under Section 39.023;

3 (3) provide school districts with access to  
4 administrative software and other electronic tools designed to  
5 promote administrative efficiency and intra-district  
6 communication;

7 (4) provide secure access to student assessment data;  
8 or

9 (5) provide links to appropriate educational  
10 resources and experts available through the Internet.

11 Sec. 32.153. ADMINISTRATION. (a) The agency has  
12 responsibility for general administration and oversight of the  
13 portal and for approving the content of all information made  
14 available through the portal.

15 (b) The Department of Information Resources shall:

16 (1) host the portal through the project known as  
17 TexasOnline;

18 (2) organize the portal in a manner that simplifies  
19 portal use and administration;

20 (3) provide any necessary technical advice to the  
21 agency, including advice relating to equipment required in  
22 connection with the portal;

23 (4) provide a method for maintaining the information  
24 made available through the portal; and

25 (5) cooperate with the agency in linking the agency's  
26 Internet site to the portal.

27 (c) The Department of Information Resources may assist the

1 agency with technical advice regarding contracting with vendors for  
2 services in connection with the portal.

3 (d) The joint advisory committee established under Section  
4 61.077, or any successor to that committee with advisory  
5 responsibility for coordination between secondary and  
6 postsecondary education, shall serve in an advisory capacity to the  
7 agency and the Department of Information Resources in connection  
8 with functions relating to the portal.

9 Sec. 32.154. ON-LINE COURSES. (a) The agency may  
10 coordinate the identification and development of on-line courses  
11 made available through the portal. A course may not be made  
12 available through the portal unless the course is reviewed by the  
13 agency and approved by the commissioner.

14 (b) In coordinating, developing, and reviewing courses to  
15 be made available through the portal, the agency shall give  
16 priority to any course that is not readily available to students  
17 throughout the state and for which there is a critical need.

18 (c) A course made available through the portal must be  
19 aligned with state curriculum requirements under Section 28.002 and  
20 the essential knowledge and skills identified under that section.

21 (d) The agency may develop quality assurance criteria to be  
22 used by the agency in developing and reviewing courses made  
23 available through the portal. The criteria must include components  
24 relating to:

- 25 (1) course content;  
26 (2) instructor qualifications;  
27 (3) validity of assessment procedures;



1           (4) security features; and

2           (5) degree of interactivity.

3           Sec. 32.155. ON-LINE COURSE SCHOLARSHIPS. (a) Using funds  
4 available for that purpose, the agency may award a scholarship for  
5 the costs of an on-line course to a student who demonstrates that:

6           (1) the student has inequitable access to the course;  
7 and

8           (2) access to the course would improve the likelihood  
9 of the student's academic success.

10          (b) The commissioner may adopt criteria to be used in  
11 awarding scholarships under this section. The criteria must limit  
12 the availability of scholarships to students who:

13          (1) are enrolled in a public school on a full-time  
14 basis; or

15          (2) were enrolled in a public school on a full-time  
16 basis for at least three months during the preceding school year and  
17 indicate an intent to enroll in a public school on a full-time basis  
18 for at least three months during the school year for which the  
19 scholarship is offered.

20          Sec. 32.156. ON-LINE TEXTBOOKS. (a) The agency may  
21 develop and adopt strategies for making textbooks available through  
22 the portal or through other means in an electronic format as an  
23 alternative or supplement to traditional textbooks.

24          (b) In developing and adopting strategies under this  
25 section, the agency shall seek to achieve a system under which a  
26 student may, in addition to a traditional textbook, be provided  
27 with secure Internet access to each textbook used by the student.

1       Sec. 32.157. SCHOOL DISTRICT ADMINISTRATIVE SOFTWARE AND  
2 ELECTRONIC TOOLS. (a) The agency may:

3           (1) identify effective Internet-based administrative  
4 software and other electronic tools that may be used by school  
5 districts to improve district administrative functions; and

6           (2) pursue efforts to make that software and other  
7 electronic tools available through the portal for use by school  
8 districts on a voluntary basis.

9       (b) The agency may assist school districts in identifying  
10 sources of funding that may be used by districts to pay any costs  
11 associated with using administrative software and other electronic  
12 tools available through the portal. To the extent that funds are  
13 available to the agency, the agency may provide administrative  
14 software and other electronic tools through the portal at no cost to  
15 specific school districts selected by the agency based on  
16 demonstrated need.

17       Sec. 32.158. STUDENT ASSESSMENT DATA. (a) The agency may  
18 establish a secure, interoperable system to be implemented through  
19 the portal under which school districts can readily access student  
20 assessment data for use in developing strategies for improving  
21 student performance.

22       (b) In establishing the system required by this section, the  
23 agency shall seek to further the goal of providing school districts  
24 with access to student performance information at the classroom  
25 level.

26       Sec. 32.159. FEES. (a) The agency may charge school  
27 districts, teachers, parents, students, and other persons a

1 reasonable fee for services or information provided through the  
2 portal.

3 (b) The total amount of fees charged under this section may  
4 not exceed the amount necessary to pay costs associated with the  
5 development, administration, and maintenance of the portal.

6 (c) An individual fee charged to a person under this section  
7 for a service or information may not exceed the amount that the  
8 person would be required to pay to obtain the service or information  
9 from a commercial source or through another means of access other  
10 than the portal.

11 (d) To the extent possible, the agency shall make services  
12 and information available through the portal at no cost to school  
13 districts, teachers, parents, students, and other persons.

14 Sec. 32.160. VENDOR PARTICIPATION. (a) The agency may  
15 seek proposals from private vendors for providing on-line courses  
16 or other materials or services through the portal in accordance  
17 with this subchapter. A vendor may not provide an on-line course or  
18 other material or service through the portal without approval by  
19 the agency.

20 (b) The agency may require a vendor, as a condition of  
21 approval of the vendor's proposal, to:

22 (1) pay:

23 (A) all or part of the costs of providing the  
24 on-line course or other material or service;

25 (B) an access fee to be used by the agency in  
26 paying the general costs of maintaining the portal; or

27 (C) both the amounts described by Paragraphs (A)

1 and (B); and

2 (2) if applicable, provide on-line course  
3 scholarships to students in accordance with criteria adopted by the  
4 commissioner.

5 Sec. 32.161. FUNDING. (a) The agency may not use general  
6 revenue funds to pay the costs of developing, administering, and  
7 maintaining the portal. The agency may use amounts available to the  
8 agency from:

9 (1) gifts, grants, or donations;  
10 (2) vendor payments described by Section 32.160(b); or  
11 (3) arrangements with nonprofit or private entities  
12 approved by the agency.

13 (b) To the extent possible considering other statutory  
14 requirements, the commissioner and agency shall encourage the use  
15 of textbook funds and technology allotment funds under Section  
16 31.021(b)(2) in a manner that facilitates the development and use  
17 of the portal.

18 Sec. 32.162. STATEWIDE LICENSING AND CONTRACTING. As  
19 appropriate to promote the availability through the portal of  
20 services and information specified by this subchapter at no cost to  
21 users or at a reasonable cost, the agency may negotiate statewide  
22 licenses or discounts with software vendors and other persons  
23 offering applications that are suitable for use through the portal.

24 Sec. 32.163. OUTREACH AND TRAINING. (a) The agency may  
25 conduct outreach activities to provide information regarding the  
26 portal to school districts, teachers, parents, and students.

27 (b) The agency may provide training to school districts and

1 teachers in use of the portal. Training in use of the portal may be  
2 made available to parents and students by the agency or school  
3 districts, as determined by commissioner rule.

4 (b) Not later than January 1, 2005, the Texas Education  
5 Agency shall submit a report to the legislature that contains  
6 recommendations for maximizing the benefits of providing access to  
7 textbooks or other educational materials through the Internet using  
8 the education Internet portal required by Subchapter D, Chapter 32,  
9 Education Code, as added by this section.

10 (c) The Texas Education Agency and the Department of  
11 Information Resources shall coordinate agency and department  
12 activities in implementing Subchapter D, Chapter 32, Education  
13 Code, as added by this section, with relevant ongoing activities  
14 relating to modification of the Public Education Information  
15 Management System (PEIMS) and other systems necessary to conform  
16 state educational reporting processes with educational reporting  
17 requirements imposed by federal law.

18 SECTION 24.05. (a) Chapter 38, Education Code, is amended  
19 by adding Subchapter C to read as follows:

20 SUBCHAPTER C. CARE OF STUDENTS WITH DIABETES

21 Sec. 38.101. DEFINITIONS. In this subchapter:

22 (1) "Individual health care plan" means the document  
23 required by Section 38.102.

24 (2) "School" means an elementary or secondary school  
25 of an independent school district.

26 (3) "School employee" means a person employed by:

27 (A) a school;

1                   (B) a local health department that assists a  
2 school under this subchapter; or

3                   (C) another entity with which a school has  
4 contracted to perform its duties under this subchapter.

5                   (4) "Trained diabetes care assistant" means a school  
6 employee who has completed the training required by Section 38.103.

7                   Sec. 38.102. INDIVIDUAL HEALTH CARE PLAN. (a) An  
8 individual health care plan must be developed for each student with  
9 diabetes who will seek care for the student's diabetes while at  
10 school. The plan shall be developed by:

11                   (1) the student's parent or guardian; and

12                   (2) the student's personal health care team, which  
13 should include the student's physician.

14                   (b) An individual health care plan must:

15                   (1) identify the health care services the student may  
16 receive at school; and

17                   (2) be signed by the student's parent or guardian and  
18 the student's personal health care team.

19                   (c) The parent or guardian of a student with diabetes who  
20 seeks care for the student's diabetes while the student is at school  
21 shall submit to the school a copy of the student's individual health  
22 care plan. The plan must be submitted to and reviewed by the  
23 school:

24                   (1) before the beginning of the school year;

25                   (2) on enrollment of the student, if the student  
26 enrolls in the school after the beginning of the school year; or

27                   (3) as soon as practicable following a diagnosis of

1 diabetes for the student.

2 Sec. 38.103. TRAINED DIABETES CARE ASSISTANT. (a) The  
3 Texas Diabetes Council shall develop, with the assistance of the  
4 following entities, guidelines for the training of school employees  
5 in the care of students with diabetes:

6 (1) the School Health Program of the Texas Department  
7 of Health;

8 (2) the American Diabetes Association;

9 (3) the Juvenile Diabetes Research Foundation  
10 International;

11 (4) the American Association of Diabetes Educators;

12 (5) the agency; and

13 (6) the Texas School Nurses Organization.

14 (b) A school employee is not required to be a health care  
15 professional to be designated as a trained diabetes care assistant.  
16 The board of trustees of a school district may not require a school  
17 employee to serve as a trained diabetes care assistant.

18 (c) If a school nurse is assigned to a campus:

19 (1) the school nurse may be recognized as a trained  
20 diabetes care assistant at that campus; or

21 (2) the school nurse may supervise one or more other  
22 school employees acting as trained diabetes care assistants.

23 (d) A school nurse may be recognized as a trained diabetes  
24 care assistant without completing the training under this section  
25 if:

26 (1) the nurse is a registered nurse; and

27 (2) the nurse has received formal advanced training in

1 diabetes care as part of the nurse's continuing education.

2 (e) If a school nurse is not assigned to a campus:

3 (1) each trained diabetes care assistant must have  
4 access, for emergency or informational assistance, to an individual  
5 who has expertise in the care of persons with diabetes, such as a  
6 physician, registered nurse, certified dietitian educator, or  
7 licensed dietitian; or

8 (2) the school must have access to a licensed health  
9 care professional who is a member of the student's personal health  
10 care team.

11 (f) Training under this section must be provided annually by  
12 a health care professional with expertise in the care of persons  
13 with diabetes. The training must be provided before the beginning  
14 of the school year or as soon as practicable following:

15 (1) the enrollment of a student with diabetes at a  
16 campus that previously had no students with diabetes; or

17 (2) a diagnosis of diabetes for a student at a campus  
18 that previously had no students with diabetes.

19 (g) The training must include instruction in:

20 (1) recognizing signs of hypoglycemia and  
21 hyperglycemia;

22 (2) steps to take if the blood glucose levels of a  
23 student with diabetes are outside the target ranges indicated by  
24 the student's individual health care plan;

25 (3) how to follow a physician's instructions  
26 concerning diabetes medication dosages, administration, and  
27 frequency of administration;



1           (4) performing finger-sticks to check blood glucose  
2 levels, checking ketone levels, and recording the results of those  
3 checks;

4           (5) administering glucagon and insulin and recording  
5 the results of the administration; and

6           (6) the recommended schedules and food intake for  
7 meals and snacks for a student with diabetes, the effect of physical  
8 activity on blood glucose levels, and the steps to take if a  
9 student's schedule is disrupted.

10          (h) The training must be provided without charge to the  
11 school employee receiving the training.

12          (i) The board of trustees of a school district shall ensure  
13 that there is at least one trained diabetes care assistant at each  
14 campus attended by one or more students with diabetes.

15          Sec. 38.104. INFORMATION FOR CERTAIN EMPLOYEES. A school  
16 district shall provide to each school employee who is responsible  
17 for transporting a student with diabetes or for supervising a  
18 student with diabetes during an off-campus activity a one-page  
19 information sheet that:

20               (1) identifies the student with diabetes;

21               (2) identifies potential emergencies involving the  
22 student's diabetes and appropriate responses to such emergencies;  
23 and

24               (3) provides telephone numbers of persons the employee  
25 may contact in an emergency involving the student's diabetes.

26          Sec. 38.105. REQUIRED CARE OF STUDENTS WITH DIABETES.

27          (a) At the written request of a parent or guardian of a student

1 with diabetes and in compliance with the student's individual  
2 health care plan, a trained diabetes care assistant shall:

3 (1) respond to the student's blood glucose level if it  
4 is outside the target range specified in the student's individual  
5 health care plan; and

6 (2) assist the student in following instructions  
7 regarding meals, snacks, and physical activity.

8 (b) A school shall ensure to the greatest extent practicable  
9 that the trained diabetes care assistant is present and available  
10 to provide the required care to a student with diabetes during the  
11 regular school day.

12 (c) A school district may not restrict the assignment of a  
13 student with diabetes to a particular campus on the basis that the  
14 campus does not have the required trained diabetes care assistants.

15 (d) A trained diabetes care assistant who performs an  
16 activity described by Subsection (a) in compliance with the  
17 individual health care plan of a student with diabetes:

18 (1) is not considered to be engaging in the practice  
19 of:

20 (A) professional nursing under Chapter 301,  
21 Occupations Code, or other state law; or

22 (B) vocational nursing under Chapter 302,  
23 Occupations Code, or other state law; and

24 (2) is exempt from any applicable state law or rule  
25 that restricts the activities that may be performed by a person who  
26 is not a health care professional.

27 Sec. 38.106. INDEPENDENT MONITORING AND TREATMENT. On the

1 written request signed by a parent or guardian of a student with  
2 diabetes, and if permitted by the student's individual health care  
3 plan, a school shall permit the student to:

4 (1) perform blood glucose level checks;

5 (2) administer insulin through the insulin delivery  
6 system the student uses;

7 (3) treat hypoglycemia and hyperglycemia;

8 (4) possess on the student's person at any time any  
9 supplies or equipment necessary to monitor and care for the  
10 student's diabetes; and

11 (5) otherwise attend to the management and care of the  
12 student's diabetes in the classroom, in any area of the school or  
13 school grounds, or at any school-related activity.

14 (b) Subchapter C, Chapter 38, Education Code, as added by  
15 this section, applies beginning with the 2004-2005 school year.

16 SECTION 24.06. (a) Section 11.164, Education Code, as  
17 amended by this article, applies beginning with the 2003-2004  
18 school year.

19 (b) Section 24.01 of this Act takes effect immediately if  
20 this Act receives a vote of two-thirds of all the members elected to  
21 each house, as provided by Section 39, Article III, Texas  
22 Constitution. If this Act does not receive the vote necessary for  
23 immediate effect, Section 24.01 of this Act takes effect September  
24 1, 2003.

25 ARTICLE 25. TEXAS B-ON-TIME LOAN PROGRAM

26 SECTION 25.01. Chapter 56, Education Code, is amended by  
27 adding Subchapter Q to read as follows:

1           SUBCHAPTER Q. TEXAS B-ON-TIME LOAN PROGRAM

2           Sec. 56.451. DEFINITIONS. In this subchapter:

3           (1) "Coordinating board" means the Texas Higher  
4 Education Coordinating Board.

5           (2) "Eligible institution" means:

6                   (A) an institution of higher education; or

7                   (B) a private or independent institution of  
8 higher education.

9           (3) "General academic teaching institution," "private  
10 or independent institution of higher education," "public junior  
11 college," and "public technical institute" have the meanings  
12 assigned by Section 61.003.

13          Sec. 56.452. PROGRAM NAME; PURPOSE. (a) The student loan  
14 program authorized by this subchapter is known as the Texas  
15 B-On-time loan program, and an individual loan awarded under this  
16 subchapter is known as a Texas B-On-time loan.

17          (b) The purpose of this subchapter is to provide no-interest  
18 loans to eligible students to enable those students to attend all  
19 public and private or independent institutions of higher education  
20 in this state.

21          Sec. 56.453. ADMINISTRATION OF PROGRAM; RULES. (a) The  
22 coordinating board shall:

23                   (1) administer the Texas B-On-time loan program;

24                   (2) determine the repayment and other terms of a Texas  
25 B-On-time loan; and

26                   (3) in consultation with the student financial aid  
27 officers of eligible institutions, adopt any rules necessary to

1 implement the program or this subchapter.

2 (b) The coordinating board may charge and collect a loan  
3 origination fee from a person who receives a Texas B-On-time loan to  
4 be used by the board to pay for the operating expenses for making  
5 loans under this subchapter.

6 (c) The total amount of Texas B-On-time loans awarded may  
7 not exceed the amount available in the Texas B-On-time student loan  
8 account under Section 56.463.

9 Sec. 56.454. PERSONS NOT ELIGIBLE. (a) A person is not  
10 eligible to receive a Texas B-On-time loan if the person has been  
11 granted a baccalaureate degree.

12 (b) A person may not receive a Texas B-On-time loan for more  
13 than 150 semester credit hours or the equivalent.

14 Sec. 56.455. INITIAL ELIGIBILITY FOR LOAN. To be eligible  
15 initially for a Texas B-On-time loan, a person must:

16 (1) be a resident of this state for purposes of  
17 Subchapter B, Chapter 54;

18 (2) meet one of the following academic requirements:

19 (A) be a graduate of a public or accredited  
20 private high school in this state who graduated not earlier than the  
21 2002-2003 school year under the recommended or advanced high school  
22 program established under Section 28.025(a); or

23 (B) have received an associate degree from an  
24 eligible institution not earlier than May 1, 2005;

25 (3) be enrolled for a full course load for an  
26 undergraduate student, as determined by the coordinating board, in  
27 an undergraduate degree or certificate program at an eligible

1 institution;

2 (4) be eligible for federal financial aid, except that  
3 a person is not required to meet any financial need requirement  
4 applicable to a particular federal financial aid program; and

5 (5) comply with any additional nonacademic  
6 requirement adopted by the coordinating board under this  
7 subchapter.

8 Sec. 56.456. CONTINUING ELIGIBILITY AND ACADEMIC  
9 PERFORMANCE REQUIREMENTS. (a) After initially qualifying for a  
10 Texas B-On-time loan, a person may continue to receive a Texas  
11 B-On-time loan for each semester or term in which the person is  
12 enrolled at an eligible institution only if the person:

13 (1) is enrolled for a full course load for an  
14 undergraduate student, as determined by the coordinating board, in  
15 an undergraduate degree or certificate program at an eligible  
16 institution;

17 (2) is eligible for federal financial aid, except that  
18 a person is not required to meet any financial need requirement  
19 applicable to a particular federal financial aid program;

20 (3) makes satisfactory academic progress toward a  
21 degree or certificate as determined by the institution at which the  
22 person is enrolled, if the person is enrolled in the person's first  
23 academic year at the institution;

24 (4) completed at least 75 percent of the semester  
25 credit hours attempted by the person in the most recent academic  
26 year and has a cumulative grade point average of at least 2.5 on a  
27 four-point scale or the equivalent on all coursework previously

1 attempted at institutions of higher education, if the person is  
2 enrolled in any academic year after the person's first academic  
3 year; and

4 (5) complies with any additional nonacademic  
5 requirement adopted by the coordinating board.

6 (b) If a person fails to meet any of the requirements of  
7 Subsection (a) after the completion of any semester or term, the  
8 person may not receive a Texas B-On-time loan for the next semester  
9 or term in which the person enrolls. A person may become eligible  
10 to receive a Texas B-On-time loan in a subsequent semester or term  
11 if the person:

12 (1) completes a semester or term during which the  
13 person is not eligible for a Texas B-On-time loan; and

14 (2) meets all of the requirements of Subsection (a).

15 (c) A person who is eligible to receive a Texas B-On-time  
16 loan continues to remain eligible to receive the Texas B-On-time  
17 loan if the person enrolls in or transfers to another eligible  
18 institution.

19 (d) A person who qualifies for and subsequently receives a  
20 Texas B-On-time loan, who receives an undergraduate certificate or  
21 associate degree, and who, not later than the 12th month after the  
22 month the person receives the certificate or degree, enrolls in a  
23 program leading to a higher-level undergraduate degree continues to  
24 be eligible for a Texas B-On-time loan to the extent other  
25 eligibility requirements are met.

26 Sec. 56.457. WAIVER OF COURSE LOAD REQUIREMENT. (a) The  
27 coordinating board shall adopt rules to allow a person who is

1 otherwise eligible to receive a Texas B-On-time loan, in the event  
2 of a hardship or other good cause, to receive a Texas B-On-time loan  
3 while enrolled in a number of semester credit hours that is less  
4 than the number of semester credit hours required under Section  
5 56.455 or 56.456, as applicable.

6 (b) The coordinating board may not allow a person to receive  
7 a Texas B-On-time loan while enrolled in fewer than six semester  
8 credit hours.

9 Sec. 56.458. LOAN USE. A person receiving a Texas B-On-time  
10 loan may use the money to pay for any usual and customary costs of  
11 attendance at an eligible institution incurred by the student,  
12 including tuition, fees, books, and room and board.

13 Sec. 56.459. LOAN AMOUNT. (a) The amount of a Texas  
14 B-On-time loan for a semester or term for a student enrolled  
15 full-time at an eligible institution other than an institution  
16 covered by Subsection (b), (c), or (d) is an amount determined by  
17 the coordinating board as the average statewide amount of tuition  
18 and required fees that a resident student enrolled full-time in an  
19 undergraduate degree program would be charged for that semester or  
20 term at general academic teaching institutions.

21 (b) The amount of a Texas B-On-time loan for a student  
22 enrolled full-time at a private or independent institution of  
23 higher education is an amount determined by the coordinating board  
24 as the average statewide amount of tuition and required fees that a  
25 resident student enrolled full-time in an undergraduate degree  
26 program would be charged for that semester or term at general  
27 academic teaching institutions.



1        (c) The amount of a Texas B-On-time loan for a student  
2 enrolled full-time at a public technical institute is the amount  
3 determined by the coordinating board as the average statewide  
4 amount of tuition and required fees that a resident student  
5 enrolled full-time in an associate degree or certificate program  
6 would be charged for that semester or term at public technical  
7 institutes.

8        (d) The amount of a Texas B-On-time loan for a student  
9 enrolled full-time at a public junior college is the amount  
10 determined by the coordinating board as the average statewide  
11 amount of tuition and required fees that a student who is a resident  
12 of the junior college district and is enrolled full-time in an  
13 associate degree or certificate program would be charged for that  
14 semester or term at public junior colleges.

15        (e) Not later than January 31 of each year, the coordinating  
16 board shall publish the amounts of each loan established by the  
17 board for each type of institution for the academic year beginning  
18 the next fall semester.

19        (f) If in any academic year the amount of money in the Texas  
20 B-On-time student loan account is insufficient to provide the loans  
21 to all eligible persons in amounts specified by this section, the  
22 coordinating board shall determine the amount of available money  
23 and shall allocate that amount to eligible institutions in  
24 proportion to the number of full-time equivalent undergraduate  
25 students enrolled at each institution. Each institution shall use  
26 the money allocated to award Texas B-On-time loans to eligible  
27 students enrolled at the institution selected according to

1 financial need.

2 Sec. 56.460. NOTIFICATION OF PROGRAM; RESPONSIBILITIES OF  
3 SCHOOL DISTRICTS. (a) The coordinating board shall distribute to  
4 each eligible institution and to each school district a copy of the  
5 rules adopted under this subchapter.

6 (b) Each school district shall notify its middle school  
7 students, junior high school students, and high school students,  
8 those students' teachers and counselors, and those students'  
9 parents or guardians of the Texas B-On-time loan program and the  
10 eligibility requirements of the program.

11 Sec. 56.461. LOAN PAYMENT DEFERRED. The repayment of a  
12 Texas B-On-time loan received by a student under this subchapter is  
13 deferred as long as the student remains continuously enrolled in an  
14 undergraduate degree or certificate program at an eligible  
15 institution.

16 Sec. 56.462. LOAN FORGIVENESS. A student who receives a  
17 Texas B-On-time loan shall be forgiven the amount of the student's  
18 loan if the student is awarded an undergraduate certificate or  
19 degree at an eligible institution with a cumulative grade point  
20 average of at least 3.0 on a four-point scale or the equivalent:

21 (1) within:

22 (A) four calendar years after the date the  
23 student initially enrolled in the institution or another eligible  
24 institution if:

25 (i) the institution is a four-year  
26 institution; and

27 (ii) the student is awarded a degree other

1 than a degree in engineering, architecture, or any other program  
2 determined by the coordinating board to require more than four  
3 years to complete;

4 (B) five calendar years after the date the  
5 student initially enrolled in the institution or another eligible  
6 institution if:

7 (i) the institution is a four-year  
8 institution; and

9 (ii) the student is awarded a degree in  
10 engineering, architecture, or any other program determined by the  
11 coordinating board to require more than four years to complete; or

12 (C) two years after the date the student  
13 initially enrolled in the institution or another eligible  
14 institution if the institution is a public junior college or public  
15 technical institute; or

16 (2) with a total number of semester credit hours,  
17 including transfer credit hours and hours earned exclusively by  
18 examination, that is not more than six hours more than the minimum  
19 number of semester credit hours required to complete the  
20 certificate or degree.

21 Sec. 56.463. TEXAS B-ON-TIME STUDENT LOAN ACCOUNT.

22 (a) The Texas B-On-time student loan account is an account in the  
23 general revenue fund. The account consists of gifts and grants and  
24 legislative appropriations received under Section 56.464, tuition  
25 set aside under Section 56.465, and other money required by law to  
26 be deposited in the account.

27 (b) Money in the Texas B-On-time student loan account may be

1 used only as provided by this subchapter.

2 Sec. 56.464. FUNDING. (a) The coordinating board may  
3 solicit and accept gifts and grants from any public or private  
4 source for the purposes of this subchapter.

5 (b) The coordinating board may issue and sell general  
6 obligation bonds under Subchapter F, Chapter 52, for the purposes  
7 of this subchapter.

8 (c) The legislature may appropriate money for the purposes  
9 of this subchapter.

10 Sec. 56.465. TUITION SET ASIDE FOR PROGRAM. (a) The  
11 governing board of each institution of higher education shall cause  
12 to be set aside five percent of the amount of the tuition charged to  
13 a student at the institution under Section 54.0513 that is in excess  
14 of the amount that would have been charged to the student under that  
15 section for the same semester or term in the 2002-2003 academic  
16 year.

17 (b) The amount of tuition set aside under Subsection (a)  
18 shall be deposited to the credit of the Texas B-On-time student loan  
19 account established under Section 56.463.

20 SECTION 25.02. Subsection (d), Section 52.82, Education  
21 Code, is amended to read as follows:

22 (d) The total amount of bonds issued by the board in a state  
23 fiscal year may not exceed \$125 [~~\$100~~] million.

24 SECTION 25.03. Section 52.89, Education Code, is amended by  
25 amending Subsection (c) and adding Subsection (c-1) to read as  
26 follows:

27 (c) The board shall deposit to the credit of the fund any

1 ~~[the]~~ proceeds from the sale of bonds ~~[in the fund]~~, excluding:

2           (1) any accrued interest on the bonds which shall be  
3 deposited in the board interest and sinking fund relating to the  
4 bonds; and

5           (2) proceeds from the sale of bonds issued by the board  
6 under Section 56.464(b) to provide Texas B-On-time student loans.

7           (c-1) Notwithstanding Subsection (c), proceeds from the  
8 sale of bonds issued by the board under Section 56.464(b) to provide  
9 Texas B-On-time student loans may be deposited to the credit of the  
10 fund by resolution of the board.

11           SECTION 25.04. Subchapter F, Chapter 52, Education Code, is  
12 amended by amending Section 52.90 and adding Section 52.91 to read  
13 as follows:

14           Sec. 52.90. LOANS FROM FUND. (a) The board:

15           (1) shall make a loan from the fund to a student who  
16 qualifies for a loan under Subchapter C; and

17           (2) may make a loan from the fund to a student who  
18 qualifies for a Texas B-On-time student loan under Subchapter Q,  
19 Chapter 56 ~~[of this chapter]~~.

20           (b) Loans from the fund are governed by Subchapter C of this  
21 chapter or Subchapter Q, Chapter 56, as appropriate, as if made  
22 under that subchapter, except to the extent of conflict with this  
23 subchapter.

24           (c) The board may charge and collect a loan origination fee  
25 from a person ~~[student]~~ who receives a loan from the fund. The  
26 board may use the fee to pay operating expenses for making loans  
27 under this section.

1       Sec. 52.91. BONDS FOR TEXAS B-ON-TIME STUDENT LOAN PROGRAM.

2       (a) The board shall deposit to the credit of the Texas B-On-time  
3       student loan account established under Section 56.463 any proceeds  
4       from the sale of bonds issued by the board to fund Texas B-On-time  
5       student loans under Section 56.464(b), other than:

6               (1) accrued interest on the bonds, which shall be  
7       deposited to the credit of the interest and sinking fund related to  
8       the bonds; and

9               (2) any proceeds from the sale of the bonds that the  
10       board by resolution deposits to the student loan auxiliary fund  
11       under Section 52.89(c-1).

12       (b) The board by resolution may establish as provided by  
13       Section 52.03 one or more interest and sinking funds to be used for  
14       any purpose relating to the Texas B-On-time student loan program  
15       established under Subchapter Q, Chapter 56.

16       (c) The board shall repay bonds issued by the board to fund  
17       the Texas B-On-time student loan program using legislative  
18       appropriations and money collected by the board as repayment for  
19       Texas B-On-time student loans awarded by the board. The board may  
20       not use money collected by the board as repayment for student loans  
21       awarded by the board under Subchapter C to repay bonds issued by the  
22       board for the Texas B-On-time student loan program under Section  
23       56.464(b).

24       SECTION 25.05. Section 1372.037, Government Code, is  
25       amended to read as follows:

26       Sec. 1372.037. LIMITATIONS ON GRANTING OF RESERVATIONS FOR  
27       INDIVIDUAL PROJECTS. Before September 1, for any one project, the

1 board may not grant a reservation for that year that is greater  
2 than:

3 (1) \$25 million, if the issuer is an issuer of  
4 qualified mortgage bonds, other than the Texas Department of  
5 Housing and Community Affairs;

6 (2) \$50 million, if the issuer is an issuer of a  
7 state-voted issue, other than the Texas Higher Education  
8 Coordinating Board, or \$125 [~~\$75~~] million, if the issuer is the  
9 Texas Higher Education Coordinating Board;

10 (3) the amount to which the Internal Revenue Code  
11 limits issuers of qualified small issue bonds and enterprise zone  
12 facility bonds, if the issuer is an issuer of those bonds;

13 (4) the lesser of \$15 million or 15 percent of the  
14 amount set aside for reservation by issuers of qualified  
15 residential rental project bonds, if the issuer is an issuer of  
16 those bonds;

17 (5) \$35 million, if the issuer is an issuer authorized  
18 by Section 53.47, Education Code, to issue qualified student loan  
19 bonds; or

20 (6) \$25 million, if the issuer is any other issuer of  
21 bonds that require an allocation.

22 SECTION 25.06. (a) The Texas Higher Education  
23 Coordinating Board and the eligible institutions shall award loans  
24 under the Texas B-On-time student loan program established under  
25 Subchapter Q, Chapter 56, Education Code, as added by this article,  
26 beginning with the 2003 fall semester.

27 (b) The Texas Higher Education Coordinating Board shall

1 adopt the initial rules for awarding loans under the Texas  
2 B-On-time student loan program established under Subchapter Q,  
3 Chapter 56, Education Code, as added by this article, as soon as  
4 practicable after the effective date of this article. The  
5 coordinating board may adopt those initial rules in the manner  
6 provided by law for emergency rules.

7 SECTION 25.07. This article takes effect immediately if  
8 this Act receives a vote of two-thirds of all the members elected to  
9 each house, as provided by Section 39, Article III, Texas  
10 Constitution. If this Act does not receive the vote necessary for  
11 immediate effect, this article takes effect September 1, 2003.

12 ARTICLE 26. THE BUSINESS OF INSURANCE; PAST DISCRIMINATION

13 SECTION 26.01. Section 5, Article 21.21-6, Insurance Code,  
14 as added by Chapter 415, Acts of the 74th Legislature, Regular  
15 Session, 1995, is amended to read as follows:

16 Sec. 5. SANCTIONS. (a) Any legal entity engaged in the  
17 business of insurance in this state found to be in violation of or  
18 failing to comply with this article is subject to the sanctions  
19 authorized by Chapter 82 ~~[in Article 1.10]~~ of this code or  
20 ~~including~~ administrative penalties authorized by Chapter 84  
21 ~~[under Article 1.10E]~~ of this code. The commissioner may also  
22 utilize the cease and desist procedures authorized by Chapter 83  
23 ~~[Article 1.10A]~~ of this code.

24 (b) It is not a defense to an action of the commissioner  
25 under Subsection (a) of this section that the contract giving rise  
26 to the alleged violation was entered into before the effective date  
27 of this article.



SECTION 26.02. Subchapter B, Chapter 21, Insurance Code, is amended by adding Article 21.21-6A to read as follows:

Art. 21.21-6A. CRIMINAL PENALTY. (a) In this article, "person" means a legal entity engaged in the business of life insurance described in Subdivisions (a), (b), (e), (f), and (j), Section 2, Article 21.21-6 of this code, as added by Chapter 415, Acts of the 74th Legislature, Regular Session, 1995, or an officer or director of one of those entities.

(b) A person commits an offense if the person with criminal negligence:

(1) offers insurance coverage at a premium based on a rate that is, because of race, color, religion, ethnicity, or national origin, different from another premium rate offered or used by the person for the same coverage, other than for classifications applicable alike to persons of every race, color, religion, ethnicity, or national origin; or

(2) collects an insurance premium based on a rate that is, because of race, color, religion, ethnicity, or national origin, different from another premium rate offered or used by the person for the same coverage, other than for classifications applicable alike to persons of every race, color, religion, ethnicity, or national origin.

(c) An offense under this article is a state jail felony.

SECTION 26.03. Subsection (c), Section 3, Article 21.21-8, Insurance Code, is amended to read as follows:

(c) All actions under this article must be commenced on or before the second anniversary of [within 12 months after] the date

1 on which the plaintiff was denied insurance or the unfair act  
2 occurred or the date the plaintiff, in the exercise of reasonable  
3 diligence, should have discovered the occurrence of the unfair act.

4 SECTION 26.04. Section 1, Article 21.74, Insurance Code, is  
5 amended by amending Subdivisions (1) and (2) and adding Subdivision  
6 (4) to read as follows:

7 (1) "Holocaust victim" means a person who was killed  
8 or injured, or who lost real or personal property or financial  
9 assets, as the result of discriminatory laws, policies, or actions  
10 directed against any discrete group of which the person was a  
11 member, during the period of 1920 to 1945, inclusive, in Germany,  
12 areas occupied by Germany, ~~or~~ countries allied with Germany, or  
13 countries that were sympathizers with Germany.

14 (2) "Insurer" means an insurance company or other  
15 entity engaged in the business of insurance or reinsurance in this  
16 state. The term includes:

17 (A) a capital stock company, a mutual company, or  
18 a Lloyd's plan; and

19 (B) any parent, subsidiary, reinsurer, successor  
20 in interest, managing general agent, or affiliated company, at  
21 least 50 percent of the stock of which is in common ownership with  
22 an insurer engaged in the business of insurance in this state.

23 (4) "Proceeds" means the face value or other payout  
24 value of insurance policies and annuities plus reasonable interest  
25 to date of payment without diminution for wartime or immediate  
26 postwar currency devaluation.

27 SECTION 26.05. Article 21.74, Insurance Code, is amended by

1 adding Sections 2A and 2B to read as follows:

2 Sec. 2A. FILINGS AND CERTIFICATES OF INSURANCE. (a) This  
3 section applies to each insurer engaging in business in the state  
4 that, directly or through a related company, sold to persons in  
5 Europe insurance policies described by Section 1 of this article or  
6 dowry or educational insurance policies that were in effect during  
7 the period of 1920 to 1945, whether the sale occurred before or  
8 after the insurer and the related company became related.

9 (b) Each insurer shall file or cause to be filed with the  
10 commissioner the following information:

11 (1) the number of insurance policies described by  
12 Subsection (a) of this section sold by the insurer or a related  
13 company;

14 (2) the holder, beneficiary, and current status of the  
15 policies; and

16 (3) the city of origin, domicile, or address for each  
17 policyholder listed in the policies.

18 (c) Each insurer shall certify:

19 (1) that the proceeds of the policies described by  
20 Subsection (a) of this section have been paid to the designated  
21 beneficiaries or their heirs in circumstances in which that person  
22 or those persons, after diligent search, could be located and  
23 identified;

24 (2) that the proceeds of the policies, in  
25 circumstances in which the beneficiaries or heirs could not, after  
26 diligent search, be located or identified, have been distributed to  
27 Holocaust survivors or to qualified charitable nonprofit

1 organizations for the purpose of assisting Holocaust survivors;

2 (3) that a court of law has certified in a legal  
3 proceeding resolving the rights of unpaid policyholders and their  
4 heirs and beneficiaries a plan for the distribution of the  
5 proceeds; or

6 (4) that the proceeds have not been distributed and  
7 the amount of those proceeds.

8 (d) The commissioner by rule shall require that insurers  
9 update the information submitted to the commissioner under this  
10 section at reasonable intervals.

11 Sec. 2B. ESTABLISHMENT AND MAINTENANCE OF REGISTRY; PUBLIC  
12 ACCESS. (a) The commissioner shall establish and maintain within  
13 the department a central registry containing records and  
14 information relating to insurance policies described by Section  
15 2A(a) of this article of Holocaust victims, living and deceased.  
16 The registry shall be known as the Holocaust Era Insurance  
17 Registry.

18 (b) The commissioner by rule shall establish appropriate  
19 mechanisms to ensure public access to the registry.

20 (c) Information contained in the registry:

21 (1) is public information;

22 (2) is not subject to any exceptions to disclosure  
23 under Chapter 552, Government Code; and

24 (3) cannot be withheld from disclosure under any other  
25 law.

26 SECTION 26.06. (a) Article 21.21-6A, Insurance Code, as  
27 added by this article, applies only to an offense committed on or

1 after the effective date of this article. An offense committed  
2 before the effective date of this article is governed by the law in  
3 effect immediately before the effective date of this article, and  
4 that law is continued in effect for that purpose. For the purposes  
5 of this subsection, an offense is committed before the effective  
6 date of this article if any element of the offense occurs before  
7 that date.

8 (b) Subsection (c), Section 3, Article 21.21-8, Insurance  
9 Code, as amended by this article, applies to a cause of action for  
10 which the limitations period established under that subsection  
11 before its amendment by this article has not expired on the  
12 effective date of this article.

13 SECTION 26.07. Not later than the 180th day after the  
14 effective date of this article, an insurer subject to Article  
15 21.74, Insurance Code, as amended by this article, shall file the  
16 information and certification required by Section 2A, Article  
17 21.74, Insurance Code.

18 ARTICLE 27. OIL SPILL PREVENTION AND RESPONSE

19 SECTION 27.01. Subsection (c), Section 40.002, Natural  
20 Resources Code, is amended to read as follows:

21 (c) The legislature intends by this chapter to exercise the  
22 police power of the state to protect its coastal waters and adjacent  
23 shorelines by conferring upon the Commissioner of the General Land  
24 Office the power to:

25 (1) prevent spills and discharges of oil by requiring  
26 and monitoring preventive measures and response planning;

27 (2) provide for prompt response to abate and contain

1 spills and discharges of oil and ensure the removal and cleanup of  
2 pollution from such spills and discharges;

3 ~~[(3) provide for development of a state coastal~~  
4 ~~discharge contingency plan through planning and coordination with~~  
5 ~~the Texas Natural Resource Conservation Commission to protect~~  
6 ~~coastal waters from all types of spills and discharges,]~~ and

7 (3) ~~[(4)]~~ administer a fund to provide for funding  
8 these activities and to guarantee the prompt payment of certain  
9 reasonable claims resulting from spills and discharges of oil.

10 SECTION 27.02. Subdivisions (13), (17), and (22), Section  
11 40.003, Natural Resources Code, are amended to read as follows:

12 (13) "Hazardous substance" means any substance,  
13 except oil, designated as hazardous by the Environmental Protection  
14 Agency pursuant to the Comprehensive Environmental Response,  
15 Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et  
16 seq.) and designated by the Texas ~~[Natural Resource Conservation]~~  
17 Commission on Environmental Quality.

18 (17) "Oil" means oil of any kind or in any form,  
19 including but not limited to crude oil, petroleum, fuel oil,  
20 sludge, oil refuse, and oil mixed with wastes other than dredged  
21 spoil, but does not include petroleum, including crude oil or any  
22 fraction thereof, which is specifically listed or designated as a  
23 hazardous substance under Subparagraphs (A) through (F) of Section  
24 101(14) of the Comprehensive Environmental Response, Compensation,  
25 and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.) and which is  
26 subject to the provisions of that Act, and which is so designated by  
27 the Texas ~~[Natural Resource Conservation]~~ Commission on

1 Environmental Quality.

2 (22) "Response costs" means:

3 (A) with respect to an actual or threatened  
4 discharge of oil, all costs incurred in an attempt to prevent,  
5 abate, contain, and remove pollution from the discharge, including  
6 costs of removing vessels or structures under this chapter, and  
7 costs of any reasonable measures to prevent or limit damage to the  
8 public health, safety, or welfare, public or private property, or  
9 natural resources; or

10 (B) with respect to an actual or threatened  
11 discharge of a hazardous substance, only costs incurred to  
12 supplement the response operations of the Texas [~~Natural Resource~~  
13 ~~Conservation~~] Commission on Environmental Quality.

14 SECTION 27.03. Section 40.005, Natural Resources Code, is  
15 amended to read as follows:

16 Sec. 40.005. ADMINISTRATION OF HAZARDOUS SUBSTANCE SPILL  
17 RESPONSE AND CLEANUP. The General Land Office, under the direction  
18 and control of the commissioner, is the state's lead agency for  
19 initiating response to all actual or threatened unauthorized  
20 discharges of oil. In the event of an unauthorized discharge of a  
21 hazardous substance, nothing in this chapter shall preclude the  
22 Texas [~~Natural Resource Conservation~~] Commission on Environmental  
23 Quality from at the earliest time practicable assuming response and  
24 cleanup duties pursuant to Subchapter G, Chapter 26, Water Code[  
25 ~~and the state coastal discharge contingency plan~~].

26 SECTION 27.04. Section 40.052, Natural Resources Code, is  
27 amended to read as follows:

1           Sec. 40.052. HAZARDOUS SUBSTANCES DISCHARGES. If the  
2 unauthorized discharge involves predominantly a hazardous  
3 substance, the Texas [~~Natural Resource Conservation~~] Commission on  
4 Environmental Quality shall carry out responsibility for  
5 abatement, containment, removal, and cleanup of the hazardous  
6 substances discharged, pursuant to Subchapter G, Chapter 26, Water  
7 Code[, ~~and to the state coastal discharge contingency plan~~].

8           SECTION 27.05. Subsection (c), Section 40.101, Natural  
9 Resources Code, is amended to read as follows:

10           (c) In order to prevent duplication of effort among state  
11 agencies, the commissioner shall utilize the expertise of the Texas  
12 [~~Natural Resource Conservation~~] Commission on Environmental  
13 Quality on technical and scientific actions, including but not  
14 limited to:

- 15                   (1) taking samples in the spill area;  
16                   (2) monitoring meteorological conditions that may  
17 affect spill response operations; and  
18                   (3) regulating disposal of spilled material.

19           SECTION 27.06. Subsection (b), Section 40.103, Natural  
20 Resources Code, is amended to read as follows:

21           (b) Any person or discharge cleanup organization that  
22 renders assistance in abating, containing, or removing pollution  
23 from any unauthorized discharge of oil may receive compensation  
24 from the fund for response costs, provided the commissioner  
25 approves compensation prior to the assistance being rendered.  
26 [~~Prior approval for compensation may be provided for in the state~~  
27 ~~coastal discharge contingency plan.~~] The commissioner, on petition



1 and for good cause shown, may waive the prior approval  
2 prerequisite.

3 SECTION 27.07. Section 40.104, Natural Resources Code, is  
4 amended to read as follows:

5 Sec. 40.104. QUALIFIED IMMUNITY FOR RESPONSE ACTIONS.

6 (a) No action taken by any person or discharge cleanup  
7 organization to abate, contain, or remove pollution from an  
8 unauthorized discharge of oil, whether such action is taken  
9 voluntarily, or pursuant to the national contingency plan [~~or state~~  
10 ~~coastal discharge contingency plan~~], or pursuant to a discharge  
11 response plan required under this chapter, or pursuant to the  
12 request of an authorized federal or state official, or pursuant to  
13 the request of the responsible person, shall be construed as an  
14 admission of responsibility or liability for the discharge.

15 (b) No person or discharge cleanup organization that  
16 voluntarily, or pursuant to the national contingency plan [~~or the~~  
17 ~~state coastal discharge contingency plan~~], or pursuant to any  
18 discharge response plan required under this chapter, or pursuant to  
19 the request of an authorized federal or state official, or pursuant  
20 to the request of the responsible person, renders assistance or  
21 advice in abating, containing, or removing pollution from an  
22 unauthorized discharge of oil is liable for response costs,  
23 damages, or civil penalties resulting from acts or omissions  
24 committed in rendering such assistance or advice, except for acts  
25 or omissions of gross negligence or wilful misconduct.

26 SECTION 27.08. Subdivision (1), Subsection (a), Section  
27 40.107, Natural Resources Code, is amended to read as follows:

1           (1) In any action to recover natural resources  
2 damages, the amount of damages established by the commissioner in  
3 conjunction with the trustees~~[, according to the procedures and~~  
4 ~~plans contained in the state coastal discharge contingency plan,]~~  
5 shall create a rebuttable presumption of the amount of such  
6 damages.

7           SECTION 27.09. Subdivisions (1) and (4), Subsection (c),  
8 Section 40.107, Natural Resources Code, are amended to read as  
9 follows:

10           (1) The commissioner, in conjunction with the  
11 trustees, shall develop an inventory that identifies and catalogs  
12 the physical locations, the seasonal variations in location, and  
13 the current condition of natural resources; provides for data  
14 collection related to coastal processes; and identifies the  
15 recreational and commercial use areas that are most likely to  
16 suffer injury from an unauthorized discharge of oil. The inventory  
17 shall be completed by September 1, 1995~~[, and shall be incorporated~~  
18 ~~into the state coastal discharge contingency plan after public~~  
19 ~~review and comment].~~

20           (4) The commissioner shall adopt administrative  
21 procedures and protocols for the assessment of natural resource  
22 damages from an unauthorized discharge of oil. As developed  
23 through negotiated rulemaking with the trustees and other  
24 interested parties, the procedures and protocols shall require the  
25 trustees to assess natural resource damages by considering the  
26 unique characteristics of the spill incident and the location of  
27 the natural resources affected. These procedures and protocols

1 shall be adopted by rule, by the trustee agencies after  
2 negotiation, notice, and public comment, by June 1, 1994[, and  
3 ~~shall be incorporated into the state coastal discharge contingency~~  
4 ~~plan~~].

5 SECTION 27.10. Section 40.116, Natural Resources Code, is  
6 amended to read as follows:

7 Sec. 40.116. AUDITS, INSPECTIONS, AND DRILLS. The  
8 commissioner may subject a vessel subject to Section 40.114 of this  
9 code[, ~~as a condition to being granted entry into any port in this~~  
10 ~~state,~~] or a terminal facility to an announced or unannounced  
11 audit, inspection, or drill to determine the discharge prevention  
12 and response capabilities of the terminal facility or vessels. Any  
13 vessel drill conducted by the commissioner shall be in cooperation  
14 and conjunction with the United States Coast Guard, and the  
15 commissioner's participation may not interfere with the schedule of  
16 the vessel.

17 SECTION 27.11. Subsection (b), Section 40.151, Natural  
18 Resources Code, is amended to read as follows:

19 (b) The coastal protection fund is established in the state  
20 treasury to be used by the commissioner as a nonlapsing revolving  
21 fund only for carrying out the purposes of this chapter and of  
22 Subchapter H, Chapter 33. To this fund shall be credited all fees,  
23 penalties, judgments, reimbursements, interest or income on the  
24 fund, and charges provided for in this chapter and the fee revenues  
25 levied, collected, and credited pursuant to this chapter. The fund  
26 shall not exceed \$50 million.

27 SECTION 27.12. Subsection (a), Section 40.152, Natural

Resources Code, is amended to read as follows:

(a) Money in the fund may be disbursed for the following purposes and no others:

(1) administrative expenses, personnel and training expenses, and equipment maintenance and operating costs related to implementation and enforcement of this chapter;

(2) response costs related to abatement and containment of actual or threatened unauthorized discharges of oil incidental to unauthorized discharges of hazardous substances;

(3) response costs and damages related to actual or threatened unauthorized discharges of oil;

(4) assessment, restoration, rehabilitation, or replacement of or mitigation of damage to natural resources damaged by an unauthorized discharge of oil;

(5) in an amount not to exceed \$50,000 annually, the small spill education program;

(6) in an amount not to exceed \$1,250,000 annually, interagency contracts under Section 40.302;

(7) the purchase of response equipment under Section 40.105 within two years of the effective date of this chapter, in an amount not to exceed \$4 million; thereafter, for the purchase of equipment to replace equipment that is worn or obsolete;

~~(8) [an inventory under Section 40.107, to be completed by September 1, 1995, in an amount not to exceed \$6 million,~~

~~[(9)]~~ other costs and damages authorized by this chapter; ~~and~~

1           (9) [~~(10)~~] in an amount not to exceed the interest  
2 accruing to the fund annually, erosion response projects under  
3 Subchapter H, Chapter 33; and

4           (10) in conjunction with the Railroad Commission of  
5 Texas, costs related to the plugging of abandoned or orphaned oil  
6 wells located on state-owned submerged lands.

7           SECTION 27.13. Subdivision (3), Subsection (g), Section  
8 40.254, Natural Resources Code, is amended to read as follows:

9           (3) [~~A person who fails to comply with Subdivision (2)~~  
10 ~~of this subsection waives the right to judicial review.~~] On failure  
11 of the person to comply with the order or file a petition for  
12 judicial review [~~Subdivision (2) of this subsection~~], the  
13 commissioner may refer the matter to the attorney general for  
14 collection and enforcement.

15           SECTION 27.14. Subdivision (1), Subsection (h), Section  
16 40.254, Natural Resources Code, is amended to read as follows:

17           (1) If a penalty is reduced or not assessed, the  
18 commissioner shall~~[-~~

19                   ~~[(A)]~~ remit to the person charged the appropriate  
20 amount of any penalty payment plus accrued interest~~[-or~~

21                   ~~[(B) execute a release of the bond if a~~  
22 ~~supersedeas bond has been posted].~~

23           SECTION 27.15. Subdivisions (1), (2), and (3), Subsection  
24 (a), Section 40.258, Natural Resources Code, are amended to read as  
25 follows:

26           (1) The commissioner shall promulgate rules [~~and a~~  
27 ~~state coastal discharge contingency plan~~] that, to the greatest

1 extent practicable, conform to the national contingency plan and  
2 rules promulgated under federal law.

3 (2) The commissioner may impose requirements under  
4 such rules [~~and the state coastal discharge contingency plan~~] that  
5 are in addition to or vary materially from federal requirements if  
6 the state interests served by the requirements substantially  
7 outweigh the burdens imposed on those subject to the requirements.

8 (3) Any request for judicial review of any rule [~~or any~~  
9 ~~provision of the state coastal discharge contingency plan based on~~  
10 ~~Subdivision (1) or (2) of this subsection~~] must be filed in a  
11 district court in Travis County within 90 days of the effective date  
12 of the rule or plan challenged.

13 SECTION 27.16. The following provisions of the Natural  
14 Resources Code are repealed:

- 15 (1) Sections 40.006, 40.053, 40.115, and 40.303;  
16 (2) Subsection (f), Section 40.110;  
17 (3) Subsection (b), Section 40.117;  
18 (4) Subsection (e), Section 40.151; and  
19 (5) Subdivision (2), Subsection (g), Section 40.254.

20 ARTICLE 28. REPORTS

21 SECTION 28.01. Subsection (a), Section 363.064, Health and  
22 Safety Code, is amended to read as follows:

23 (a) A regional or local solid waste management plan must:

24 (1) include a description and an assessment of current  
25 efforts in the geographic area covered by the plan to minimize  
26 production of municipal solid waste, including sludge, and efforts  
27 to reuse or recycle waste;

1           (2) identify additional opportunities for waste  
2 minimization and waste reuse or recycling;

3           (3) include a description and assessment of existing  
4 or proposed community programs for the collection of household  
5 hazardous waste;

6           (4) make recommendations for encouraging and  
7 achieving a greater degree of waste minimization and waste reuse or  
8 recycling in the geographic area covered by the plan;

9           (5) encourage cooperative efforts between local  
10 governments in the siting of landfills for the disposal of solid  
11 waste;

12           (6) consider the need to transport waste between  
13 municipalities, from a municipality to an area in the jurisdiction  
14 of a county, or between counties, particularly if a technically  
15 suitable site for a landfill does not exist in a particular area;

16           (7) allow a local government to justify the need for a  
17 landfill in its jurisdiction to dispose of the solid waste  
18 generated in the jurisdiction of another local government that does  
19 not have a technically suitable site for a landfill in its  
20 jurisdiction;

21           (8) establish recycling rate goals appropriate to the  
22 area covered by the plan;

23           (9) recommend composting programs for yard waste and  
24 related organic wastes that may include:

25                   (A) creation and use of community composting  
26 centers;

27                   (B) adoption of the "Don't Bag It" program for

lawn clippings developed by the Texas Agricultural Extension Service; and

(C) development and promotion of education programs on home composting, community composting, and the separation of yard waste for use as mulch;

(10) include an inventory of municipal solid waste landfill units, including:

(A) landfill units no longer in operation;

(B) the exact boundaries of each former landfill unit or, if the exact boundaries are not known, the best approximation of each unit's boundaries;

(C) a map showing the approximate boundaries of each former landfill unit, if the exact boundaries are not known;

(D) the current owners of the land on which the former landfill units were located; and

(E) the current use of the land;

(11) assess the need for new waste disposal capacity;

and

(12) include a public education program[, and

~~[(13) include waste reduction in accordance with the goal established under Section 361.0201(d), to the extent that funds are available].~~

SECTION 28.02. The heading to Section 5.178, Water Code, is amended to read as follows:

Sec. 5.178. ANNUAL REPORTS; BIENNIAL APPENDICES ~~[APPENDICES]~~.

SECTION 28.03. Subsection (b), Section 5.178, Water Code,



1 is amended to read as follows:

2 (b) The report due by December 1 of an even-numbered year  
3 shall include, in addition:

4 (1) the commission's recommendations for necessary and  
5 desirable legislation; and

6 (2) the following reports:

7 (A) the assessments and reports required by  
8 Section [~~Sections~~] 361.0219(c) [~~, 361.0232, 361.510, 371.063, and~~  
9 ~~382.141~~], Health and Safety Code;

10 (B) the reports required by Section 26.0135(d)  
11 [~~of this code~~] and Section 5.02, Chapter 133, Acts of the 69th  
12 Legislature, Regular Session, 1985; and

13 (C) a summary of the analyses and assessments  
14 required by Section 5.1773 [~~of this code~~].

15 SECTION 28.04. (a) The following provisions of the Health  
16 and Safety Code are repealed:

17 (1) Sections 361.020, 361.0201, 361.0232, 361.0233,  
18 361.0234, 361.510, 371.063, and 382.141;

19 (2) Subsection (d), Section 361.040; and

20 (3) Subsection (c), Section 361.0871.

21 (b) Subsection (c), Section 5.178, Water Code, is repealed.

22 ARTICLE 29. SCHOOL BUS SAFETY STANDARDS

23 SECTION 29.01. Subsection (a), Section 34.002, Education  
24 Code, is amended to read as follows:

25 (a) The Department of Public Safety, with the advice of the  
26 [~~General Services Commission and the~~] Texas Education Agency, shall  
27 establish safety standards for school buses used to transport

1 students in accordance with Section 34.003 [~~34.002, Education~~  
2 ~~Code~~].

3 SECTION 29.02. Subsections (a) and (b), Section 547.7015,  
4 Transportation Code, are amended to read as follows:

5 (a) The department [~~General Services Commission, with the~~  
6 ~~advice of the department,~~] shall adopt and enforce rules governing  
7 the design, color, lighting and other equipment, construction, and  
8 operation of a school bus for the transportation of schoolchildren  
9 that is:

10 (1) owned and operated by a school district in this  
11 state; or

12 (2) privately owned and operated under a contract with  
13 a school district in this state.

14 (b) In adopting rules under this section, the department  
15 [~~General Services Commission~~] shall emphasize:

16 (1) safety features; and

17 (2) long-range, maintenance-free factors.

18 SECTION 29.03. Rules that were adopted under Section  
19 547.7015, Transportation Code, before the effective date of this  
20 article and that are in effect on the effective date of this article  
21 are continued in effect as rules of the Department of Public Safety  
22 until the rules are amended, repealed, or superseded by an action of  
23 the department.

24 ARTICLE 30. CORPORATE ETHICS AND INTEGRITY

25 SECTION 30.01. Subchapter B, Chapter 402, Government Code,  
26 is amended by adding Section 402.0231 to read as follows:

27 Sec. 402.0231. CORPORATE INTEGRITY UNIT. (a) In this

1 section, "corporate fraud" means a violation of state or federal  
2 law or rules relating to fraud committed by a corporation, limited  
3 liability company, or registered limited liability partnership or  
4 an officer, director, or partner of those entities while acting in a  
5 representative capacity.

6 (b) A corporate integrity unit is created within the office  
7 of the attorney general to assist in the enforcement of the laws  
8 relating to corporate fraud or other similar illegal activities.  
9 The unit shall:

10 (1) assist district attorneys and county attorneys in  
11 the investigation and prosecution of corporate fraud or other  
12 similar illegal activities allegedly committed by corporations,  
13 limited liability companies, and registered limited liability  
14 partnerships;

15 (2) assist state agencies with investigation of  
16 complaints and administrative enforcement actions for corporate  
17 fraud violations, including the assessment of an administrative  
18 penalty or other administrative sanction; and

19 (3) serve as a clearinghouse for information relating  
20 to the investigation and prosecution of corporate fraud and other  
21 similar illegal activities in this state.

22 (c) To the extent allowed by law, a state agency or local law  
23 enforcement agency shall cooperate with the corporate integrity  
24 unit by providing information requested by the unit as necessary to  
25 carry out the purposes of this section. Information disclosed  
26 under this subsection is confidential and not subject to disclosure  
27 under Chapter 552.

SECTION 30.02. Subchapter Z, Chapter 2252, Government Code,  
is amended by adding Section 2252.904 to read as follows:

Sec. 2252.904. CONTRACTS WITH COMPANIES; FINANCIAL  
DISCLOSURES. (a) In this section:

(1) "Branch" means a location of a financial  
institution, other than the financial institution's home office, at  
which the financial institution does business.

(2) "Certified audit" means an audit of the company's  
books, records, and accounts and the company's systems of internal  
control performed by an independent certified public accountant in  
accordance with generally accepted auditing standards.

(3) "Company" means a corporation, partnership,  
limited partnership, registered limited liability partnership,  
trust, association, joint stock company, joint venture, limited  
liability company, or other form of business organization. The  
term does not include a sole proprietorship or individual.

(4) "County in which the financial institution does  
business" means any county in which the financial institution has a  
branch or home office.

(5) "Financial irregularity" means an intentional  
misstatement or omission of information relating to a financial  
transaction or matter. The term includes embezzlement, fraud, and  
the falsification of records to misappropriate assets.

(6) "Independent certified public accountant" means a  
certified public accountant who:

(A) is not affiliated with, is not an employee,  
principal, or direct or indirect owner of, and is not in any way

1 controlled by the audited company; and

2 (B) meets independence standards adopted by  
3 appropriate standard-setting or regulatory entities.

4 (7) "State governmental entity" means:

5 (A) a board, commission, department, office, or  
6 other agency in the executive branch of state government created  
7 under the constitution or a statute of the state, including an  
8 institution of higher education as defined by Section 61.003,  
9 Education Code;

10 (B) the legislature or a legislative agency; or

11 (C) the Texas Supreme Court, the Texas Court of  
12 Criminal Appeals, a court of appeals, a state judicial agency, or  
13 the State Bar of Texas.

14 (b) A company, including a financial institution, that  
15 enters into a contract with a state governmental entity that  
16 involves the expenditure of state funds of more than \$1 million or  
17 the deposit of state funds of \$1 million or more shall:

18 (1) immediately report to the entity any financial  
19 irregularity relating to the contract or the company's financial  
20 position that is detrimental to the interest of the entity;

21 (2) annually during the contract period submit to the  
22 entity a certified audit of the company's operations, except as  
23 provided by Subsection (g); and

24 (3) if the company is a financial institution, file:

25 (A) an itemized report covering the preceding  
26 year stating separately for each county in which the financial  
27 institution does business, the financial institution's community

1 reinvestment activities, mortgage loan activities and practices,  
2 and compliance with fair lending standards in the respective  
3 county; and

4 (B) any other related information as specified by  
5 the comptroller.

6 (c) The auditor's opinion in an audit required by Subsection  
7 (b)(2) must state whether the financial statements of the audited  
8 company present fairly, in all material respects and in accordance  
9 with accounting principles generally accepted in the United States,  
10 its financial position and results of operations relating to the  
11 obligation, receipt, expenditure, and use of state funds.

12 (d) A company that violates Subsection (b)(1) commits an  
13 offense. An offense under this subsection is a Class A misdemeanor.

14 (e) A company that violates Subsection (b)(2) or (b)(3) is  
15 liable to the state for a civil penalty in an amount not to exceed  
16 \$10,000. The attorney general may bring suit to recover the civil  
17 penalty imposed under this subsection.

18 (f) If the attorney general prevails in an action for  
19 recovery of a civil penalty under Subsection (e), the attorney  
20 general is entitled to recover reasonable attorney's fees incurred  
21 in obtaining the penalty.

22 (g) A federally insured financial institution that has less  
23 than \$500 million in assets may, in lieu of a certified audit  
24 required by Subsection (b)(2), submit a directors examination  
25 conducted by an independent certified public accountant in  
26 accordance with the Statement of Standards for Attestation  
27 Engagements.

1       (h) For purposes of Subsection (b), the amount of  
2 expenditures or deposit of state funds with respect to a single  
3 financial institution means the aggregate amount of those  
4 expenditures or deposits at the financial institution's home office  
5 and at each branch of the financial institution in this state.

6       SECTION 30.03. Subtitle F, Title 10, Government Code, is  
7 amended by adding Chapter 2263 to read as follows:

8       CHAPTER 2263. ETHICS AND DISCLOSURE REQUIREMENTS FOR OUTSIDE  
9       FINANCIAL ADVISORS AND SERVICE PROVIDERS

10       Sec. 2263.001. APPLICABILITY. (a) This chapter applies in  
11 connection with the management or investment of any state funds  
12 managed or invested:

13               (1) under the Texas Constitution or other law,  
14 including Chapters 404 and 2256; and

15               (2) by or for:

16                       (A) a public retirement system as defined by  
17 Section 802.001 that provides service retirement, disability  
18 retirement, or death benefits for officers or employees of the  
19 state;

20                       (B) an institution of higher education as defined  
21 by Section 61.003, Education Code; or

22                       (C) another entity that is part of state  
23 government and that manages or invests state funds or for which  
24 state funds are managed or invested.

25       (b) This chapter applies in connection with the management  
26 or investment of state funds without regard to whether the funds are  
27 held in the state treasury.

1       (c) This chapter does not apply to or in connection with a  
2 state governmental entity that does not manage or invest state  
3 funds and for which state funds are managed or invested only by the  
4 comptroller.

5       Sec. 2263.002. DEFINITION. In this chapter, "financial  
6 advisor or service provider" includes a person or business entity  
7 who acts as a financial advisor, financial consultant, money or  
8 investment manager, or broker.

9       Sec. 2263.003. CONSTRUCTION WITH OTHER LAW. To the extent  
10 of a conflict between this chapter and another law, the law that  
11 imposes a stricter ethics or disclosure requirement controls.

12       Sec. 2263.004. ETHICS REQUIREMENTS FOR OUTSIDE FINANCIAL  
13 ADVISORS OR SERVICE PROVIDERS. (a) The governing body of a state  
14 governmental entity by rule shall adopt standards of conduct  
15 applicable to financial advisors or service providers who are not  
16 employees of the state governmental entity, who provide financial  
17 services to the state governmental entity or advise the state  
18 governmental entity or a member of the governing body of the state  
19 governmental entity in connection with the management or investment  
20 of state funds, and who:

21               (1) may reasonably be expected to receive, directly or  
22 indirectly, more than \$10,000 in compensation from the entity  
23 during a fiscal year; or

24               (2) render important investment or funds management  
25 advice to the entity or a member of the governing body of the  
26 entity, as determined by the governing body.

27       (b) A contract under which a financial advisor or service



1 provider renders financial services or advice to a state  
2 governmental entity or other person as described by Subsection (a)  
3 is voidable by the state governmental entity if the financial  
4 advisor or service provider violates a standard of conduct adopted  
5 under this section.

6 Sec. 2263.005. DISCLOSURE REQUIREMENTS FOR OUTSIDE  
7 FINANCIAL ADVISOR OR SERVICE PROVIDER. (a) A financial advisor or  
8 service provider described by Section 2263.004 shall disclose in  
9 writing to the administrative head of the applicable state  
10 governmental entity and to the state auditor:

11 (1) any relationship the financial advisor or service  
12 provider has with any party to a transaction with the state  
13 governmental entity, other than a relationship necessary to the  
14 investment or funds management services that the financial advisor  
15 or service provider performs for the state governmental entity, if  
16 a reasonable person could expect the relationship to diminish the  
17 financial advisor's or service provider's independence of judgment  
18 in the performance of the person's responsibilities to the state  
19 governmental entity; and

20 (2) all direct or indirect pecuniary interests the  
21 financial advisor or service provider has in any party to a  
22 transaction with the state governmental entity, if the transaction  
23 is connected with any financial advice or service the financial  
24 advisor or service provider provides to the state governmental  
25 entity or to a member of the governing body in connection with the  
26 management or investment of state funds.

27 (b) The financial advisor or service provider shall

1 disclose a relationship described by Subsection (a) without regard  
2 to whether the relationship is a direct, indirect, personal,  
3 private, commercial, or business relationship.

4 (c) A financial advisor or service provider described by  
5 Section 2263.004 shall file annually a statement with the  
6 administrative head of the applicable state governmental entity and  
7 with the state auditor. The statement must disclose each  
8 relationship and pecuniary interest described by Subsection (a) or,  
9 if no relationship or pecuniary interest described by that  
10 subsection existed during the disclosure period, the statement must  
11 affirmatively state that fact.

12 (d) The annual statement must be filed not later than  
13 February 1 on a form prescribed by the governmental entity, other  
14 than the state auditor, receiving the form. The statement must  
15 cover the reporting period of the previous calendar year. The state  
16 auditor shall develop and recommend a uniform form that other  
17 governmental entities receiving the form may prescribe.

18 (e) The financial advisor or service provider shall  
19 promptly file a new or amended statement with the administrative  
20 head of the applicable state governmental entity and with the state  
21 auditor whenever there is new information to report under  
22 Subsection (a).

23 Sec. 2263.006. PUBLIC INFORMATION. Chapter 552 controls  
24 the extent to which information contained in a statement filed  
25 under this chapter is subject to required public disclosure or  
26 excepted from required public disclosure.

27 SECTION 30.04. Section B, Article 1.03, Texas Miscellaneous

1 Corporation Laws Act (Article 1302-1.03, Vernon's Texas Civil  
2 Statutes), is amended to read as follows:

3 B. Except to the extent that any provisions of this Act are  
4 expressly made inapplicable by any provision of the Texas Business  
5 Corporation Act, the Texas Non-Profit Corporation Act, or any  
6 special Statute of this State pertaining to a particular type of  
7 corporation and except as otherwise provided by Article 5.20 of  
8 this Act, this Act shall govern (1) all domestic corporations,  
9 including without limitation those corporations heretofore or  
10 hereafter organized under any Statute of the State, and (2) only to  
11 the extent expressly provided in this Act, all foreign  
12 corporations, including without limitation those corporations  
13 heretofore or hereafter granted a permit to do business under any  
14 Statute of the State.

15 SECTION 30.05. Part Five, Texas Miscellaneous Corporation  
16 Laws Act (Article 1302-5.01 et seq., Vernon's Texas Civil  
17 Statutes), is amended by adding Article 5.20 to read as follows:

18 Art. 5.20. CERTIFICATION OF FALSE OR MISLEADING FINANCIAL  
19 REPORT; CRIMINAL PENALTY. (a) In this section:

20 (1) "Corporate official" means the president or other  
21 chief executive officer, the chief financial officer, or any other  
22 officer of or person performing a similar function for a  
23 corporation or other company that is required to file a periodic  
24 report under Section 13(a) or 15(d), Securities Exchange Act of  
25 1934 (15 U.S.C. Sections 78m(a), 78o(d)).

26 (2) "Financial report" means a balance sheet, an  
27 income or loss statement, a cash flow statement, or any other

1 presentation of financial information, however denominated,  
2 concerning a corporation or other company that is intended to  
3 portray a significant portion of the company's financial position.

4 (b) A corporate official who signs a sworn statement  
5 certifying that information contained in a financial report fairly  
6 represents, as of the period presented in the report, the financial  
7 condition or results of operation of the company issuing the report  
8 commits an offense if the corporate official makes the  
9 certification knowing that the report contains false or misleading  
10 information that affects or may affect the finances or operations  
11 of the issuing company, as appropriate, in any material respect.

12 (c) An offense under this section is a state jail felony.

13 SECTION 30.06. Subchapter D, Chapter 371, Finance Code, is  
14 amended by adding Section 371.184 to read as follows:

15 Sec. 371.184. RESTRICTIONS ON TRANSACTIONS INVOLVING  
16 INTERESTED PARTIES. (a) In this section:

17 (1) "Controlling shareholder" means a shareholder or  
18 group of affiliated shareholders that owns 25 percent or more of the  
19 shares eligible to vote in any election of directors or other  
20 matters typically requiring shareholder approval.

21 (2) "Interested party" means, with respect to a  
22 corporation or other business entity:

23 (A) a controlling shareholder;

24 (B) a member of the board of directors or its  
25 equivalent;

26 (C) an executive officer of the corporation or  
27 business entity;

1                   (D) a member of the immediate family of a  
2 controlling shareholder, director, or executive officer; or

3                   (E) an affiliate of the corporation or other  
4 business entity, a controlling shareholder, director, or executive  
5 officer of an affiliate, or a member of the immediate family of a  
6 controlling shareholder, director, or executive officer of an  
7 affiliate.

8           (b) A corporation or other business entity that holds a  
9 license under this chapter and whose shares are publicly traded may  
10 not engage in a transaction with an interested party that, when  
11 aggregated with all transactions with that person or any other  
12 interested party during the corporation's fiscal year, involves a  
13 total of \$100,000 or more, unless that transaction receives prior  
14 approval of a majority of the holders of outstanding shares of the  
15 corporation's or other business entity's capital stock or its  
16 equivalent, including capital stock that is not otherwise entitled  
17 to vote, who are not interested parties, voting together as a single  
18 class of capital stock.

19           SECTION 30.07. The office of the attorney general is not  
20 required to implement Section 402.0231, Government Code, as added  
21 by this article, unless a specific appropriation for the  
22 implementation is provided in the General Appropriations Act, Acts  
23 of the 78th Legislature, Regular Session, 2003.

24           SECTION 30.08. Each state governmental entity required to  
25 adopt rules under Chapter 2263, Government Code, as added by this  
26 article, shall adopt its initial rules in time for the rules to take  
27 effect not later than January 1, 2004.

ARTICLE 31. ADJUTANT GENERAL

SECTION 31.01. Subsection (b), Section 431.022, Government Code, is amended to read as follows:

(b) The adjutant general is appointed by the governor, with the advice and consent of the senate if in session, to a term expiring February 1 of each odd-numbered year. To be qualified for appointment as adjutant general a person must:

(1) when appointed be serving as a federally recognized officer of not less than field grade in the Texas National Guard;

(2) have previously served on active duty or active duty for training with the army, ~~or~~ air force, or marines; and

(3) have completed at least 10 years' service as a federally recognized reserve or active duty commissioned officer with an active unit of the United States armed forces, the National Guard, or the Texas National Guard, including at least five years with the Texas National Guard.

ARTICLE 32. GOVERNOR'S BUDGET AUTHORITY

SECTION 32.01. Subsection (a), Section 401.046, Government Code, is amended to read as follows:

(a) The governor shall deliver a copy of the governor's budget to each member of the legislature before the governor gives the message to the legislature required by Section 9, Article IV, Texas Constitution, at the commencement ~~[not later than the sixth day]~~ of each regular legislative session.

SECTION 32.02. Section 401.047, Government Code, is repealed.

ARTICLE 33. COMMISSIONER OF INSURANCE

SECTION 33.01. Section 31.023, Insurance Code, is amended to read as follows:

Sec. 31.023. QUALIFICATIONS. The commissioner must:

- (1) be a competent and experienced administrator;
- (2) be well informed and qualified in the field of insurance and insurance regulation; and
- (3) have at least 10 years of experience as an executive in the administration of business or government or as a practicing attorney or certified public accountant~~[, with at least five years of that experience in the field of insurance or insurance regulation]~~.

SECTION 33.02. The change in law made by this article to Section 31.023, Insurance Code, applies only to the appointment of the commissioner of insurance on or after the effective date of this article. A commissioner of insurance appointed before the effective date of this article is governed by the law as it existed immediately before that date, and that law is continued in effect for this purpose.

ARTICLE 34. MEMBERS OF PARKS AND WILDLIFE COMMISSION

SECTION 34.01. Subsection (d), Section 11.012, Parks and Wildlife Code, is amended to read as follows:

(d) In making appointments under this section, the governor:

- (1) shall:
  - (A) attempt to include persons with expertise in diverse fields, including fields such as historic preservation,

1 conservation, and outdoor recreation; and

2 (B) consider the commission's composition in  
3 terms of:

4 (i) the geographical areas represented by  
5 members of the commission; and

6 (ii) the appropriate balance of  
7 representatives from rural and urban areas; and

8 (2) may include persons who have an interest in and  
9 knowledge of hunting, fishing, wildlife, environmental concerns,  
10 land or water use issues, or water quality issues.

11 SECTION 34.02. (a) As soon as possible on or after  
12 September 1, 2003, the governor shall appoint nine members to the  
13 Parks and Wildlife Commission under Section 11.012, Parks and  
14 Wildlife Code, as amended by this article. The governor shall  
15 designate:

16 (1) three members, including one public member, for  
17 terms expiring February 1, 2005;

18 (2) three members, including one public member, for  
19 terms expiring February 1, 2007; and

20 (3) three members, including one public member, for  
21 terms expiring February 1, 2009.

22 (b) The governor may reappoint a person who served as a  
23 member of the Parks and Wildlife Commission before September 1,  
24 2003.

25 (c) The position of a member of the Parks and Wildlife  
26 Commission serving immediately before September 1, 2003, is  
27 abolished at the time five or more of the newly appointed directors



1 qualify for office. Until the abolition of the members' positions  
2 occurs under this section, the members serving immediately before  
3 September 1, 2003, have the same powers and duties that the members  
4 had immediately before that date and the commission continues to be  
5 composed in the way it was composed before that date, and the former  
6 law is continued in effect for that purpose.

7 ARTICLE 35. DESIGNATION OF PRESIDING OFFICERS

8 SECTION 35.01. Chapter 651, Government Code, is amended by  
9 adding Section 651.008 to read as follows:

10 Sec. 651.008. APPOINTMENT OF PRESIDING OFFICERS BY  
11 GOVERNOR. (a) In this section, "state agency" means a department,  
12 commission, board, office, council, authority, or other agency in  
13 the executive branch of state government that is created by the  
14 constitution or a statute of this state, including:

15 (1) a university system or institution of higher  
16 education as defined by Section 61.003, Education Code; and

17 (2) a river authority as defined by Section 30.003,  
18 Water Code.

19 (b) Notwithstanding other law, the governor may designate a  
20 member of the governing body of each state agency as the presiding  
21 officer of that governing body to serve in that capacity at the  
22 pleasure of the governor.

23 ARTICLE 36. LIMITATIONS APPLICABLE TO CERTAIN GROUP INSURANCE  
24 PROGRAMS

25 SECTION 36.01. Subchapter E, Chapter 3, Insurance Code, is  
26 amended by adding Article 3.50-7A to read as follows:

27 Art. 3.50-7A. LIMITATIONS APPLICABLE TO TEXAS SCHOOL

1 EMPLOYEES UNIFORM GROUP COVERAGE PROGRAM. (a) This article  
2 applies only to the uniform group coverage program established  
3 under Article 3.50-7 of this code. A term used in this article has  
4 the meaning assigned by Section 2, Article 3.50-7 of this code.

5 (b) The Teacher Retirement System of Texas, as trustee, may  
6 not contract for or provide a health coverage plan that excludes  
7 from participation in the network a general hospital that:

8 (1) is located in a county, all or part of which is  
9 located within the geographical service area of the health coverage  
10 plan, in which at least two, but not more than four, general  
11 hospitals are located; and

12 (2) agrees to provide medical and health care services  
13 under the plan subject to the same terms and conditions as other  
14 hospital providers under the plan.

15 SECTION 36.02. (a) Section 1551.205, Insurance Code, is  
16 amended to conform to Section 30, Chapter 1231, Acts of the 77th  
17 Legislature, Regular Session, 2001, and further amended to read as  
18 follows:

19 Sec. 1551.205. LIMITATIONS. (a) The board of trustees may  
20 not contract for or provide a coverage plan that:

21 (1) excludes or limits coverage or services for  
22 acquired immune deficiency syndrome, as defined by the Centers for  
23 Disease Control and Prevention of the United States Public Health  
24 Service, or human immunodeficiency virus infection; or

25 (2) provides coverage for serious mental illness that  
26 is less extensive than the minimum coverage ~~[provided]~~ for serious  
27 mental ~~[any physical]~~ illness required by Section 3, Article

1 3.51-14.

2 (b) The board of trustees may not contract for or provide a  
3 coverage plan that excludes from participation in the network a  
4 general hospital that:

5 (1) is located in a county, all or part of which is  
6 located within the geographical service area of the health coverage  
7 plan, in which at least two, but not more than four, general  
8 hospitals are located; and

9 (2) agrees to provide medical and health care services  
10 under the plan subject to the same terms and conditions as other  
11 hospital providers under the plan.

12 (b) Section 30, Chapter 1231, Acts of the 77th Legislature,  
13 Regular Session, 2001, is repealed.

14 SECTION 36.03. Subchapter D, Chapter 1575, Insurance Code,  
15 is amended by adding Section 1575.163 to read as follows:

16 Sec. 1575.163. LIMITATIONS. The Teacher Retirement System  
17 of Texas, as trustee, may not contract for or provide a health  
18 benefit plan that excludes from participation in the network a  
19 general hospital that:

20 (1) is located in a county, all or part of which is  
21 located within the geographical service area of the health coverage  
22 plan, in which at least two, but not more than four, general  
23 hospitals are located; and

24 (2) agrees to provide medical and health care services  
25 under the plan subject to the same terms and conditions as other  
26 hospital providers under the plan.

ARTICLE 37. REGULATION OF INDUSTRIALIZED HOUSING

SECTION 37.01. Subsection (c), Section 1202.002, Occupations Code, is amended to read as follows:

(c) Industrialized housing does not include:

(1) a residential structure that exceeds four [~~three~~] stories or 69 [~~49~~] feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof;

(2) housing constructed of a sectional or panelized system that does not use a modular component; or

(3) a ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

ARTICLE 38. TELECONFERENCE MEETING OF THE LEGISLATIVE BUDGET

BOARD

SECTION 38.01. Section 322.003, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) As an exception to Chapter 551 and other law, if the chairman and vice-chairman of the board are physically present at a meeting, then any number of the other members of the board may attend a meeting of the board by use of telephone conference call, video conference call, or other similar telecommunication device. This subsection applies for purposes of constituting a quorum, for purposes of voting, and for any other purpose allowing a member of the board to otherwise fully participate in any meeting of the board. This subsection applies without exception with regard to the subject of the meeting or topics considered by the members.

1       (e) A meeting held by use of telephone conference call,  
2 video conference call, or other similar telecommunication device:

3           (1) is subject to the notice requirements applicable  
4 to other meetings;

5           (2) must specify in the notice of the meeting the  
6 location of the meeting;

7           (3) must be open to the public and shall be audible to  
8 the public at the location specified in the notice of the meeting as  
9 the location of the meeting; and

10          (4) must provide two-way audio communication between  
11 all parties attending the meeting during the entire meeting.

12           ARTICLE 39. DISCLOSURE ON POLITICAL ADVERTISING

13           SECTION 39.01. Section 251.001, Election Code, is amended  
14 by amending Subdivision (16) and adding Subdivision (21) to read as  
15 follows:

16           (16) "Political advertising" means a communication  
17 containing express advocacy relating to an election for ~~[supporting~~  
18 ~~or opposing a candidate for nomination or election to]~~ a public  
19 office or office of a political party~~[, a political party, a public~~  
20 ~~officer,~~] or a measure that:

21                   (A) in return for consideration, is published in  
22 a newspaper, magazine, or other periodical or is broadcast by radio  
23 or television or any other electronic transmission; or

24                   (B) appears in a pamphlet, circular, flier,  
25 billboard or other sign, bumper sticker, or similar form of written  
26 communication.

27           (21) "Express advocacy" means a communication that

1 advocates the election or defeat of a clearly identified candidate  
2 or officeholder or measure by containing the words or phrases such  
3 as: "elect," "vote for," "reelect," "support," "cast your ballot  
4 for," "(name of candidate) for (name of office)," "vote against,"  
5 "defeat," or "reject."

6 SECTION 39.02. Section 255.001, Election Code, is amended  
7 to read as follows:

8 Sec. 255.001. REQUIRED DISCLOSURE ON POLITICAL  
9 ADVERTISING. (a) A person may not knowingly cause to be  
10 published, distributed, or broadcasted ~~[enter into a contract or~~  
11 ~~other agreement to print, publish, or broadcast]~~ political  
12 advertising that does not indicate in the advertising:

13 (1) that it is political advertising; and

14 (2) the full name of:

15 (A) [either the individual who personally  
16 entered into the contract or agreement with the printer, publisher,  
17 or broadcaster or] the person who paid for the political  
18 advertising;

19 (B) the political committee authorizing the  
20 political advertising; or

21 (C) the full name of the candidate or  
22 specific-purpose committee supporting the candidate, if such  
23 political advertising is authorized by the candidate ~~[that~~  
24 ~~individual represents; and~~

25 ~~[(3) in the case of advertising that is printed or~~  
26 ~~published, the address of either the individual who personally~~  
27 ~~entered into the agreement with the printer or publisher or the~~

1 ~~person that individual represents]~~.

2       (a-1) A person may not knowingly use, cause or permit to be  
3 used, or continue to use any printed, published, displayed, or  
4 broadcast political advertising that the person knows does not  
5 include the disclosure required by Subsection (a). A person is  
6 presumed to know that the use of political advertising is  
7 prohibited by this subsection if the commission notifies the person  
8 in writing that the use is prohibited. A person who learns that  
9 political advertising signs, as defined by Section 255.007, that  
10 have been distributed do not include the disclosure required by  
11 Subsection (a) or include a disclosure that does not comply with  
12 Subsection (a) does not commit a continuing violation of this  
13 subsection if the person makes a good faith attempt to remove or  
14 correct the signs. A person who learns that printed political  
15 advertising other than a political advertising sign that has been  
16 distributed does not include the disclosure required by Subsection  
17 (a) or includes a disclosure that does not comply with Subsection  
18 (a) is not required to attempt to recover the political advertising  
19 and does not commit a continuing violation of this subsection as to  
20 any previously distributed political advertising.

21       (b) This section does not apply to tickets or invitations to  
22 political fund-raising events or to campaign buttons, pins, hats,  
23 or similar campaign materials, or to circulars or flyers that cost  
24 in aggregate to publish and distribute less than \$500.

25       (c) A person who violates this section is liable to the  
26 state for a civil penalty that may be levied by the commission in  
27 its discretion in an amount not to exceed \$4,000 ~~[commits an~~

1 ~~offense. An offense under this section is a Class A misdemeanor].~~

2 ARTICLE 40. TEXAS A&M UNIVERSITY--CORPUS CHRISTI NATURAL  
3 RESOURCES CENTER

4 SECTION 40.01. Subchapter E, Chapter 87, Education Code, is  
5 amended by adding Section 87.403 to read as follows:

6 Sec. 87.403. CARLOS F. TRUAN NATURAL RESOURCES CENTER. The  
7 natural resources center located at Texas A&M University--Corpus  
8 Christi that was dedicated on August 6, 1996, shall be known as the  
9 Carlos F. Truan Natural Resources Center. The board shall take  
10 appropriate action to ensure that the center is identified as  
11 provided by this section.

12 ARTICLE 41. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY PERMITTING  
13 AUTHORITY

14 SECTION 41.01. Section 382.0564, Health and Safety Code, is  
15 amended to read as follows:

16 Sec. 382.0564. NOTIFICATION TO OTHER GOVERNMENTAL  
17 ENTITIES. (a) The commission by rule may allow for notification  
18 of and review by the administrator and affected states of permit  
19 applications, revisions, renewals, or draft permits prepared under  
20 Sections 382.054-382.0543.

21 (b) The commission shall mail notice of intent to obtain a  
22 permit, permit amendment, or other authorization for a  
23 rock-crushing facility associated with blasting operations to an  
24 affected municipality.

25 (c) An affected municipality entitled to notice under  
26 Subsection (b) may submit comments to the commission within 30 days  
27 of receiving a notice of intent under Subsection (b).



(d) The commission may not issue a permit, permit amendment, or other authorization for a rock-crushing facility associated with blasting operations if the commission receives from an affected municipality a resolution in opposition to issuance of the permit, permit amendment, or other authorization during the 30-day comment period.

(e) For purposes of this section, "affected municipality"  
means a municipality whose primary source of drinking water is an  
aquifer made, wholly or partly, of water-bearing limestone or  
dolomite which is located in a county:

(1) that is adjacent to a county with a population of  
500,000 or more; and

(2) in which is located a portion of a body of water  
into which a discharge of pollutants is prohibited by the  
commission under 30 T.A.C. Chapter 311.

ARTICLE 42. CARRYING OF WEAPONS BY CERTAIN OFFICERS AND  
INVESTIGATORS

SECTION 42.01. Section 46.15, Penal Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers, including commissioned peace officers of a recognized state, or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or

1 special investigator is engaged in the actual discharge of the  
2 officer's or investigator's duties while carrying the weapon;

3 (2) parole officers and neither section prohibits an  
4 officer from carrying a weapon in this state if the officer is:

5 (A) engaged in the actual discharge of the  
6 officer's duties while carrying the weapon; and

7 (B) in compliance with policies and procedures  
8 adopted by the Texas Department of Criminal Justice regarding the  
9 possession of a weapon by an officer while on duty;

10 (3) community supervision and corrections department  
11 officers appointed or employed under Section 76.004, Government  
12 Code, and neither section prohibits an officer from carrying a  
13 weapon in this state if the officer is:

14 (A) engaged in the actual discharge of the  
15 officer's duties while carrying the weapon; and

16 (B) authorized to carry a weapon under Section  
17 76.0051, Government Code; or

18 (4) a judge or justice of the supreme court, the court  
19 of criminal appeals, a court of appeals, a district court, a  
20 criminal district court, a constitutional county court, a statutory  
21 county court, a justice court, or a municipal court who is licensed  
22 to carry a concealed handgun under Subchapter H, Chapter 411,  
23 Government Code.

24 (g) In this section, "recognized state" means another state  
25 with which the attorney general of this state, with the approval of  
26 the governor of this state, negotiated an agreement after  
27 determining that the other state:



1           (2) two ~~[three]~~ members of the public appointed by the  
2 lieutenant governor; ~~[and]~~

3           (3) one senator appointed by the lieutenant governor;

4           (4) two ~~[three]~~ members of the public appointed by the  
5 speaker of the house of representatives; and

6           (5) the chair of the house committee that has primary  
7 jurisdiction over arts and cultural matters.

8           (b) The ~~[One member appointed by the speaker of the house of~~  
9 ~~representatives must be the]~~ chair of the house committee that has  
10 primary jurisdiction over arts and cultural matters ~~[who]~~ serves on  
11 the committee as an additional duty of the chairmanship.

12           (d) The member of the house of representatives on the  
13 committee serves as presiding officer of the committee. The  
14 presiding officer of the committee serves a two-year term that  
15 expires on October 1 of each odd-numbered year ~~[The members of the~~  
16 ~~committee shall select a presiding officer from the members of the~~  
17 ~~committee].~~

18           (e) The committee shall meet in November of each  
19 even-numbered year to decide who to designate as the poet laureate,  
20 state musician, and state artists. In January of each odd-numbered  
21 year, the committee shall designate the poet laureate, state  
22 musician, and state artists.

23           (f) The presiding officer of the committee shall call the  
24 meetings of the committee.

25           SECTION 43.03. Section 3, Article 6139k, Revised Statutes,  
26 as added by Chapter 1412, Acts of the 77th Legislature, Regular  
27 Session, 2001, is amended by amending Subsection (d) and adding

Subsection (e) to read as follows:

(d) Not later than September 30 of each even-numbered year,  
the [The] Texas Commission on the Arts shall submit to the Texas  
poet laureate, state musician, and state artist committee a list of  
not more than 10 individuals who are worthy of being designated as  
the poet laureate, a list of not more than 10 individuals who are  
worthy of being designated as the state musician, a list of not more  
than 10 individuals who are worthy of being designated as the state  
artist for two-dimensional media, and a list of not more than 10  
individuals who are worthy of being designated as the state artist  
for three-dimensional media.

(e) The Texas Commission on the Arts shall adopt rules  
relating to the solicitation, acceptance, and processing of  
nominations for the poet laureate, state musician, and state  
artists under this section.

SECTION 43.04. Article 6139k, Revised Statutes, as added by  
Chapter 1412, Acts of the 77th Legislature, Regular Session, 2001,  
is amended by adding Section 5 to read as follows:

Sec. 5. RESOLUTION NAMING POET LAUREATE, STATE MUSICIAN,  
AND STATE ARTISTS. Not later than February 1 of each odd-numbered  
year, the presiding officer of the Texas poet laureate, state  
musician, and state artist committee shall draft a concurrent  
resolution for consideration by the legislature that acknowledges  
the naming of the poet laureate, state musician, and state artists.

SECTION 43.05. (a) This article takes effect October 1,  
2003.

(b) On the effective date of this article, the term of each

1 member of the Texas poet laureate, state musician, and state artist  
2 committee expires. As soon as practicable after the effective date  
3 of this article, the governor, lieutenant governor, and speaker of  
4 the house of representatives shall appoint the members of the Texas  
5 poet laureate, state musician, and state artist committee that meet  
6 the requirements of Section 2, Article 6139k, Revised Statutes, as  
7 added by Chapter 1412, Acts of the 77th Legislature, Regular  
8 Session, 2001, as amended by this article.

9 ARTICLE 44. SCHOOL SAFETY REGULATIONS AND SAFETY TRAINING PROGRAM

10 SECTION 44.01. Chapter 33, Education Code, is amended by  
11 adding Subchapter E to read as follows:

12 SUBCHAPTER E. SAFETY REGULATIONS FOR CERTAIN EXTRACURRICULAR  
13 ACTIVITIES

14 Sec. 33.101. APPLICABILITY. This subchapter applies to  
15 each public school in this state and to any other school in this  
16 state subject to University Interscholastic League regulations.

17 Sec. 33.102. SAFETY TRAINING REQUIRED. (a) The  
18 commissioner by rule shall develop and adopt a safety training  
19 program as provided by this section. In developing the program, the  
20 commissioner may use materials available from the American Red  
21 Cross or another appropriate entity.

22 (b) The following persons must satisfactorily complete the  
23 safety training program:

24 (1) a coach, trainer, or sponsor for an  
25 extracurricular athletic activity;

26 (2) except as provided by Subsection (f), a physician  
27 who is employed by a school or school district or who volunteers to

1 assist with an extracurricular athletic activity; and

2 (3) a director responsible for a school marching band.

3 (c) The safety training program must include:

4 (1) certification of participants by the American Red  
5 Cross, the American Heart Association, or a similar organization,  
6 as determined by the commissioner;

7 (2) annual training in:

8 (A) emergency action planning;

9 (B) cardiopulmonary resuscitation if the person  
10 is not required to obtain certification under Section 33.086;

11 (C) communicating effectively with 9-1-1  
12 emergency service operators and other emergency personnel; and

13 (D) recognizing symptoms of potentially  
14 catastrophic injuries, including head and neck injuries,  
15 concussions, injuries related to second impact syndrome, asthma  
16 attacks, heatstroke, cardiac arrest, and injuries requiring use of  
17 a defibrillator; and

18 (3) at least once each school year, a safety drill that  
19 incorporates the training described by Subdivision (2) and  
20 simulates various injuries described by Subdivision (2)(D).

21 (d) A student participating in an extracurricular athletic  
22 activity must receive training related to:

23 (1) recognizing the symptoms described by Subsection  
24 (c)(2)(D); and

25 (2) the risks of using supplements designed or  
26 marketed to enhance athletic performance.

27 (e) The safety training program and the training under

1 Subsection (d) may each be conducted by a school or school district  
2 or by an organization described by Subsection (c)(1).

3 (f) A physician who is employed by a school or school  
4 district or who volunteers to assist with an extracurricular  
5 athletic activity is exempt from the requirements of Subsection (b)  
6 if the physician attends a continuing medical education course that  
7 specifically addresses emergency medicine for athletic team  
8 physicians.

9 Sec. 33.103. RECOMMENDATION RELATED TO HEART SCREENING.  
10 The University Interscholastic League shall recommend that each  
11 student participating in an extracurricular athletic activity  
12 receive a heart screening.

13 Sec. 33.104. CERTAIN UNSAFE ATHLETIC ACTIVITIES  
14 PROHIBITED. A coach, trainer, or sponsor for an extracurricular  
15 athletic activity may not encourage or permit a student  
16 participating in the activity to engage in any unreasonably  
17 dangerous athletic technique that unnecessarily endangers the  
18 health of a student, including using a helmet or any other sports  
19 equipment as a weapon.

20 Sec. 33.105. CERTAIN SAFETY PRECAUTIONS REQUIRED. (a) A  
21 coach, trainer, or sponsor for an extracurricular athletic activity  
22 shall at each athletic practice or competition ensure that:

23 (1) each student participating in the activity is  
24 permitted adequate access to water;

25 (2) any prescribed asthma medication for a student  
26 participating in the activity is readily available to the student;

27 (3) if available at the school, a defibrillator is



1 readily accessible for use at the practice or competition;

2 (4) emergency lanes providing access to the practice  
3 or competition area are open and clear; and

4 (5) heatstroke prevention materials are readily  
5 available.

6 (b) A referee, umpire, or other official at an  
7 extracurricular athletic competition may prohibit a student from  
8 participating in the competition if:

9 (1) the official observes a violation of Subsection  
10 (a); or

11 (2) the official determines that the removal would  
12 likely prevent the death of or serious injury to the student.

13 (c) If a student participating in an extracurricular  
14 athletic activity, including a practice or competition, is rendered  
15 unconscious during the activity, the student may not:

16 (1) return to the practice or competition during which  
17 the student was rendered unconscious; or

18 (2) continue to participate in any extracurricular  
19 athletic activity until the student receives written authorization  
20 from a physician.

21 Sec. 33.106. COMPLIANCE; ENFORCEMENT. (a) On request, a  
22 school shall make available to the public proof of compliance for  
23 each person enrolled in, employed by, or volunteering for the  
24 school who is required to receive safety training described by  
25 Section 33.102.

26 (b) The superintendent of a school district or the director  
27 of a school subject to this subchapter shall maintain complete and

1 accurate records of the district's or school's compliance with  
2 Section 33.102.

3 (c) A school campus that is determined by the school's  
4 superintendent or director to be in noncompliance with Section  
5 33.102, 33.104, or 33.105 shall discontinue all extracurricular  
6 athletic activities offered by the school campus, including all  
7 practices and competitions, until the superintendent or director  
8 determines that the school campus is in compliance.

9 Sec. 33.107. CONTACT INFORMATION. (a) The commissioner  
10 shall maintain an existing telephone number and an electronic mail  
11 address to allow a person to report a violation of this subchapter.

12 (b) Each school that offers an extracurricular athletic  
13 activity shall prominently display at the administrative offices of  
14 the school the telephone number and electronic mail address  
15 maintained under Subsection (a).

16 Sec. 33.108. UNIVERSITY INTERSCHOLASTIC LEAGUE MEDICAL  
17 ADVISORY BOARD SUBCOMMITTEE. (a) The director of the University  
18 Interscholastic League shall appoint a subcommittee from among the  
19 membership of the league's medical advisory board. The director or  
20 the director's designee shall serve as the subcommittee's presiding  
21 officer.

22 (b) The subcommittee shall prepare a statement of the risks  
23 of injury resulting from participation in extracurricular athletic  
24 activities. The University Interscholastic League shall post the  
25 text of the statement on the league's Internet website and provide  
26 to each student participating in an extracurricular athletic  
27 activity and to the student's parent or guardian a copy of the

1 statement.

2 Sec. 33.109. NOTICE REQUIRED. A school that offers an  
3 extracurricular athletic activity shall provide to each student  
4 participating in an extracurricular athletic activity and to the  
5 student's parent or guardian a copy of the text of Sections  
6 33.101-33.108.

7 Sec. 33.110. INCORPORATION OF SAFETY REGULATIONS. The  
8 University Interscholastic League shall incorporate the provisions  
9 of Sections 33.103-33.108 into the league's constitution and  
10 contest rules.

11 SECTION 44.02. This article takes effect September 1, 2003,  
12 and applies beginning with the 2004-2005 school year, except that  
13 Sections 33.104 and 33.108, Education Code, as added by this  
14 article, apply beginning with the 2003-2004 school year.

15 ARTICLE 45. ENVIRONMENT; PERMITS FOR CERTAIN CONCRETE PLANTS

16 SECTION 45.01. Section 382.05101, Health and Safety Code,  
17 is amended to read as follows:

18 Sec. 382.05101. DE MINIMIS AIR CONTAMINANTS. The  
19 commission may develop by rule the criteria to establish a de  
20 minimis level of air contaminants for facilities or groups of  
21 facilities below which a permit under Section 382.0518 or 382.0519,  
22 a standard permit under Section 382.05195 or 382.05198, or a permit  
23 by rule under Section 382.05196 is not required.

24 SECTION 45.02. Subsection (c), Section 382.0511, Health and  
25 Safety Code, is amended to read as follows:

26 (c) The commission may authorize changes in a federal source  
27 to proceed before the owner or operator obtains a federal operating

1 permit or revisions to a federal operating permit if:

2           (1) the changes are de minimis under Section  
3 382.05101; or

4           (2) the owner or operator:

5               (A) has obtained a preconstruction permit or  
6 permit amendment required by Section 382.0518; or

7               (B) is operating under:

8                   (i) a standard permit under Section  
9 382.05195 or 382.05198;

10                   (ii)  a permit by rule under Section  
11 382.05196;  or

12                   (iii) an exemption allowed under Section  
13 382.057.

14           SECTION 45.03. Subchapter C, Chapter 382, Health and Safety  
15 Code, is amended by adding Sections 382.05198 and 382.05199 to read  
16 as follows:

17           Sec. 382.05198. STANDARD PERMIT FOR CERTAIN CONCRETE  
18 PLANTS. (a) The commission shall issue a standard permit for a  
19 permanent concrete plant that performs wet batching, dry batching,  
20 or central mixing and that meets the following requirements:

21                   (1) production records must be maintained on site  
22 while the plant is in operation until the second anniversary of the  
23 end of the period to which they relate;

24                   (2) each cement or fly ash storage silo and weigh  
25 hopper must be equipped with a fabric or cartridge filter or vented  
26 to a fabric or cartridge filter system;

27                   (3) each fabric or cartridge filter, fabric or

1 cartridge filter system, and suction shroud must be maintained and  
2 operated properly with no tears or leaks;

3 (4) excluding the suction shroud filter system, each  
4 filter system must be designed to meet a standard of at least 0.01  
5 outlet grain loading as measured in grains per dry standard cubic  
6 foot;

7 (5) each filter system and each mixer loading and  
8 batch truck loading emissions control device must meet a  
9 performance standard of no visible emissions exceeding 30 seconds  
10 in a five-minute period as determined using United States  
11 Environmental Protection Agency Test Method 22 as that method  
12 existed on September 1, 2003;

13 (6) if a cement or fly ash silo is filled during  
14 nondaylight hours, the silo filter system exhaust must be  
15 sufficiently illuminated to enable a determination of compliance  
16 with the performance standard described by Subdivision (5);

17 (7) the conveying system for the transfer of cement or  
18 fly ash to and from each storage silo must be totally enclosed,  
19 operate properly, and be maintained without any tears or leaks;

20 (8) except during cement or fly ash tanker connection  
21 or disconnection, each conveying system for the transfer of cement  
22 or fly ash must meet the performance standard described by  
23 Subdivision (5);

24 (9) a warning device must be installed on each bulk  
25 storage silo to alert the operator in sufficient time for the  
26 operator to stop loading operations before the silo is filled to a  
27 level that may adversely affect the pollution abatement equipment;

1           (10) if filling a silo results in failure of the  
2 pollution abatement system or failure to meet the performance  
3 standard described by Subdivision (5), the failure must be  
4 documented and reported to the commission;

5           (11) each road, parking lot, or other area at the plant  
6 site that is used by vehicles must be paved with a cohesive hard  
7 surface that is properly maintained, cleaned, and watered so as to  
8 minimize dust emissions;

9           (12) each stockpile must be sprinkled with water or  
10 dust-suppressant chemicals or covered so as to minimize dust  
11 emissions;

12           (13) material used in the batch that is spilled must be  
13 immediately cleaned up and contained or dampened so as to minimize  
14 dust emissions;

15           (14) production of concrete at the plant must not  
16 exceed 300 cubic yards per hour;

17           (15) a suction shroud or other pickup device must be  
18 installed at the batch drop point or, in the case of a central mix  
19 plant, at the drum feed and vented to a fabric or cartridge filter  
20 system with a minimum capacity of 5,000 cubic feet per minute of  
21 air;

22           (16) the bag filter and capture system must be  
23 properly designed to accommodate the increased flow from the  
24 suction shroud and achieve a control efficiency of at least 99.5  
25 percent;

26           (17) the suction shroud baghouse exhaust must be  
27 located more than 100 feet from any property line;

1           (18) stationary equipment, stockpiles, and vehicles  
2 used at the plant, except for incidental traffic and vehicles as  
3 they enter and exit the site, must be located or operated more than  
4 100 feet from any property line; and

5           (19) the central baghouse must be located at least 440  
6 yards from any building used as a single or multifamily residence,  
7 school, or place of worship at the time the application to use the  
8 permit is filed with the commission if the plant is located in:

9                   (A) an area that is not subject to municipal  
10 zoning regulations; and

11                   (B) a county with a population of at least one  
12 million.

13           (b) Notwithstanding Subsection (a)(18), the commission  
14 shall issue a standard permit for a permanent concrete plant that  
15 performs wet batching, dry batching, or central mixing and does not  
16 meet the requirements of that subdivision if the plant meets the  
17 other requirements of Subsection (a) and:

18                   (1) each road, parking lot, and other traffic area  
19 located within the distance of a property line provided by  
20 Subsection (a)(18) is bordered by dust-suppressing fencing or  
21 another barrier at least 12 feet high; and

22                   (2) each stockpile located within the applicable  
23 distance of a property line is contained within a three-walled  
24 bunker that extends at least two feet above the top of the  
25 stockpile.

26           Sec. 382.05199. STANDARD PERMIT FOR CERTAIN CONCRETE BATCH  
27 PLANTS: NOTICE AND HEARING. (a) A person may not begin

1 construction of a permanent concrete plant that performs wet  
2 batching, dry batching, or central mixing under a standard permit  
3 issued under Section 382.05198 unless the commission authorizes the  
4 person to use the permit as provided by this section. The notice  
5 and hearing requirements of Subsections (b)-(g) apply only to an  
6 applicant for authorization to use a standard permit issued under  
7 Section 382.05198. An applicant for a permit for a concrete plant  
8 that does not meet the requirements of a standard permit issued  
9 under Section 382.05198 must comply with:

10 (1) Section 382.058 to obtain authorization to use a  
11 standard permit issued under Section 382.05195 or a permit by rule  
12 adopted under Section 382.05196; or

13 (2) Section 382.056 to obtain a permit issued under  
14 Section 382.0518.

15 (b) An applicant for an authorization to use a standard  
16 permit under Section 382.05198 must publish notice under this  
17 section not later than the earlier of:

18 (1) the 30th day after the date the applicant receives  
19 written notice from the executive director that the application is  
20 technically complete; or

21 (2) the 75th day after the date the executive director  
22 receives the application.

23 (c) The applicant must publish notice at least once in a  
24 newspaper of general circulation in the municipality in which the  
25 plant is proposed to be located or in the municipality nearest to  
26 the proposed location of the plant. If the elementary or middle  
27 school nearest to the proposed plant provides a bilingual education



1 program as required by Subchapter B, Chapter 29, Education Code,  
2 the applicant must also publish the notice at least once in an  
3 additional publication of general circulation in the municipality  
4 or county in which the plant is proposed to be located that is  
5 published in the language taught in the bilingual education  
6 program. This requirement is waived if such a publication does not  
7 exist or if the publisher refuses to publish the notice.

8 (d) The notice must include:

9 (1) a brief description of the proposed location and  
10 nature of the proposed plant;

11 (2) a description, including a telephone number, of  
12 the manner in which the executive director may be contacted for  
13 further information;

14 (3) a description, including a telephone number, of  
15 the manner in which the applicant may be contacted for further  
16 information;

17 (4) the location and hours of operation of the  
18 commission's regional office at which a copy of the application is  
19 available for review and copying; and

20 (5) a brief description of the public comment process,  
21 including the time and location of the public hearing, and the  
22 mailing address and deadline for filing written comments.

23 (e) The public comment period begins on the first date  
24 notice is published under Subsection (b) and extends to the close of  
25 the public hearing.

26 (f) Section 382.056 of this code and Chapter 2001,  
27 Government Code, do not apply to a public hearing held under this

1 section. A public hearing held under this section is not an  
2 evidentiary proceeding. Any person may submit an oral or written  
3 statement concerning the application at the public hearing. The  
4 applicant may set reasonable limits on the time allowed for oral  
5 statements at the public hearing.

6 (g) The applicant, in cooperation with the executive  
7 director, must hold the public hearing not less than 30 days and not  
8 more than 45 days after the first date notice is published under  
9 Subsection (b). The public hearing must be held in the county in  
10 which the plant is proposed to be located.

11 (h) Not later than the 35th day after the date the public  
12 hearing is held, the executive director shall approve or deny the  
13 application for authorization to use the standard permit. The  
14 executive director shall base the decision on whether the  
15 application meets the requirements of Section 382.05198. The  
16 executive director shall consider all comments received during the  
17 public comment period and at the public hearing in determining  
18 whether to approve the application. If the executive director  
19 denies the application, the executive director shall state the  
20 reasons for the denial and any modifications to the application  
21 that are necessary for the proposed plant to qualify for the  
22 authorization.

23 (i) The executive director shall issue a written response to  
24 any public comments received related to the issuance of an  
25 authorization to use the standard permit at the same time as or as  
26 soon as practicable after the executive director grants or denies  
27 the application. Issuance of the response after the granting or

denial of the application does not affect the validity of the executive director's decision to grant or deny the application.

The executive director shall:

(1) mail the response to each person who filed a comment; and

(2) make the response available to the public.

ARTICLE 46. TEXAS DEPARTMENT OF MENTAL HEALTH AND  
MENTAL RETARDATION; VOLUNTARY ADMISSION TO  
STATE SCHOOL

SECTION 46.01. Subchapter B, Chapter 593, Health and Safety Code, is amended by adding Section 593.0225 to read as follows:

Sec. 593.0225. CRITERIA FOR VOLUNTARY ADMISSION; WAITING LIST. (a) The board by rule shall provide that a state school shall admit any adult person with mental retardation for whom an application for voluntary admission is filed if:

(1) the state school has funded bed space for the person to be admitted for care; and

(2) the state school would provide the least restrictive environment appropriate to the person's care.

(b) Each state school shall maintain a waiting list of persons who desire voluntary admission to a state school and who were denied admission because of lack of bed space.

(c) The department shall ensure that persons seeking state services for a person with mental retardation are informed of the criteria established in rules adopted under Subsection (a), of the waiting list required by Subsection (b), and of the addresses and telephone numbers of each state school.

1        (d) The board may adopt rules to facilitate the application  
2 process for voluntary admission to a state school, the maintenance  
3 of the waiting list required by Subsection (b), and the provision of  
4 information as required by Subsection (c).

5        SECTION 46.02. The Texas Department of Mental Health and  
6 Mental Retardation shall ensure that persons on a waiting list  
7 maintained by a mental retardation authority for admission to a  
8 state school are informed of:

9                (1) criteria established in rules adopted under  
10 Section 593.0225, Health and Safety Code, as added by this  
11 article;

12                (2) the waiting lists required by that section; and

13                (3) the address and telephone number of each state  
14 school.

15        SECTION 46.03. This article applies to an application for  
16 voluntary admission filed on or after September 1, 2003. An  
17 application for voluntary admission filed before that date is  
18 governed by the law in effect on the date the application was filed,  
19 and that law is continued in effect for that purpose.

20        ARTICLE 47. PREVENTING AND DETECTING IDENTITY THEFT

21        SECTION 47.01. Section 20.01, Business & Commerce Code, is  
22 amended by adding Subdivisions (7) and (8) to read as follows:

23                (7) "Security alert" means a notice placed on a  
24 consumer file that alerts a recipient of a consumer report  
25 involving that consumer file that the consumer's identity may have  
26 been used without the consumer's consent to fraudulently obtain  
27 goods or services in the consumer's name.

1           (8) "Security freeze" means a notice placed on a  
2 consumer file that prohibits a consumer reporting agency from  
3 releasing a consumer report involving that consumer file without  
4 the express authorization of the consumer.

5           SECTION 47.02. Section 20.03, Business & Commerce Code, is  
6 amended by adding Subsection (d) to read as follows:

7           (d) Any written disclosure to a consumer by a consumer  
8 reporting agency under this chapter must include a written  
9 statement that explains in clear and simple language the consumer's  
10 rights under this chapter and includes:

11               (1) the process for receiving a consumer report or  
12 consumer file;

13               (2) the process for requesting or removing a security  
14 alert or freeze;

15               (3) the toll-free telephone number for requesting a  
16 security alert;

17               (4) applicable fees;

18               (5) dispute procedures;

19               (6) the process for correcting a consumer file or  
20 report; and

21               (7) information on a consumer's right to bring an  
22 action in court or arbitrate a dispute.

23           SECTION 47.03. Chapter 20, Business & Commerce Code, is  
24 amended by adding Sections 20.031 through 20.038 to read as  
25 follows:

26           Sec. 20.031. REQUESTING SECURITY ALERT. On a request in  
27 writing or by telephone and with proper identification provided by

a consumer, a consumer reporting agency shall place a security alert on the consumer's consumer file not later than 24 hours after the date the agency receives the request. The security alert must remain in effect for not less than 90 days after the date the agency places the security alert on the file. There is no limit on the number of security alerts a consumer may request. At the end of a 90-day security alert, on request in writing or by telephone and with proper identification provided by the consumer, the agency shall provide the consumer with a copy of the consumer's file. A consumer may include with the security alert request a telephone number to be used by persons to verify the consumer's identity before entering into a transaction with the consumer.

Sec. 20.032. NOTIFICATION OF SECURITY ALERT. A consumer reporting agency shall notify a person who requests a consumer report if a security alert is in effect for the consumer file involved in that report and include a verification telephone number for the consumer if the consumer has provided a number under Section 20.031.

Sec. 20.033. TOLL-FREE SECURITY ALERT REQUEST NUMBER. A consumer reporting agency shall maintain a toll-free telephone number that is answered at all times to accept security alert requests from consumers.

Sec. 20.034. REQUESTING SECURITY FREEZE. (a) On written request sent by certified mail that includes proper identification provided by a consumer, a consumer reporting agency shall place a security freeze on a consumer's consumer file not later than the fifth business day after the date the agency receives the request.

1        (b) On written request for a security freeze provided by a  
2 consumer under Subsection (a), a consumer reporting agency shall  
3 disclose to the consumer the process of placing, removing, and  
4 temporarily lifting a security freeze and the process for allowing  
5 access to information from the consumer's consumer file for a  
6 specific requestor or period while the security freeze is in  
7 effect.

8        (c) A consumer reporting agency shall, not later than the  
9 10th business day after the date the agency receives the request for  
10 a security freeze:

11            (1) send a written confirmation of the security freeze  
12 to the consumer; and

13            (2) provide the consumer with a unique personal  
14 identification number or password to be used by the consumer to  
15 authorize a removal or temporary lifting of the security freeze  
16 under Section 20.037.

17        Sec. 20.035. NOTIFICATION OF CHANGE. If a security freeze  
18 is in place, a consumer reporting agency shall notify the consumer  
19 in writing of a change in the consumer file to the consumer's name,  
20 date of birth, social security number, or address not later than 30  
21 calendar days after the date the change is made. The agency shall  
22 send notification of a change of address to the new address and  
23 former address. This section does not require notice of an  
24 immaterial change, including a street abbreviation change or  
25 correction of a transposition of letters or misspelling of a word.

26        Sec. 20.036. NOTIFICATION OF SECURITY FREEZE. A consumer  
27 reporting agency shall notify a person who requests a consumer

1 report if a security freeze is in effect for the consumer file  
2 involved in that report.

3 Sec. 20.037. REMOVAL OR TEMPORARY LIFTING OF SECURITY  
4 FREEZE. (a) On a request in writing or by telephone and with  
5 proper identification provided by a consumer, including the  
6 consumer's personal identification number or password provided  
7 under Section 20.034, a consumer reporting agency shall remove a  
8 security freeze not later than the third business day after the date  
9 the agency receives the request.

10 (b) On a request in writing or by telephone and with proper  
11 identification provided by a consumer, including the consumer's  
12 personal identification number or password provided under Section  
13 20.034, a consumer reporting agency, not later than the third  
14 business day after the date the agency receives the request, shall  
15 temporarily lift the security freeze for:

16 (1) a certain properly designated period; or

17 (2) a certain properly identified requestor.

18 (c) A consumer reporting agency may develop procedures  
19 involving the use of a telephone, a facsimile machine, the  
20 Internet, or another electronic medium to receive and process a  
21 request from a consumer under this section.

22 (d) A consumer reporting agency shall remove a security  
23 freeze placed on a consumer file if the security freeze was placed  
24 due to a material misrepresentation of fact by the consumer. The  
25 consumer reporting agency shall notify the consumer in writing  
26 before removing the security freeze under this subsection.

27 Sec. 20.038. EXEMPTION FROM SECURITY FREEZE. A security



1 freeze does not apply to a consumer report provided to:

2 (1) a state or local governmental entity, including a  
3 law enforcement agency or court or private collection agency, if  
4 the entity, agency, or court is acting under a court order, warrant,  
5 subpoena, or administrative subpoena;

6 (2) a child support agency as defined by Section  
7 101.004, Family Code, acting to investigate or collect child  
8 support payments or acting under Title IV-D of the Social Security  
9 Act (42 U.S.C. Section 651 et seq.);

10 (3) the Health and Human Services Commission acting  
11 under Section 531.102, Government Code;

12 (4) the comptroller acting to investigate or collect  
13 delinquent sales or franchise taxes;

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

16 (6) a person for the purposes of prescreening as  
17 provided by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et  
18 seq.);

19 (7) a person with whom the consumer has an account or  
20 contract or to whom the consumer has issued a negotiable  
21 instrument, or the person's subsidiary, affiliate, agent,  
22 assignee, or prospective assignee, for purposes related to that  
23 account, contract, or instrument;

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

27 (9) a person who administers a credit file monitoring

1 subscription service to which the consumer has subscribed; or

2 (10) a person for the purpose of providing a consumer  
3 with a copy of the consumer's report on the consumer's request.

4 SECTION 47.04. Section 20.04, Business & Commerce Code, is  
5 amended to read as follows:

6 Sec. 20.04. CHARGES FOR CERTAIN DISCLOSURES OR  
7 SERVICES. (a) Except as provided by Subsection (b), a consumer  
8 reporting agency may impose a reasonable charge on a consumer for  
9 the disclosure of information pertaining to the consumer or for  
10 placing a security freeze on a consumer file. The amount of the  
11 charge may not exceed \$8. On January 1 of each year, a consumer  
12 reporting agency may increase the charge for disclosure to a  
13 consumer or for placing a security freeze. The increase, if any,  
14 must be based proportionally on changes to the Consumer Price Index  
15 for All Urban Consumers as determined by the United States  
16 Department of Labor with fractional changes rounded to the nearest  
17 50 cents.

18 (b) A consumer reporting agency may not charge a fee for:

19 (1) a request by a consumer for a copy of the  
20 consumer's file:

21 (A) made not later than the 60th day after the  
22 date on which adverse action is taken against the consumer; or

23 (B) made on the expiration of the 90-day security  
24 alert;

25 (2) notification of the deletion of information that  
26 is found to be inaccurate or can no longer be verified sent to a  
27 person designated by the consumer, as prescribed by Section 611 of

1 the Fair Credit Reporting Act (15 U.S.C. Section 1681i), as  
2 amended;

3 (3) a set of instructions for understanding the  
4 information presented on the consumer report; ~~or~~

5 (4) a toll-free telephone number that consumers may  
6 call to obtain additional assistance concerning the consumer report  
7 or to request a security alert;

8 (5) a request for a security freeze made by a consumer  
9 who has submitted to the consumer reporting agency a copy of a valid  
10 police report, investigative report, or complaint made under  
11 Section 32.51, Penal Code; or

12 (6) a request for a security alert made by a consumer.

13 SECTION 47.05. Chapter 20, Business & Commerce Code, is  
14 amended by adding Sections 20.11 and 20.12 to read as follows:

15 Sec. 20.11. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The  
16 attorney general may file a suit against a person for:

17 (1) injunctive relief to prevent or restrain a  
18 violation of this chapter; or

19 (2) a civil penalty in an amount not to exceed \$2,000  
20 for each violation of this chapter.

21 (b) If the attorney general brings an action against a  
22 person under Subsection (a) and an injunction is granted against  
23 the person or the person is found liable for a civil penalty, the  
24 attorney general may recover reasonable expenses, court costs,  
25 investigative costs, and attorney's fees.

26 (c) Each day a violation continues or occurs is a separate  
27 violation for purposes of imposing a penalty under this section.

1       Sec. 20.12. DECEPTIVE TRADE PRACTICE. A violation of this  
2 chapter is a false, misleading, or deceptive act or practice under  
3 Subchapter E, Chapter 17.

4       SECTION 47.06. Subchapter D, Chapter 35, Business &  
5 Commerce Code, is amended by adding Section 35.58 to read as  
6 follows:

7       Sec. 35.58. CONFIDENTIALITY OF SOCIAL SECURITY  
8 NUMBER. (a) A person, other than government or a governmental  
9 subdivision or agency, may not:

10           (1) intentionally communicate or otherwise make  
11 available to the public an individual's social security number;

12           (2) display an individual's social security number on  
13 a card or other device required to access a product or service  
14 provided by the person;

15           (3) require an individual to transmit the individual's  
16 social security number over the Internet unless the connection with  
17 the Internet is secure or the number is encrypted;

18           (4) require an individual's social security number for  
19 access to an Internet website, unless a password or unique personal  
20 identification number or other authentication device is also  
21 required for access; or

22           (5) print an individual's social security number on  
23 any materials, other than a form or application, that are sent by  
24 mail, unless state or federal law requires that the individual's  
25 social security number be included in the materials.

26       (b) A person that is using an individual's social security  
27 number before January 1, 2004, in a manner prohibited by Subsection

1 (a) may continue that use if:

2 (1) the use is continuous; and

3 (2) the person provides annual disclosure to the  
4 individual stating that on written request from the individual the  
5 person will cease to use the individual's social security number in  
6 a manner prohibited by Subsection (a).

7 (c) A person, other than government or a governmental  
8 subdivision or agency, may not deny services to an individual  
9 because the individual makes a written request under Subsection  
10 (b).

11 (d) This section does not apply to:

12 (1) the collection, use, or release of a social  
13 security number that is required by state or federal law, including  
14 Chapter 552, Government Code; or

15 (2) the use of a social security number for internal  
16 verification or administrative purposes.

17 SECTION 47.07. Subchapter D, Chapter 35, Business &  
18 Commerce Code, is amended by adding Section 35.59 to read as  
19 follows:

20 Sec. 35.59. VERIFICATION OF CONSUMER IDENTITY. (a) In  
21 this section:

22 (1) "Consumer report" has the meaning assigned by  
23 Section 20.01.

24 (2) "Extension of credit" does not include an increase  
25 in the dollar limit of an existing open-end credit plan as defined  
26 by Regulation Z (12 C.F.R. Section 226.2), as amended, or any change  
27 to, or review of, an existing credit account.

1           (3) "Security alert" has the meaning assigned by  
2 Section 20.01.

3           (b) A person who receives notification of a security alert  
4 under Section 20.032 in connection with a request for a consumer  
5 report for the approval of a credit-based application, including an  
6 application for an extension of credit, a purchase, lease, or  
7 rental agreement for goods, or for an application for a  
8 noncredit-related service, may not lend money, extend credit, or  
9 authorize an application without taking reasonable steps to verify  
10 the consumer's identity.

11           (c) If a consumer has included with a security alert a  
12 specified telephone number to be used for identity verification  
13 purposes, a person who receives that number with a security alert  
14 must take reasonable steps to contact the consumer using that  
15 number before lending money, extending credit, or completing any  
16 purchase, lease, or rental of goods, or approving any  
17 noncredit-related services.

18           (d) If a person uses a consumer report to facilitate the  
19 extension of credit or for any other transaction on behalf of a  
20 subsidiary, affiliate, agent, assignee, or prospective assignee,  
21 that person, rather than the subsidiary, affiliate, agent,  
22 assignee, or prospective assignee, may verify the consumer's  
23 identity.

24           SECTION 47.08. (a) Except as provided by Subsection (b) of  
25 this section, this article takes effect September 1, 2003.

26           (b) Section 35.58, Business & Commerce Code, as added by  
27 this article, takes effect January 1, 2004.

ARTICLE 48. LICENSE PLATES

SECTION 48.01. Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.010 to read as follows:

Sec. 502.010. ISSUANCE AND DISPLAY OF LICENSE PLATE FOR CERTAIN VEHICLES. (a) This section applies only to a vehicle that is owned by this state or a political subdivision of this state, other than a law enforcement vehicle that:

(1) is registered under Section 502.206; or

(2) is not registered under Section 502.206, but is intended for use in covert criminal investigations, as designated in the application for registration.

(b) Notwithstanding anything in this chapter to the contrary, including Section 502.180, the department shall issue only one license plate for attachment at the rear of a vehicle to which this section applies.

(c) Notwithstanding anything in this chapter to the contrary, including Section 502.404(a), a person is entitled to operate on a public highway a vehicle to which this section applies that displays only one license plate if the plate is attached at the rear of the vehicle.

(d) In any provision of this chapter that relates to the issuance or display of "license plates," "plates," or a "set of plates," for a vehicle to which this section applies, the term means only one license plate.

ARTICLE 49. RESTRICTIONS ON CERTAIN LANDFILL PERMITS

SECTION 49.01. Section 361.122, Health and Safety Code, is amended to read as follows:

1           Sec. 361.122. DENIAL OF CERTAIN LANDFILL PERMITS. (a) The  
2 commission may not issue a permit for a Type IV landfill if:

3                 (1) the proposed site is located within 100 feet of a  
4 canal that is used as a public drinking water source or for  
5 irrigation of crops used for human or animal consumption;

6                 (2) the proposed site is located in a county with a  
7 population of more than 225,000 that is located adjacent to the Gulf  
8 of Mexico; and

9                 (3) prior to final consideration of the application by  
10 the commission, the commissioners of the county in which the  
11 facility is located have adopted a resolution recommending denial  
12 of the application.

13           (b) In addition to the restriction on the location of a Type  
14 IV landfill under Subsection (a), the commission may not issue a  
15 permit for a Type IV landfill if, on or before January 13, 2003, the  
16 proposed facility was determined by the applicable regional  
17 planning commission created under Chapter 391, Local Government  
18 Code, to be incompatible with a regional solid waste management  
19 plan adopted under Section 363.062.

20                     ARTICLE 50. LIQUID WASTES MANIFESTS

21           SECTION 50.01. Subchapter B, Chapter 361, Health and Safety  
22 Code, is amended by adding Section 361.034 to read as follows:

23           Sec. 361.034. RECORDS AND MANIFESTS REQUIRED FOR CERTAIN  
24 LIQUID WASTES. (a) The commission by rule shall require a person  
25 who generates, collects, conveys, transports, processes, stores,  
26 or disposes of sewage sludge, water treatment sludge, domestic  
27 septage, chemical toilet waste, grit trap waste, or grease trap



1 waste to keep records and use a uniform manifest as prescribed by  
2 commission rule to ensure that the waste is transported to an  
3 appropriate processing, storage, or disposal facility or site  
4 permitted or authorized for that purpose.

5 (b) The rules must require the person who generates the  
6 waste, the person who transports the waste, and the person who  
7 disposes of the waste each to retain, for not less than three years,  
8 a copy of a transportation manifest that records the generator,  
9 transporter, and disposal site and method.

10 (c) The rules must require that aggregate amounts of waste  
11 recorded on the manifests required under this section match the  
12 amounts of waste reported to the commission annually. The  
13 commission may require copies of manifests to be submitted with  
14 reports to the commission or at other times.

15 SECTION 50.02. The Texas Commission on Environmental  
16 Quality shall adopt rules under Section 361.034, Health and Safety  
17 Code, as added by this article, as soon as practicable so that the  
18 rules take effect not later than March 1, 2004.

19 SECTION 50.03. This article takes effect immediately if  
20 this Act receives a vote of two-thirds of all the members elected to  
21 each house, as provided by Section 39, Article III, Texas  
22 Constitution. If this Act does not receive the vote necessary for  
23 immediate effect, this article takes effect September 1, 2003.

24 ARTICLE 51. EMINENT DOMAIN JURISDICTION FOR CERTAIN CIVIL COURTS

25 AT LAW

26 SECTION 51.01. Section 25.1032, Government Code, is amended  
27 by adding Subsection (m) to read as follows:

1       (m) Notwithstanding any other provision, a county civil  
2 court at law has concurrent jurisdiction with the district court in  
3 Harris County of eminent domain proceedings, both statutory and  
4 inverse, regardless of the amount in controversy.

5               ARTICLE 52. TEXASNEXTSTEP GRANT PROGRAM

6               SECTION 52.01. Chapter 56, Education Code, is amended by  
7 adding Subchapter R to read as follows:

8               SUBCHAPTER R. TEXASNEXTSTEP GRANT PROGRAM

9               Sec. 56.481. DEFINITIONS. In this subchapter:

10              (1) "Coordinating board" means the Texas Higher  
11 Education Coordinating Board.

12              (2) "Eligible institution" means:

13                      (A) a public junior college;

14                      (B) a public technical institute; or

15                      (C) a public state college.

16              (3) "Institution of higher education," "public junior  
17 college," "public technical institute," and "public state college"  
18 have the meanings assigned by Section 61.003.

19              (4) "Textbook costs" means the costs of textbooks and  
20 similar educational materials required for course work at an  
21 eligible institution.

22              Sec. 56.482. PROGRAM NAME; PURPOSE. (a) The student  
23 financial assistance program authorized by this subchapter is known  
24 as the TexasNextStep grant program, and an individual grant awarded  
25 under this subchapter is known as a TexasNextStep grant.

26              (b) The purpose of this subchapter is to provide a grant of  
27 money to enable eligible students to attend two-year public

1 institutions of higher education in this state.

2 Sec. 56.483. ADMINISTRATION OF PROGRAM. (a) The  
3 coordinating board shall administer the TexasNextStep grant  
4 program and shall adopt any rules necessary to implement the  
5 TexasNextStep grant program or this subchapter. The coordinating  
6 board shall consult with the student financial aid officers of  
7 eligible institutions in developing the rules.

8 (b) The coordinating board shall adopt rules to provide a  
9 TexasNextStep grant to an eligible student enrolled in an eligible  
10 institution in a manner consistent with the administration of  
11 federal student financial aid programs.

12 (c) The total amount of grants awarded under the  
13 TexasNextStep grant program may not exceed the amount available for  
14 the program from appropriations, gifts, grants, or other funds.

15 (d) In determining who should receive a TexasNextStep  
16 grant, the coordinating board and the eligible institutions shall  
17 give highest priority to awarding TexasNextStep grants to students  
18 who demonstrate the greatest financial need.

19 Sec. 56.484. INITIAL ELIGIBILITY FOR GRANT. (a) To be  
20 eligible initially for a grant under the TexasNextStep grant  
21 program, a person must:

22 (1) be a resident of this state as determined by  
23 coordinating board rules;

24 (2) meet financial need requirements as defined by the  
25 coordinating board;

26 (3) not later than the 16th month after the month in  
27 which the person graduated from high school, enroll or have

1 enrolled as an entering student for at least one-half of a full  
2 course load for an entering student, as determined by the  
3 coordinating board, in an associate degree or certificate program  
4 at an eligible institution;

5 (4) have graduated from:

6 (A) a public high school in this state; or

7 (B) an accredited private high school or a home  
8 school or other nontraditional educational program in this state;

9 (5) have applied for any available financial aid or  
10 assistance;

11 (6) meet eligibility requirements necessary to  
12 receive federal student financial aid, other than requirements  
13 regarding financial need; and

14 (7) comply with any additional nonacademic  
15 requirement adopted by the coordinating board under this  
16 subchapter.

17 (b) A person is not eligible to receive a TexasNextStep  
18 grant if the person:

19 (1) has been granted an associate or baccalaureate  
20 degree; or

21 (2) is concurrently enrolled in an institution of  
22 higher education other than an eligible institution, unless the  
23 person is enrolled in the person's final semester or term at the  
24 eligible institution before completing the person's associate  
25 degree or certificate program and the person enrolls in one or more  
26 courses that, if successfully completed, would allow the person to  
27 complete the degree or certificate requirements.

1       (c) A person may not receive a TexasNextStep grant for more  
2 than 90 semester credit hours or the equivalent, including any  
3 developmental course work required by an eligible institution.

4       (d) Subject to Section 56.457(b)(2), a person may receive a  
5 TexasNextStep grant regardless of whether the person is eligible  
6 for a TEXAS grant or a TEXAS grant II.

7       (e) A person may not receive a TexasNextStep grant for a  
8 semester or term that begins on or after the third anniversary of  
9 the initial award of a TexasNextStep grant to the person.

10       Sec. 56.485. CONTINUING ELIGIBILITY AND ACADEMIC  
11 PERFORMANCE REQUIREMENTS. (a) After initially qualifying for a  
12 TexasNextStep grant, a person may continue to receive a  
13 TexasNextStep grant during each semester or term in which the  
14 person is enrolled at an eligible institution only if the person:

15               (1) meets financial need requirements as defined by  
16 the coordinating board;

17               (2) is enrolled in an associate degree or certificate  
18 program at an eligible institution;

19               (3) except as provided by Subsection (b), is enrolled  
20 for at least one-half of a full course load for a student in an  
21 associate degree or certificate program, as determined by the  
22 coordinating board;

23               (4) makes satisfactory academic progress toward an  
24 associate degree or certificate;

25               (5) meets eligibility requirements necessary to  
26 receive federal student financial aid, other than requirements  
27 regarding financial need; and

1           (6) complies with any additional nonacademic  
2 requirement adopted by the coordinating board.

3           (b) A person is exempt from the one-half course load  
4 requirement of Subsection (a)(3) if the TexasNextStep grant is  
5 awarded for the person's final semester or term before the person  
6 completes the person's degree or certificate program and the person  
7 enrolls in one or more courses that, if successfully completed,  
8 would allow the person to complete the degree or certificate  
9 requirements. A person who qualifies for an exemption under this  
10 subsection is not eligible for a TexasNextStep grant in a  
11 subsequent semester or term, regardless of whether the person  
12 graduates as planned.

13           (c) If a person fails to meet any of the requirements of  
14 Subsection (a) after the completion of any semester or term, the  
15 person may not receive a TexasNextStep grant during the next  
16 semester or term in which the person enrolls. A person may become  
17 eligible to receive a TexasNextStep grant in a subsequent semester  
18 or term if the person:

19                   (1) completes a semester or term during which the  
20 person is not eligible for the grant; and

21                   (2) meets all the requirements of Subsection (a).

22           (d) For purposes of this section, a person makes  
23 satisfactory academic progress toward an associate degree or  
24 certificate only if the person meets the standards for academic  
25 progress as determined by the eligible institution.

26           (e) A person's eligibility to receive a TexasNextStep grant  
27 is not affected by the person's enrollment in or transfer to another

1 eligible institution.

2 Sec. 56.486. GRANT USE. A person receiving a TexasNextStep  
3 grant may use the money to pay any usual and customary cost of  
4 attendance at an eligible institution incurred by the person. The  
5 institution may disburse all or part of the proceeds of a  
6 TexasNextStep grant to an eligible person only if the tuition and  
7 required fees and textbook costs incurred by the person at the  
8 institution have been paid.

9 Sec. 56.487. GRANT AMOUNT. (a) The amount of a  
10 TexasNextStep grant for a student enrolled full-time at an eligible  
11 institution is the amount determined by the coordinating board as  
12 the average amount of tuition and required fees and textbook costs  
13 that a resident student enrolled full-time in an associate degree  
14 or certificate program would be charged for that semester or term at  
15 the institution, except that if the eligible institution is a  
16 public junior college, the average amount of those charges shall be  
17 computed without including the portion of tuition and required fees  
18 charged only to a student who resides outside the junior college  
19 district.

20 (b) The coordinating board shall adopt rules that:

21 (1) allow the coordinating board to increase or  
22 decrease, in proportion to the number of semester credit hours in  
23 which a student is enrolled, the amount of a TexasNextStep grant  
24 award under this section to a student who is enrolled in a number of  
25 semester credit hours in excess of or below the number of semester  
26 credit hours described in Section 56.484(a)(3) or 56.485(a)(3); and

27 (2) require the coordinating board to reduce the

1 amount of a TexasNextStep grant by the amount of any state or  
2 federal gift aid for which the person receiving the grant is  
3 eligible if that aid could be applied, according to the terms of the  
4 aid, toward the person's tuition and required fees and textbook  
5 costs at the eligible institution.

6 (c) Not later than January 31 of each year, the coordinating  
7 board shall publish the amounts of each grant established by the  
8 board with respect to an eligible institution for the academic year  
9 beginning the next fall semester.

10 (d) An eligible institution may not:

11 (1) charge a person attending the institution who also  
12 receives a TexasNextStep grant an amount of tuition and required  
13 fees in excess of the amount of the TexasNextStep grant received by  
14 the person for tuition and required fees, except that if the  
15 eligible institution is a public junior college, the institution  
16 may charge an additional amount to the person based on the person's  
17 residence outside the junior college district; or

18 (2) deny admission to or enrollment in the institution  
19 based on a person's eligibility to receive a TexasNextStep grant or  
20 a person's receipt of a TexasNextStep grant.

21 Sec. 56.488. BIENNIAL REPORT. The coordinating board shall  
22 track the academic performance and subsequent educational  
23 attainment of grant recipients, by institution, and report this  
24 information biennially to the legislature and the comptroller.

25 Sec. 56.489. APPROPRIATIONS. This subchapter may not be  
26 implemented and grants may not be awarded under this subchapter in  
27 any state fiscal year unless the legislature appropriates money to



1 fully fund the TEXAS grant program under Subchapter M, as added by  
 2 Chapter 1590, Acts of the 76th Legislature, Regular Session, 1999,  
 3 for that same fiscal year.

4 SECTION 52.02. (a) The change in law made by this article  
 5 in adding Subchapter R, Chapter 56, Education Code, applies  
 6 beginning with the 2004-2005 academic year, except that the Texas  
 7 Higher Education Coordinating Board may not award a TexasNextStep  
 8 grant under that subchapter to an entering student who enrolls in an  
 9 eligible institution before the 2005-2006 academic year.

10 (b) The Texas Higher Education Coordinating Board shall  
 11 adopt rules for the administration of Subchapter R, Chapter 56,  
 12 Education Code, as added by this article, as soon as practicable  
 13 after this article takes effect. For that purpose, the  
 14 coordinating board may adopt the initial rules in the manner  
 15 provided by law for emergency rules.

16 ARTICLE 53. TEXAS RACING COMMISSION

17 SECTION 53.01. Section 3.07, Texas Racing Act (Article  
 18 179e, Vernon's Texas Civil Statutes) is amended by amending  
 19 Subsection (f) and adding Subsection (h) to read as follows:

20 (f) The association is responsible for the cost of approved  
 21 charges for ~~[animal]~~ drug testing services only for animals racing  
 22 at the association's racetrack ~~[under this section]~~. The  
 23 commission shall adopt rules to allocate responsibility for the  
 24 costs of human drug testing of a licensee.

25 (h) The commission by rule may determine the expiration date  
 26 of outstanding tickets and pari-mutuel vouchers. Pari-mutuel  
 27 vouchers that expire may be used by an association to pay the

1 charges associated with medication or drug testing. If the amount  
2 of the expired pari-mutuel vouchers held exceeds the amount needed  
3 to pay the charges, the association shall pay the excess to the  
4 commission for deposit in the general revenue fund.

5 SECTION 53.02. Article 6, Texas Racing Act (Article 179e,  
6 Vernon's Texas Civil Statutes) is amended by adding Section 6.20 to  
7 read as follows:

8 Sec. 6.20. EXPEDITED LICENSE. (a) The commission shall  
9 adopt rules providing for expedited licensing for appropriate  
10 applications in which a person was previously licensed.

11 (b) An application filed under this section must be for the  
12 same class of license under which the person previously operated.  
13 The commission shall develop an expedited application form and  
14 procedure for issuing licenses under this section. The commission  
15 shall grant a license to an applicant under this section if the  
16 commission determines:

17 (1) no grounds for denial of the license exist under  
18 Section 6.06 of this Act; and

19 (2) the applicant will comply with all commission  
20 rules.

21 (c) The commission shall waive any rule requiring an  
22 application fee associated with the processing of an application  
23 filed under this section, but may require reimbursement by the  
24 applicant for costs charged to the commission by the Department of  
25 Public Safety or the State Office of Administrative Hearings for a  
26 background investigation or administrative proceedings required  
27 for the application.

1        (d) A license issued under this section is subject to all  
2        requirements in this Act or commission rule regarding the licensing  
3        and operation of pari-mutuel racetracks.

4                    ARTICLE 54. REGULATION OF BINGO

5            SECTION 54.01. Subdivision     (5),     Section     2001.002,  
6        Occupations Code, is amended to read as follows:

7            (5) "Bingo equipment" means equipment used, made, or  
8        sold for the purpose of use in bingo. The term:

9                    (A) includes:

10                    (i) a machine or other device from which  
11        balls or other items are withdrawn to determine the letters and  
12        numbers or other symbols to be called;

13                    (ii) an        electronic        or        mechanical  
14        cardminding device;

15                    (iii) a pull-tab dispenser;

16                    (iv) a bingo card; ~~and~~

17                    (v) a bingo ball; and

18                    (vi) any other device commonly used in the  
19        direct operation of a bingo game; and

20                    (B) does not include:

21                    (i) a bingo game set commonly manufactured  
22        and sold as a child's game for a retail price of \$20 or less unless  
23        the set or a part of the set is used in bingo subject to regulation  
24        under this chapter; or

25                    (ii) a commonly available component part of  
26        bingo equipment such as a light bulb or ~~[7] fuse~~ ~~[7 or bingo ball]~~.

27            SECTION 54.02. Subchapter B, Chapter 2001, Occupations

Code, is amended by adding Section 2001.059 to read as follows:

Sec. 2001.059. ADVISORY OPINIONS. (a) A person may request from the commission an advisory opinion regarding compliance with this chapter and the rules of the commission.

(b) The commission shall respond to a request under Subsection (a) not later than the 60th day after the date a request is received, unless the commission determines that the request does not contain sufficient facts to provide an answer on which the requestor may rely. In that event, the commission shall request additional information from the requestor not later than the 10th day after the date the request is received. If the commission requests additional information, the commission shall respond to the request not later than the 60th day after the date additional information is received pursuant to the request for additional information.

(c) A person who requests an advisory opinion under Subsection (a) may act in reliance on the opinion in the conduct of any activity under any license issued under this chapter if the conduct is substantially consistent with the opinion and the facts stated in the request.

(d) An advisory opinion issued under this section is not a rule under Subchapter B, Chapter 2001, Government Code, and the rulemaking requirements of that subchapter do not apply to a request for an advisory opinion or any advisory opinion issued by the commission.

(e) Nothing in this section precludes the commission from requesting an attorney general opinion under Section 402.042,

1 Government Code. In the event the commission requests an attorney  
2 general opinion on a matter that is the subject of an advisory  
3 opinion request under this section, the deadlines established under  
4 Subsection (b) are tolled until 30 days following the issuance of  
5 the attorney general opinion.

6 (f) The commission may delegate all or part of the authority  
7 and procedures for issuing advisory opinions under this section to  
8 an employee of the commission.

9 SECTION 54.03. Section 2001.103, Occupations Code, is  
10 amended by adding Subsections (e) through (h) to read as follows:

11 (e) Notwithstanding Subsection (c), an authorized  
12 organization that holds a regular license to conduct bingo may  
13 receive not more than 12 temporary licenses during the 12-month  
14 period following the issuance or renewal of the license.

15 (f) An authorized organization that holds a regular license  
16 to conduct bingo may apply for all or any portion of the total  
17 number of temporary licenses to which the organization is entitled  
18 under Subsection (e) in one application without stating the days or  
19 times for which the organization will use the temporary licenses.

20 (g) An organization that has been issued a temporary license  
21 under Subsection (f) shall notify the commission of the specific  
22 date and time of the bingo occasion for which the temporary license  
23 will be used before using the license. If the commission receives  
24 the notification by noon of the day before the day the temporary  
25 license will be used, the commission shall verify receipt of the  
26 notice before the end of the business day on which the notice is  
27 received. If the commission does not receive the notification by

1 noon of the day before the day the temporary license will be used,  
2 the commission shall verify receipt of the notice before noon of the  
3 business day that follows the day the commission received the  
4 notice.

5 (h) A verification under Subsection (g) may be delivered by  
6 facsimile, e-mail, or any other means reasonably contemplated to  
7 arrive before the time the temporary license will be used.

8 SECTION 54.04. Section 2001.104, Occupations Code, is  
9 amended by adding Subsection (d) to read as follows:

10 (d) An applicant shall pay the fees established under  
11 Subsection (a) annually. An applicant for a license or renewal of a  
12 license may obtain a license that is effective for two years by  
13 paying an amount equal to two times the amount of the annual license  
14 fee plus \$25.

15 SECTION 54.05. Section 2001.105, Occupations Code, is  
16 amended by adding Subsection (c) to read as follows:

17 (c) Except as provided by Section 2001.104(d), a license  
18 issued under this subchapter is effective for one year.

19 SECTION 54.06. Subchapter C, Chapter 2001, Occupations  
20 Code, is amended by adding Section 2001.108 to read as follows:

21 Sec. 2001.108. LICENSE AMENDMENT FOR CHANGE OF BINGO  
22 PREMISES OR OCCASIONS. (a) A licensed authorized organization and  
23 the licensed commercial lessor at which the organization conducts  
24 or will conduct bingo may file a joint application with the  
25 commission to change the premises at which the organization may  
26 conduct bingo or the times of the organization's bingo occasions to  
27 allow the organization to conduct bingo at the same time and

1 premises that another licensed authorized organization is licensed  
2 to conduct bingo, if the other organization has ceased, or will  
3 cease, conducting bingo at that time and premises. The application  
4 must state whether the other organization has ceased or will cease  
5 conducting bingo at that time and premises because:

6 (1) the organization has abandoned or will abandon its  
7 licensed time or premises; or

8 (2) the organization's lease has been or will be  
9 terminated.

10 (b) If the other organization ceased or will cease  
11 conducting bingo for the reason stated in Subsection (a)(1), the  
12 commission must act on the joint application filed under Subsection  
13 (a) not later than the 10th day after the date the application is  
14 filed with the commission.

15 (c) If the other organization ceased or will cease  
16 conducting bingo for the reason stated in Subsection (a)(2), the  
17 commission must act on the joint application filed under Subsection  
18 (a) not later than the 10th day after the date the application is  
19 filed with the commission or the date on which the termination takes  
20 effect, whichever is later.

21 (d) If the commission fails to act within the time provided  
22 by Subsection (b) or (c), the licensed authorized organization may  
23 act as if the change in premises or bingo occasions has been  
24 approved by the commission and may conduct bingo at the new premises  
25 or during the new bingo occasion until the commission acts on the  
26 application.

27 (e) Notwithstanding Subsection (d), the commission may

1 issue temporary licenses to one or more licensed authorized  
2 organizations that conduct bingo at the same location as an  
3 organization that has ceased or will cease to conduct bingo, which  
4 are in addition to the number of temporary licenses each  
5 organization is entitled to under another provision of this  
6 chapter. The commission is not required to act on a joint  
7 application under Subsection (a) within the time provided by this  
8 section if the number of additional temporary licenses is  
9 sufficient to allow the other organizations at the location to  
10 conduct bingo during the licensed times of the organization that  
11 has ceased or will cease to conduct bingo.

12 SECTION 54.07. Section 2001.152, Occupations Code, is  
13 amended by adding Subsection (c) to read as follows:

14 (c) Notwithstanding Subsection (a), the commission may  
15 issue a commercial lessor license under Subsection (a)(2) or (3)  
16 only if there is not a licensed commercial lessor whose premises is  
17 located in the county in which an applicant for a license under  
18 Subsection (a)(2) or (3) proposes to locate a bingo premises. This  
19 subsection does not prohibit the renewal of an existing license.  
20 This subsection expires September 1, 2005.

21 SECTION 54.08. Section 2001.158, Occupations Code, is  
22 amended by adding Subsection (d) to read as follows:

23 (d) An applicant for a commercial lessor license shall pay  
24 the fees established under Subsection (a) annually. An applicant  
25 for a license or renewal of a license may obtain a license that is  
26 effective for two years by paying an amount equal to two times the  
27 amount of the annual license fee plus \$25.



1           SECTION 54.09. Subsection (c), Section 2001.159,  
2 Occupations Code, is amended to read as follows:

3           (c) Except as provided by Section 2001.158(d), the ~~[The]~~  
4 period may not exceed one year.

5           SECTION 54.10. Section 2001.214, Occupations Code, is  
6 amended to read as follows:

7           Sec. 2001.214. LICENSE TERM. (a) Except as provided by  
8 Subsection (b), a ~~[A]~~ manufacturer's or distributor's license is  
9 effective for one year unless revoked or suspended by the  
10 commission.

11           **(b) A manufacturer or distributor may obtain a license that**  
12 **is effective for two years by paying an amount equal to two times**  
13 **the amount of the annual license fee plus \$1,000.**

14           SECTION 54.11. Subsection (a), Section 2001.218,  
15 Occupations Code, is amended to read as follows:

16           (a) Each sale or lease of bingo supplies or equipment to a  
17 license holder under this chapter must be on terms of immediate  
18 payment or on terms requiring payment not later than the 30th day  
19 after the date of actual delivery.

20           SECTION 54.12. Section 2001.307, Occupations Code, is  
21 amended to read as follows:

22           Sec. 2001.307. MAXIMUM LICENSE TERM. Except as otherwise  
23 provided by this chapter, a ~~[A]~~ license issued under this chapter  
24 may not be effective for more than one year.

25           SECTION 54.13. Subchapter G, Chapter 2001, Occupations  
26 Code, is amended by adding Sections 2001.313 and 2001.314 to read as  
27 follows:

1       Sec. 2001.313. REGISTRY OF APPROVED BINGO WORKERS. (a) To  
2 minimize duplicate criminal history background checks by the  
3 commission and the costs incurred by organizations and individuals,  
4 the commission shall maintain a registry of persons on whom the  
5 commission has conducted a criminal history background check and  
6 who are approved to be involved in the conduct of bingo or to act as  
7 a bingo operator.

8       (b) A person listed in the registry may be involved in the  
9 conduct of bingo or act as an operator at any location at which  
10 bingo is lawfully conducted.

11       (c) The commission shall make the registry information  
12 available to the public by publishing it on the commission's  
13 website and by responding to telephone, e-mail, and facsimile  
14 requests. This subsection does not require the commission to  
15 disclose information that is confidential by law.

16       (d) A person who is not listed on the registry established  
17 by this section may not act as an operator, manager, cashier, usher,  
18 caller, or sales person for a licensed authorized organization.

19       (e) The commission may refuse to add a person's name to, or  
20 remove a person's name from, the registry established by this  
21 section if, after notice and a hearing, the person is finally  
22 determined to have:

23               (1) been convicted of an offense listed under Section  
24 2001.105(b);

25               (2) converted bingo equipment in a premises to an  
26 improper use;

27               (3) converted funds that are in, or that should have

1 been in, the bingo account of any licensed authorized organization;

2 (4) taken any action, individually or in concert with  
3 another person, that affects the integrity of any bingo game to  
4 which this chapter applies; or

5 (5) acted as an operator, manager, cashier, usher,  
6 caller, or sales person for a licensed authorized organization  
7 without being listed on the registry established under this  
8 section.

9 (f) A licensed authorized organization shall report to the  
10 commission or its designee the discovery of any conduct on the part  
11 of a person registered or required to be registered under this  
12 section where there is substantial basis for believing that the  
13 conduct would constitute grounds for removal of the person's name  
14 from, or refusal to add the person's name to, the registry  
15 established by this section. A statement made in good faith to the  
16 commission or to an adjudicative body in connection with any such  
17 report may not be the basis for an action for defamation of  
18 character.

19 (g) A person who has been finally determined to have taken  
20 action prohibited by Subsection (e)(2), (3), (4), or (5) cannot be  
21 listed on the registry of approved bingo workers and cannot work as  
22 a bingo worker for one year from the date of such determination.  
23 Upon expiration of the one year period, the person is eligible for  
24 listing on the registry provided a licensee subject to this chapter  
25 makes application to list the person. In such event, the commission  
26 shall take into consideration the facts and circumstances that  
27 occurred that lead to the applicable action under Subsection

1 (e)(2)-(5) in deciding whether to list the person on the registry.

2 Sec. 2001.314. IDENTIFICATION CARD FOR APPROVED BINGO  
3 WORKER. (a) The commission may require a person listed in the  
4 registry maintained under Section 2001.313 to wear an  
5 identification card to identify the person to license holders,  
6 bingo players, and commission staff while the person is on duty  
7 during the conduct of bingo. The commission by rule shall prescribe  
8 the form and content of the card.

9 (b) The commission shall provide the identification card  
10 and shall provide a form to be completed by a person that allows the  
11 person to prepare the identification card. The commission shall  
12 collect a reasonable charge to cover the cost of providing the card  
13 or form.

14 (c) An identification card required by the commission under  
15 this section to be worn by a person while on duty during the conduct  
16 of bingo must be in substantial compliance with the form and content  
17 requirements prescribed by the commission under this section.

18 (d) The commission may not require any other person licensed  
19 under this chapter, or a person acting on the license holder's  
20 behalf, to wear an identification card, whether or not the person is  
21 present or performing the person's duties during the conduct of  
22 bingo.

23 SECTION 54.14. Section 2001.411, Occupations Code, is  
24 amended by adding Subsection (e) to read as follows:

25 (e) The commission may not prohibit an operator responsible  
26 for conducting, promoting, or administering bingo from acting as a  
27 bingo caller for a licensed authorized organization during a bingo

1 occasion. This subsection does not relieve the operator of the duty  
2 to be available to a commission employee or bingo player if required  
3 by this chapter.

4 SECTION 54.15. Subchapter I, Chapter 2001, Occupations  
5 Code, is amended by adding Section 2001.4115 to read as follows:

6 Sec. 2001.4115. JOINT EMPLOYMENT OF BINGO EMPLOYEES. Two  
7 or more licensed authorized organizations conducting bingo at the  
8 same premises may jointly hire bingo employees. One organization  
9 may act as the employee's employer and the other organization may  
10 reimburse the employing organization for the other organization's  
11 share of the employee's compensation and other employment-related  
12 costs. A reimbursement under this section is an authorized expense  
13 and must be made from the bingo account of the reimbursing  
14 organization.

15 SECTION 54.16. Section 2001.413, Occupations Code, is  
16 amended to read as follows:

17 Sec. 2001.413. ADMISSION CHARGE REQUIRED. Except as  
18 provided by Section 2001.4155, a [A] licensed authorized  
19 organization may not offer or provide to a person the opportunity to  
20 play bingo without charge.

21 SECTION 54.17. Section 2001.415, Occupations Code, is  
22 amended to read as follows:

23 Sec. 2001.415. ADVERTISEMENTS. (a) A person other than a  
24 licensed authorized organization, licensed commercial lessor, or  
25 the commission may not advertise bingo.

26 (b) A licensed authorized organization, licensed commercial  
27 lessor, or the commission may include in an advertisement or

1 promotion the amount of a prize or series of prizes offered at a  
2 bingo occasion.

3 SECTION 54.18. Subchapter I, Chapter 2001, Occupations  
4 Code, is amended by adding Section 2001.4155 to read as follows:

5 Sec. 2001.4155. GIFT CERTIFICATES. (a) Nothing in this  
6 chapter prohibits a licensed authorized organization from selling  
7 or redeeming a gift certificate that entitles the bearer of the  
8 certificate to play a bingo game, including instant bingo.

9 (b) A licensed authorized organization that sells or  
10 redeems a gift certificate must keep adequate records relating to  
11 the gift certificate as provided by commission rule.

12 SECTION 54.19. Chapter 2001, Occupations Code, is amended  
13 by adding Subchapter I-1 to read as follows:

14 SUBCHAPTER I-1. UNIT ACCOUNTING

15 Sec. 2001.431. DEFINITIONS. In this subchapter:

16 (1) "Unit" means two or more licensed authorized  
17 organizations that conduct bingo at the same location joining  
18 together to share revenues, authorized expenses, and inventory  
19 related to bingo operations.

20 (2) "Unit accounting" means a method by which licensed  
21 authorized organizations that are members of a unit account for the  
22 sharing of revenues, authorized expenses, and inventory related to  
23 bingo operations.

24 (3) "Unit accounting agreement" means a written  
25 agreement by all the licensed authorized organizations that are  
26 members of a unit that contains, at a minimum:

27 (A) the taxpayer name and number of each licensed

1 authorized organization that is a member of the unit;

2 (B) the method by which the net proceeds of the  
3 bingo operations of the unit will be apportioned among the members  
4 of the unit;

5 (C) the name of the unit manager or designated  
6 agent of the unit; and

7 (D) the methods by which the unit may be  
8 dissolved and by which one or more members of the unit may withdraw  
9 from participation in the unit, including the distribution of  
10 funds, records, and inventory and the allocation of authorized  
11 expenses and liabilities on dissolution or withdrawal of one or  
12 more members of the unit.

13 (4) "Unit manager" means an individual licensed under  
14 this subchapter to be responsible for the revenues, authorized  
15 expenses, and inventory of a unit.

16 Sec. 2001.432. FORMING ACCOUNTING UNIT. (a) Two or more  
17 licensed authorized organizations may form and operate a unit as  
18 provided by this subchapter by:

19 (1) executing a unit accounting agreement; and

20 (2) stating in the unit accounting agreement whether  
21 the unit will use:

22 (A) a unit manager; or

23 (B) a designated agent.

24 (b) More than one unit may be formed at a single location. A  
25 licensed authorized organization may not be a member of more than  
26 one unit.

27 (c) This subchapter does not require a licensed authorized

1 organization to join a unit. Except as provided by Subsection (d),  
2 whether to join or withdraw from a unit is at the discretion of each  
3 licensed authorized organization.

4 (d) The members of a unit may determine whether to allow  
5 another licensed authorized organization to join the unit. The  
6 terms of the withdrawal of a member from the unit are governed by  
7 the unit accounting agreement.

8 Sec. 2001.433. APPLICABILITY OF CHAPTER. A licensed  
9 authorized organization that uses unit accounting is subject to the  
10 other provisions of this chapter to the extent the provisions are  
11 applicable and are not inconsistent with this subchapter.

12 Sec. 2001.434. CONDUCT OF BINGO. (a) Each licensed  
13 authorized organization that is a member of a unit shall conduct its  
14 bingo games separately from the bingo games of the other members of  
15 the unit.

16 (b) A unit may purchase or lease bingo supplies and  
17 equipment in the same manner as a licensed authorized organization.

18 (c) A licensed distributor may sell or lease bingo supplies  
19 or equipment to a unit in the same manner as the distributor sells  
20 or leases bingo supplies and equipment to a licensed authorized  
21 organization.

22 Sec. 2001.435. UNIT ACCOUNTING. (a) A unit:

23 (1) shall establish and maintain one checking account  
24 designated as the unit's bingo account;

25 (2) shall maintain one inventory of bingo supplies and  
26 equipment for use in the bingo operations of members of the unit; and

27 (3) may maintain an interest-bearing savings account



1 designated as the unit's bingo savings account.

2 (b) Each member of a unit shall deposit into the unit's  
3 bingo account all funds derived from the conduct of bingo, less the  
4 amount awarded as cash prizes under Sections 2001.420(a) and (b).  
5 The deposit shall be made not later than the next business day after  
6 the day of the bingo occasion on which the receipts were obtained.

7 (c) All authorized expenses and distributions of the unit  
8 and its members shall be paid from the unit's bingo checking  
9 account.

10 Sec. 2001.436. DISBURSEMENT OF FUNDS BY DISSOLVED UNIT.

11 (a) Sections 2001.457(a) and (b) apply to a unit formed under this  
12 subchapter. For purposes of this subchapter, the requirements of  
13 Sections 2001.457(a) and (b) that are applicable to a licensed  
14 authorized organization shall be applied to a unit.

15 (b) A unit that has dissolved for any reason and has  
16 unexpended bingo funds shall disburse those funds to the bingo  
17 account of each member of the unit before the end of the next  
18 calendar quarter after the calendar quarter in which the unit  
19 dissolves.

20 (c) For purposes of the application of Sections 2001.457(a)  
21 and (b) to a unit under this section:

22 (1) "adjusted gross receipts" means gross receipts  
23 less the amount of cost of goods purchased by a unit and prizes paid  
24 in the preceding quarter; and

25 (2) "cost of goods purchased by a unit" means the cost  
26 of bingo paper and pull-tab bingo tickets purchased by the unit and  
27 payments to distributors for electronic card-minding devices.

1       Sec. 2001.437. UNIT MANAGER; LICENSE. (a) If the unit  
2 accounting agreement of a unit states that a unit manager is  
3 responsible for compliance with commission rules and this chapter,  
4 the unit manager is responsible for:

5           (1) the filing of one quarterly report for the unit on  
6 a form prescribed by the commission; and

7           (2) the payment of taxes and fees and the maintenance  
8 of the bingo inventory and financial records of the unit.

9       (b) A unit with a unit manager shall notify the commission  
10 of the name of the unit manager and immediately notify the  
11 commission of any change of unit manager.

12       (c) A person may not provide services as a unit manager to  
13 licensed authorized organizations that form a unit unless the  
14 person holds a unit manager license under this subchapter. A person  
15 designated as an agent under Section 2001.438(b) is not a unit  
16 manager on account of that designation for purposes of this  
17 section.

18       (d) An applicant for a unit manager license must file with  
19 the commission a written application on a form prescribed by the  
20 commission that includes:

21           (1) the name and address of the applicant;

22           (2) information regarding whether the applicant, or  
23 any officer, director, or employee of the applicant, has been  
24 convicted of a felony, criminal fraud, gambling or gambling-related  
25 offense, or crime of moral turpitude; and

26           (3) any other information required by commission rule.

27       (e) The commission by rule shall establish an annual license

1 fee for a unit manager license in an amount reasonable to defray  
2 administrative costs plus any costs incurred to conduct a criminal  
3 background check.

4 (f) A person who holds a unit manager license shall post a  
5 bond or other security pursuant to Section 2001.514.

6 (g) A person is not eligible for a unit manager license  
7 under this subchapter if the person, or any officer, director, or  
8 employee of the person:

9 (1) has been convicted of a felony, criminal fraud, a  
10 gambling or gambling-related offense, or crime of moral turpitude,  
11 if less than 10 years has elapsed since the termination of a  
12 sentence, parole, or community supervision served for the offense;

13 (2) is an owner, officer, or director of a licensed  
14 commercial lessor, is employed by a licensed commercial lessor, or  
15 is related to a licensed commercial lessor within the second degree  
16 by consanguinity or affinity, unless the holder of the license is a  
17 licensed authorized organization or an association of licensed  
18 authorized organizations; or

19 (3) holds or is listed on another license under this  
20 chapter, unless the holder of the license is a licensed authorized  
21 organization or an association of licensed authorized  
22 organizations.

23 (h) A unit manager must complete the training required by  
24 Section 2001.107.

25 Sec. 2001.438. AGREEMENT WITHOUT UNIT MANAGER. (a) This  
26 section applies to a unit if the unit accounting agreement for the  
27 unit:

1           (1) does not state that a unit manager will be  
2 responsible for compliance with the rules of the commission and  
3 this chapter; or

4           (2) states that the unit will use a designated agent.

5           (b) The unit shall designate with the commission an agent  
6 who will be responsible for providing the commission access to all  
7 inventory and financial records of the unit on request of the  
8 commission.

9           (c) The agent designated under Subsection (b) may not:

10           (1) hold or be listed on another license issued under  
11 this chapter, unless the holder of the license is a licensed  
12 authorized organization or an association of licensed authorized  
13 organizations; or

14           (2) be an owner, officer, or director of a licensed  
15 commercial lessor, be employed by a licensed commercial lessor, or  
16 be related to a licensed commercial lessor within the second degree  
17 by consanguinity or affinity, unless the holder of the license is a  
18 licensed authorized organization or an association of licensed  
19 authorized organizations.

20           (d) The unit shall immediately notify the commission of any  
21 change in the agent designated under Subsection (b).

22           (e) The designated agent must complete the training  
23 required by Section 2001.107.

24           (f) Each licensed authorized organization that is a member  
25 of the unit shall be jointly and severally liable for:

26           (1) compliance with the requirements of this  
27 subchapter and the rules of the commission relating to the filing of

1 required reports;

2 (2) the maintenance of bingo inventory and financial  
3 records; and

4 (3) the payment of taxes, fees, and any penalties  
5 imposed for a violation of this subchapter or commission rules  
6 related to the operations of the unit.

7 (g) Each licensed authorized organization that is a member  
8 of the unit may be made a party to any administrative or judicial  
9 action relating to the enforcement of this subchapter or the rules  
10 of the commission pertaining to the operation of the unit.

11 Sec. 2001.439. TRUST AGREEMENT. (a) Notwithstanding any  
12 other provision of this subchapter, a unit may be formed pursuant to  
13 a trust agreement between two or more licensed authorized  
14 organizations that conduct bingo at the same location. The  
15 agreement must:

16 (1) designate one of the organizations as the trustee;

17 (2) designate a person who will carry out the duties  
18 described by Section 2001.438(b);

19 (3) specify the method by which the unit will comply  
20 with the requirements of Section 2001.436(a); and

21 (4) state that the trustee is responsible for  
22 compliance with the rules of the commission and this chapter.

23 (b) The commission by rule may prohibit a person from  
24 serving as a unit manager or as a designated agent for a unit that  
25 does not use a unit manager if the person has failed to comply with  
26 the duties required of the person as a unit manager or designated  
27 agent.

1        (c) The commission may prohibit a person who serves as a  
2 designated agent that is listed on a license under this chapter,  
3 including having been approved by the commission to work in the  
4 bingo operations of a licensed authorized organization or as an  
5 operator, from holding or being listed on any license or from being  
6 approved to work in the bingo operations of any licensed authorized  
7 organization or to serve as an operator if the person has failed to  
8 comply with the duties required of the person as a unit manager or  
9 designated agent.

10        SECTION 54.20. Section 2001.451, Occupations Code, is  
11 amended by amending Subsection (b) and adding Subsection (b-1) to  
12 read as follows:

13        (b) A licensed authorized organization shall deposit in the  
14 bingo account all funds derived from the conduct of bingo, less the  
15 amount awarded as cash prizes under Sections 2001.420(a) and (b).  
16 Except as provided by Subsection (b-1), a [A] deposit must be made  
17 not later than the next business day after the day of the bingo  
18 occasion on which the receipts were obtained.

19        (b-1) A licensed authorized organization may deposit funds  
20 derived from the conduct of bingo that are paid through a debit card  
21 transaction in the bingo account not later than 72 hours after the  
22 transaction.

23        SECTION 54.21. Section 2001.454, Occupations Code, is  
24 amended to read as follows:

25        Sec. 2001.454. USE OF NET PROCEEDS FOR CHARITABLE PURPOSES.

26        (a) A licensed authorized organization shall devote to the [a]  
27 charitable purposes of the organization [purpose] its net proceeds

of bingo and any rental of premises.

(b) Except as otherwise provided by law, the [The] net proceeds derived from bingo and any rental of premises are dedicated to the [a] charitable purposes of the organization [purpose] only if directed to a cause, deed, or activity that is consistent with the federal tax exemption the organization obtained under 26 U.S.C. Section 501 and under which the organization qualifies as a nonprofit organization as defined by Section 2001.002[÷

~~[(1) benefits an indefinite number of needy or deserving persons in this state by:~~

~~[(A) enhancing their opportunity for religious or educational advancement;~~

~~[(B) relieving them from disease, suffering, or distress;~~

~~[(C) contributing to their physical well-being;~~

~~[(D) assisting them in establishing themselves in life as worthy and useful citizens; or~~

~~[(E) increasing their comprehension of and devotion to the principles on which this nation was founded and enhancing their loyalty to their government; or~~

~~[(2) initiates, performs, or fosters worthy public works in this state or enables or furthers the erection or maintenance of public structures in this state].~~ If the

organization is not required to obtain a federal tax exemption under 26 U.S.C. Section 501, the organization's net proceeds are dedicated to the charitable purposes of the organization only if

1 directed to a cause, deed, or activity that is consistent with the  
2 purposes and objectives for which the organization qualifies as an  
3 authorized organization under Section 2001.002.

4 SECTION 54.22. Subsection (a), Section 2001.458,  
5 Occupations Code, is amended to read as follows:

6 (a) An item of expense may not be incurred or paid in  
7 connection with the conduct of bingo except an expense that is  
8 ~~[those expenses that are]~~ reasonable or necessary to conduct bingo,  
9 including an expense ~~[and necessarily expended]~~ for:

10 (1) advertising, including the cost of printing bingo  
11 gift certificates;

12 (2) security;

13 (3) repairs to premises and equipment;

14 (4) bingo supplies and equipment;

15 (5) prizes;

16 (6) stated rental or mortgage and insurance expenses;

17 (7) bookkeeping, legal, or accounting services  
18 related to bingo;

19 (8) fees ~~[in amounts authorized by the commission]~~ for  
20 callers, cashiers, ushers, janitorial services, and utility  
21 supplies and services; ~~and~~

22 (9) license fees;

23 (10) attending a bingo seminar or convention required  
24 under Section 2001.107; and

25 (11) debit card transaction fees.

26 SECTION 54.23. Subsection (a), Section 2001.459,  
27 Occupations Code, is amended to read as follows:



1 (a) The following items of expense incurred or paid in  
2 connection with the conduct of bingo must be paid from an  
3 organization's bingo account:

4 (1) advertising, including the cost of printing bingo  
5 gift certificates;

6 (2) security during a bingo occasion;

7 (3) the purchase or repair of bingo supplies and  
8 equipment;

9 (4) prizes, other than authorized cash prizes;

10 (5) stated rental expenses;

11 (6) bookkeeping, legal, or accounting services;

12 (7) fees for callers, cashiers, and ushers;

13 (8) janitorial services;

14 (9) license fees; and

15 (10) payment for services provided by a system service  
16 provider.

17 SECTION 54.24. Subsection (a), Section 2001.504,  
18 Occupations Code, is amended to read as follows:

19 (a) A tax or fee authorized or imposed under this subchapter  
20 is due and is payable by the license holder or a person conducting  
21 bingo without a license to the commission quarterly on or before the  
22 25th ~~[15th]~~ day of the month succeeding each calendar quarter.

23 SECTION 54.25. Subsection (b), Section 2001.602,  
24 Occupations Code, is amended to read as follows:

25 (b) In determining the amount of the penalty, the  
26 ~~[executive]~~ director shall consider:

27 (1) the seriousness of the violation, including the

1 nature, circumstances, extent, and gravity of the prohibited acts;

2 (2) the history of previous violations;

3 (3) the amount necessary to deter future violations;

4 (4) efforts to correct the violation; and

5 (5) any other matter that justice may require.

6 SECTION 54.26. Subsections (a) and (b), Section 2001.603,  
7 Occupations Code, are amended to read as follows:

8 (a) If, after investigating a possible violation and the  
9 facts surrounding that possible violation, the ~~[executive]~~  
10 director determines that a violation has occurred, the ~~[executive]~~  
11 director may issue a violation report stating the facts on which the  
12 conclusion that a violation occurred is based, recommending that an  
13 administrative penalty be imposed on the person alleged to have  
14 committed the violation, and recommending the amount of the  
15 proposed penalty. The ~~[executive]~~ director shall base the  
16 recommended amount of the proposed penalty on the seriousness of  
17 the violation determined by consideration of the factors set out in  
18 Section 2001.602(b).

19 (b) Not later than the 14th day after the date on which the  
20 report is issued, the ~~[executive]~~ director shall give written  
21 notice of the report to the person alleged to have committed the  
22 violation.

23 SECTION 54.27. Section 2001.604, Occupations Code, is  
24 amended to read as follows:

25 Sec. 2001.604. PENALTY TO BE PAID OR HEARING REQUESTED.

26 (a) Not later than the 20th day after the date the person receives  
27 the notice, the person may:

1           (1) accept the recommendation of the [~~executive~~]  
2 director, including the recommended administrative penalty; or

3           (2) make a written request for a hearing on the  
4 determination.

5           (b) If the person accepts the [~~executive~~] director's  
6 determination, the [~~executive~~] director by order shall approve the  
7 determination and impose the proposed penalty.

8           SECTION 54.28. Subsection (a), Section 2001.605,  
9 Occupations Code, is amended to read as follows:

10          (a) If the person timely requests a hearing or does not  
11 respond to the notice in the time provided by Section 2001.604(a),  
12 the [~~executive~~] director shall set a hearing and give notice of the  
13 hearing to the person.

14          SECTION 54.29. Section 2001.606, Occupations Code, is  
15 amended to read as follows:

16          Sec. 2001.606. DECISION BY [~~EXECUTIVE~~] DIRECTOR. (a) Based  
17 on the findings of fact and conclusions of law and the  
18 recommendations of the hearings examiner, the [~~executive~~] director  
19 by order:

20               (1) may find that a violation has occurred and may  
21 impose an administrative penalty; or

22               (2) may find that a violation has not occurred.

23          (b) The [~~executive~~] director shall give notice of the order  
24 to the person. The notice must include:

25               (1) separate statements of the findings of fact and  
26 conclusions of law;

27               (2) the amount of any penalty imposed;

1           (3) a statement of the right of the person to judicial  
2 review of the order; and

3           (4) other information required by law.

4           SECTION 54.30. Subsections (b) and (c), Section 2001.607,  
5 Occupations Code, are amended to read as follows:

6           (b) Within the 30-day period, a person who acts under  
7 Subsection (a)(3) may:

8               (1) stay enforcement of the penalty by:

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

11                   (B) giving to the court a supersedeas bond  
12 approved by the court for the amount of the penalty that is  
13 effective until all judicial review of the order is final; or

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

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

19                   (B) giving a copy of the affidavit to the  
20 ~~[executive]~~ director by certified mail.

21           (c) On receipt of a copy of the affidavit as provided by  
22 Subsection (b)(2), the ~~[executive]~~ director may file with the  
23 court, not later than the fifth day after the date the copy is  
24 received, a contest to the affidavit. The court shall hold a  
25 hearing on the facts alleged in the affidavit as soon as practicable  
26 and shall stay the enforcement of the penalty on finding that the  
27 alleged facts are true. The person who files an affidavit has the

1 burden of proving that the person is financially unable to pay the  
2 penalty and to give a supersedeas bond.

3 SECTION 54.31. Section 2001.608, Occupations Code, is  
4 amended to read as follows:

5 Sec. 2001.608. COLLECTION OF PENALTY. If the person does  
6 not pay the administrative penalty and the enforcement of the  
7 penalty is not stayed, the [~~executive~~] director may refer the  
8 matter to the attorney general for collection of the penalty.

9 SECTION 54.32. Subchapter H, Chapter 151, Tax Code, is  
10 amended by adding Section 151.3105 to read as follows:

11 Sec. 151.3105. BINGO EQUIPMENT PURCHASED BY CERTAIN  
12 ORGANIZATIONS. Bingo equipment, as defined by Section 2001.002,  
13 Occupations Code, is exempted from the taxes imposed by this  
14 chapter if the bingo equipment is:

15 (1) purchased by an organization licensed to conduct  
16 bingo under Chapter 2001, Occupations Code, that is exempt from the  
17 payment of federal income taxes under Section 501(a), Internal  
18 Revenue Code of 1986, as amended, by being listed as an exempt  
19 organization under Section 501(c)(3), (4), (8), (10), or (19),  
20 Internal Revenue Code of 1986, as amended; and

21 (2) used exclusively to conduct bingo authorized under  
22 Chapter 2001, Occupations Code.

23 SECTION 54.33. Subsection (b), Section 2001.409,  
24 Occupations Code, is repealed.

25 SECTION 54.34. (a) The changes in law made by this article  
26 governing eligibility of a person for a license apply only to the  
27 issuance or renewal of a license by the Texas Lottery Commission

1 under Chapter 2001, Occupations Code, as amended by this article,  
2 on or after the effective date of this article. A license issued by  
3 the commission under those laws before the effective date of this  
4 article is governed by the applicable licensing requirements in  
5 effect when the license was last issued or renewed until the license  
6 expires or is renewed as provided by Chapter 2001, Occupations  
7 Code, as amended by this article.

8 (b) The change in law made by this article to Section  
9 2001.454, Occupations Code, applies to the charitable  
10 disbursements made by a licensed authorized organization beginning  
11 with disbursements for the second quarter of 2004. A charitable  
12 disbursement made by a licensed authorized organization for a  
13 quarter before the second quarter of 2004 is governed by the law in  
14 effect immediately before the effective date of this article, and  
15 the former law is continued in effect for that purpose.

16 (c) An authorized organization licensed to conduct bingo  
17 before the effective date of this article may renew its license,  
18 notwithstanding that the organization has not been in existence for  
19 the time required under a rule of the Texas Lottery Commission  
20 adopted under Section 2001.101, Occupations Code, if the  
21 organization meets all other requirements for the renewal of the  
22 license.

ARTICLE 55. ORGANIZATION OF CERTAIN STATE AGENCIES; TRANSFER OF  
CERTAIN FUNCTIONS

PART 1. CREATION OF LEGISLATIVE INFORMATION SERVICES BOARD;  
ABOLITION OF TEXAS LEGISLATIVE COUNCIL AND TRANSFER OF ITS  
FUNCTIONS

SECTION 55.01. Subtitle C, Title 3, Government Code, is  
amended by adding Chapter 327 to read as follows:

CHAPTER 327. LEGISLATIVE INFORMATION SERVICES BOARD

Sec. 327.001. DEFINITIONS. In this chapter:

(1) "Board" means the Legislative Information  
Services Board.

(2) "Director" means the director of the board.

Sec. 327.002. CREATION. The Legislative Information  
Services Board is an agency of the legislative branch of state  
government.

Sec. 327.003. LEGISLATIVE INFORMATION SERVICES BOARD.

(a) The board consists of:

(1) the lieutenant governor;

(2) the speaker of the house of representatives;

(3) the chairs of the senate and house administration  
committees;

(4) five other senators from various areas of the  
state appointed by the lieutenant governor; and

(5) five other members of the house of representatives  
from various areas of the state appointed by the speaker.

(b) The lieutenant governor and the speaker of the house of  
representatives serve alternate terms as the chairman and vice

1 chairman of the board. The terms are for two years and expire on  
2 February 1 of each odd-numbered year.

3 (c) Members of the board serve without compensation but are  
4 entitled to reimbursement for actual and necessary expenses  
5 incurred in attending meetings and performing official functions.

6 (d) Actual and necessary expenses are paid from funds  
7 appropriated to the board.

8 Sec. 327.004. DIRECTOR. (a) The board shall appoint a  
9 director to serve at the pleasure of the board.

10 (b) The board shall set the salary of the director.

11 Sec. 327.005. PERSONNEL. (a) The director, with the  
12 approval of the board, may employ professional and clerical  
13 personnel.

14 (b) The board shall set the salaries of the personnel  
15 employed by the director.

16 Sec. 327.006. GIFTS AND GRANTS. (a) The board may accept  
17 gifts, grants, and donations from any organization described in  
18 Section 501(c)(3), Internal Revenue Code of 1986, for the purposes  
19 of funding any activity under this chapter.

20 (b) All gifts, grants, and donations must be accepted in an  
21 open meeting by a majority of the voting members of the board and  
22 reported in the public record of the board with the name of the  
23 donor and purpose of the gift, grant, or donation.

24 Sec. 327.007. DUTIES. The board shall provide computer  
25 support services to the legislative branch of state government,  
26 including:

27 (1) installing and maintaining computer equipment;



- (2) testing new software and hardware;
- (3) developing custom software;
- (4) maintaining a local area network; and
- (5) providing computer training and assistance.

Sec. 327.008. ELECTRONIC AVAILABILITY OF LEGISLATIVE INFORMATION THROUGH THE INTERNET. (a) In this section:

(1) "Internet" means the largest nonproprietary nonprofit cooperative public computer network, popularly known as the Internet.

(2) "Legislative information" means:

(A) a list of all the members of each house of the legislature;

(B) a list of the committees of the legislature and their members;

(C) the full text of each bill as filed and as subsequently amended, substituted, engrossed, or enrolled in either house of the legislature;

(D) the full text of each amendment or substitute adopted by a legislative committee for each bill filed in either house of the legislature;

(E) the calendar of each house of the legislature, the schedule of legislative committee hearings, and a list of the matters pending on the floor of each house of the legislature;

(F) detailed procedural information about how a bill filed in either house of the legislature becomes law, including detailed timetable information concerning the times

1 under the constitution or the rules of either house when the  
2 legislature may take certain actions on a bill;

3 (G) the district boundaries or other identifying  
4 information for the following types of districts in Texas:

5 (i) house of representatives districts;

6 (ii) senate districts;

7 (iii) State Board of Education districts;

8 and

9 (iv) United States congressional  
10 districts; and

11 (H) other information related to the legislative  
12 process that in the board's opinion should be made available  
13 through the Internet.

14 (b) The board, to the extent it considers it to be feasible  
15 and appropriate, may make legislative information available to the  
16 public through the Internet.

17 (c) The board may make available to the public through the  
18 Internet any documentation that describes the electronic digital  
19 formats of legislative information.

20 (d) The access to legislative information provided for  
21 under this section:

22 (1) is in addition to the public's access to the  
23 information through other electronic or print distribution of the  
24 information;

25 (2) does not alter, diminish, or relinquish any  
26 copyright or other proprietary interest or entitlement of the State  
27 of Texas or a private entity under contract with the state; and

1           (3) is subject to Section 327.009.

2           Sec. 327.009. COMPUTER ACCESS, INFORMATION, AND USE.

3    (a) The board shall consider each application for direct access to  
4    a computer under its control in which confidential information is  
5    stored or processed or that is connected with another computer in  
6    which confidential information is stored or processed and solely  
7    shall determine whether or not to permit direct access by the  
8    applicant. Direct access to such a computer may not be permitted  
9    unless protection of confidential information is ensured.

10          (b) If public information of the board is stored in a  
11    computer-readable form, the board has exclusive authority to  
12    determine the form in which the information will be reproduced for  
13    the requestor of the information.

14          (c) Notwithstanding Subchapter F, Chapter 552, the board  
15    has exclusive authority to determine the charge for direct access  
16    to a computer under its control and the charge for information  
17    reproduced for a requestor.

18          (d) The board may consider the needs of persons with  
19    disabilities when making decisions regarding the formats in which  
20    information is made available under this chapter.

21          Sec. 327.010. COMPUTER SECURITY; PENALTY. (a) A person  
22    commits an offense if the person intentionally or knowingly gains  
23    access to information stored or maintained by a computer under the  
24    control of the board and the person is not authorized by the board  
25    to have access to that information.

26          (b) A person commits an offense if the person intentionally,  
27    knowingly, or recklessly damages, destroys, deletes, or alters or

1 impairs access to or use of information stored or maintained by a  
2 computer under the control of the board and the person is not  
3 authorized by the board to do so.

4 (c) Subsection (b) does not apply to an interruption of  
5 utility service or other service that causes the damage,  
6 destruction, deletion, or alteration of or impairment of access to  
7 or use of the information unless the interruption was intended to  
8 have that result.

9 (d) An offense under this section is a Class A misdemeanor.

10 SECTION 55.02. The following laws are repealed:

- 11 (1) Section 276.008, Election Code;  
12 (2) Chapter 323, Government Code;  
13 (3) Section 2053.004, Government Code; and  
14 (4) Section 6.14, Tax Code.

15 PART 2. TRANSFER OF FINANCIAL AUDIT FUNCTIONS FROM STATE AUDITOR  
16 TO LEGISLATIVE BUDGET BOARD

17 SECTION 55.03. Chapter 322, Government Code, is amended by  
18 adding Section 322.002 to read as follows:

19 Sec. 322.002. DEFINITIONS. In this chapter:

- 20 (1) "Board" means the Legislative Budget Board.  
21 (2) "Department" includes every department, agency,  
22 board, bureau, institution, or commission of the state.

23 SECTION 55.04. Chapter 322, Government Code, is amended by  
24 adding Sections 322.015 through 322.026 to read as follows:

25 Sec. 322.015. FINANCIAL AND COMPLIANCE AUDITS: POWERS AND  
26 DUTIES. (a) The board shall conduct financial audits of all  
27 departments, including institutions of higher education, as

1 specified in the audit plan required under Subsection (c). The  
2 board may conduct an audit or investigation of any entity receiving  
3 funds from the state.

4 (b) The board shall conduct the audits in accordance with  
5 generally accepted auditing standards as prescribed by the American  
6 Institute of Certified Public Accountants, the Governmental  
7 Accounting Standards Board, the United States General Accounting  
8 Office, or other professionally recognized entities that prescribe  
9 auditing standards.

10 (c) The board shall devise an audit plan for the state for  
11 each fiscal year. In the plan, the board shall consider  
12 recommendations concerning coordination of agency functions made  
13 by representatives of the Performance Review Commission. The board  
14 shall also consider the extent to which a department has received a  
15 significant increase in appropriations, including a significant  
16 increase in federal or other money passed through to the  
17 department, and shall review procurement activities for compliance  
18 with Section 2161.123. The plan shall provide for the auditing of  
19 federal programs at least once in each fiscal biennium and shall  
20 ensure that audit requirements of all bond covenants and other  
21 credit or financial agreements are satisfied.

22 (d) At any time during an audit or investigation, the board  
23 may require the assistance of the administrative head, official,  
24 auditor, accountant, or other employees of the entity being audited  
25 or investigated.

26 (e) The board is entitled to access to all of the books,  
27 accounts, confidential or unconfidential reports, vouchers, or

1 other records of information in any department or entity subject to  
2 audit, including access to all electronic data.

3 (f) The board has access to information and data the release  
4 of which is restricted under federal law only with the approval of  
5 the appropriate federal administrative agency. The board shall  
6 have access to copyrighted or restricted information obtained by  
7 the office of the comptroller under subscription agreements and  
8 used in the preparation of economic estimates only for audit  
9 purposes.

10 (g) The board may conduct compliance and financial audits as  
11 defined by Sections 322.016 and 322.017 and specified in the audit  
12 plan.

13 (h) To the extent that the performance of the powers and  
14 duties of the board under law is not impeded, the board shall make  
15 reasonable efforts to coordinate requests for employee assistance  
16 under Subsection (d) or requests for access to books, accounts,  
17 vouchers, records, or data under Subsection (e) or (f) so as not to  
18 hinder the daily operations of the audited entity.

19 (i) The board may not conduct audits of private entities  
20 concerning collection or remittance of taxes or fees to the state if  
21 the entity is subject to audit by another state agency for the taxes  
22 or fees.

23 (j) If the board determines that a change in an accounting  
24 system is necessary, the board shall consider the present system of  
25 books, records, accounts, and reports to ensure that the transition  
26 will be gradual and that the past and present records will be  
27 coordinated into the new system.

1       Sec. 322.016. COMPLIANCE AUDIT. A compliance audit is an  
2 audit to determine:

3           (1) whether the audited entity has obligated,  
4 expended, received, and used state funds in accordance with the  
5 purpose for which those funds have been appropriated or otherwise  
6 authorized by law;

7           (2) whether the audited entity has obligated,  
8 expended, received, and used state funds in accordance with any  
9 limitations, restrictions, conditions, or mandatory directions  
10 imposed by law on those obligations, expenditures, receipts, or  
11 uses;

12           (3) in the case of a local or private entity or agency,  
13 whether the records, books, and accounts of the audited entity  
14 fairly and accurately reflect the entity's financial and fiscal  
15 operations relating to the obligation, receipt, expenditure, and  
16 use of state funds or funds represented as being collected for a  
17 state purpose;

18           (4) whether the collections of state revenues and  
19 receipts by the audited entity are in accordance with applicable  
20 laws and regulations; and

21           (5) whether money or negotiable securities or similar  
22 assets handled by the audited entity on behalf of the state or  
23 received from the state and held in trust by the audited entity have  
24 been properly and legally administered.

25       Sec. 322.017. FINANCIAL AUDIT. A financial audit is an  
26 audit to determine:

27           (1) in the case of the state or a department, whether

1 the records, books, and accounts of the audited entity accurately  
2 reflect its financial and fiscal operations;

3 (2) whether the audited entity is maintaining  
4 effective accounting control over revenues, obligations,  
5 expenditures, assets, and liabilities;

6 (3) whether the accounting and record-keeping of  
7 collections of state revenues and receipts by the audited entity  
8 are fair, accurate, and in accordance with law;

9 (4) whether the accounting and record-keeping of money  
10 or negotiable securities or similar assets handled by the audited  
11 entity on behalf of the state or received from the state and held in  
12 trust by the audited entity are proper, accurate, and in accordance  
13 with law; and

14 (5) whether financial reports of the audited entity  
15 are fairly presented.

16 Sec. 322.018. FINANCIAL AND COMPLIANCE AUDIT REPORTS.

17 (a) The board shall prepare a written report for each financial or  
18 compliance audit conducted by the board.

19 (b) The written report must include a management letter with  
20 comments about internal controls, compliance with state or federal  
21 laws, and recommendations for improving operations or program  
22 effectiveness, as applicable. The report must also include an  
23 opinion on fair presentation of financial statements if the board  
24 considers an opinion to be necessary.

25 (c) The board shall file a copy of each report prepared  
26 under this section with:

27 (1) the governor;



1           (2) the lieutenant governor;

2           (3) the speaker of the house of representatives;

3           (4) the secretary of state;

4           (5) the Legislative Reference Library;

5           (6) each member of the governing body and the  
6 administrative head of each entity that is the subject of the  
7 report; and

8           (7) members of the legislature on a committee with  
9 oversight responsibility for the entity or program that is the  
10 subject of the report.

11         (d) The board shall maintain a complete file containing:

12           (1) copies of each audit report; and

13           (2) audit work papers and other evidence relating to  
14 the work of the board.

15         (e) The board shall maintain the files required by  
16 Subsection (d) for at least eight years after the date on which the  
17 information is filed.

18         (f) Each audited department or entity shall report on the  
19 manner in which the department or entity addressed the findings and  
20 recommendations that are included in a report prepared by the board  
21 under this section. The board shall prescribe the form and schedule  
22 for a report by the department or entity under this subsection.

23         (g) If a department or entity does not implement a change  
24 recommended by the board's report, the department or entity shall  
25 file a report with the persons specified by Subsection (c). The  
26 report must:

27           (1) identify the recommendation the department or

1 entity did not implement; and

2 (2) state the reason the department or entity did not  
3 implement the recommendation.

4 Sec. 322.019. IMPROPER PRACTICES AND ILLEGAL TRANSACTIONS.

5 (a) If in the course of an audit the board finds evidence of  
6 improper practices of financial administration, inadequate fiscal  
7 records, or uneconomical use of resources, the board, after  
8 consulting with the head of the department being audited, shall  
9 immediately report the evidence to the governor and to the  
10 administrative head and the chairman of the governing body of the  
11 affected department.

12 (b) If in the course of an audit the board finds evidence of  
13 an illegal transaction, the board, after consulting with the head  
14 of the department, shall immediately report the transaction to the  
15 governor and the appropriate legal authority.

16 (c) Immediately after receiving a report alleging improper  
17 practices of financial administration or uneconomical use of  
18 resources, the board shall review the report and shall consult with  
19 and may hold hearings with the administrative head and the chairman  
20 of the governing body of the affected department regarding the  
21 report.

22 (d) If the administrative head or the governing body of the  
23 affected department refuses to make the changes recommended by the  
24 board at a hearing under Subsection (c) or refuses to provide any  
25 additional information or reports requested, the board shall report  
26 the refusal to the legislature.

27 Sec. 322.020. REVIEW AND OVERSIGHT OF FUNDS AND ACCOUNTS

1 RECEIVING COURT COSTS. (a) The board may review each fund and  
2 account into which money collected as a court cost is directed by  
3 law to be deposited to determine whether:

4 (1) the money is being used for the purpose for which  
5 the money is collected; and

6 (2) the amount of the court cost is appropriate,  
7 considering the purpose for which the cost is collected.

8 (b) The board may perform reviews under this section as  
9 specified in the audit plan developed under Section 322.015.

10 (c) The board shall make the findings of a review performed  
11 under this section available to the public and shall report the  
12 findings to the governor, the chief justice of the supreme court,  
13 and the presiding judge of the court of criminal appeals. The  
14 report may include the board's recommendations for legislation or  
15 policy changes.

16 Sec. 322.021. SUBPOENAS. (a) The board may subpoena  
17 witnesses or any books, records, or other documents reasonably  
18 necessary to conduct an examination under this chapter.

19 (b) Each subpoena must be signed by the chairman or the  
20 secretary of the board.

21 (c) On the request of the chairman or the secretary of the  
22 board, the sergeant at arms or an assistant sergeant at arms of  
23 either house of the legislature or any peace officer shall serve the  
24 subpoena in the manner prescribed for service of a district court  
25 subpoena.

26 (d) If the person to whom a subpoena is directed fails to  
27 comply, the board may bring suit in district court to enforce the

1 subpoena. If the court determines that good cause exists for the  
2 issuance of the subpoena, the court shall order compliance. The  
3 court may modify the requirements of a subpoena that the court  
4 determines are unreasonable. Failure to comply with the order of  
5 the district court is punishable as contempt.

6 (e) The board may provide for the compensation of subpoenaed  
7 witnesses. The amount of compensation may not exceed the amount  
8 paid to a witness subpoenaed by a district court in a civil  
9 proceeding.

10 Sec. 322.022. INTERFERENCE WITH AUDIT OR INVESTIGATION.

11 (a) An officer or employee of this state or of an entity subject to  
12 audit or investigation by the board commits an offense if the  
13 officer or employee:

14 (1) refuses to immediately permit the board to examine  
15 or have access to the books, accounts, reports, vouchers, papers,  
16 documents, or electronic data to which the board is entitled under  
17 Section 322.015(e) or (f) or other law, or access to the cash drawer  
18 or cash from the officer's or employee's department;

19 (2) interferes with an examination by the board; or

20 (3) refuses to make a report required by this chapter.

21 (b) An offense under this section is a Class A misdemeanor.

22 Sec. 322.023. COORDINATION OF CERTAIN AUDITS.

23 (a) Notwithstanding any other law, a state agency, or a  
24 corporation that is dedicated to the benefit of a state agency and  
25 that meets the criteria specified by Section B, Article 2.23B,  
26 Texas Non-Profit Corporation Act (Article 1396-2.23B, Vernon's  
27 Texas Civil Statutes), may employ a private auditor to audit the

1 state agency or corporation only if:

2 (1) the agency or corporation is authorized to do so by  
3 law or through a delegation of authority from the board;

4 (2) the scope of the proposed audit has been submitted  
5 to the board for review and comment; and

6 (3) the services of the private auditor are procured  
7 through a competitive selection process in a manner allowed by law.

8 (b) At the joint direction of the lieutenant governor and  
9 the speaker of the house of representatives, the board shall  
10 provide contract management services to the agency or corporation  
11 for an audit described by this section.

12 Sec. 322.024. GIFTS AND GRANTS. (a) The board may accept  
13 gifts, grants, and donations from any organization described in  
14 Section 501(c)(3), Internal Revenue Code of 1986, for the purpose  
15 of funding any activity under this chapter.

16 (b) All gifts, grants, and donations must be accepted in an  
17 open meeting by a majority of the voting members of the board and  
18 reported in the public record of the committee with the name of the  
19 donor and purpose of the gift, grant, or donation.

20 Sec. 322.025. COORDINATION OF INVESTIGATIONS. (a) If the  
21 administrative head of a department or entity that is subject to  
22 audit by the board has reasonable cause to believe that money  
23 received from the state by the department or entity or by a client  
24 or contractor of the department or entity may have been lost,  
25 misappropriated, or misused or that other fraudulent or unlawful  
26 conduct has occurred in relation to the operation of the department  
27 or entity, the administrative head shall report the reason and

1 basis for the belief to the board. The board may investigate the  
2 report or may monitor any investigation conducted by the department  
3 or entity.

4 (b) The board, in consultation with state agencies and  
5 institutions, shall prescribe the form, content, and timing of a  
6 report required by this section.

7 (c) All records of a communication by or to the board  
8 relating to a report to the board under Subsection (a) are audit  
9 working papers of the board.

10 (d) In this section, "audit working papers" means all  
11 documentary and other information prepared or maintained in  
12 conducting an audit or investigation, including all intra-agency  
13 and interagency communications relating to an audit or  
14 investigation and all draft reports or portions thereof.

15 Sec. 322.026. SEAL. The board shall obtain a seal with  
16 "Legislative Budget Board, State of Texas" engraved around the  
17 margin and a five-pointed star in the center to be used to  
18 authenticate official documents issued by the board.

19 SECTION 55.05. Chapter 321, Government Code, is repealed.

20 PART 3. CREATION OF PERFORMANCE REVIEW COMMISSION; ABOLITION OF  
21 SUNSET ADVISORY COMMISSION AND TRANSFER OF FUNCTIONS TO PERFORMANCE  
22 REVIEW COMMISSION

23 SECTION 55.06. Section 325.002, Government Code, is amended  
24 to read as follows:

25 Sec. 325.002. DEFINITIONS. In this chapter:

26 (1) ~~["State agency" means an agency expressly made~~  
27 ~~subject to this chapter.~~

1           ~~[(2)]~~ "Advisory committee" means a committee,  
2 council, commission, or other entity created under state law whose  
3 primary function is to advise a state agency.

4           (2) ~~[(3)]~~ "Commission" means the Performance Review  
5 ~~[Sunset Advisory]~~ Commission.

6           (3) "Department" includes every department, agency,  
7 board, bureau, institution, or commission of the state.

8           (4) "State agency" means an agency expressly made  
9 subject to this chapter.

10          SECTION 55.07. Section 325.003, Government Code, is amended  
11 by amending the section heading and Subsections (a), (d), and (i) to  
12 read as follows:

13          Sec. 325.003. PERFORMANCE REVIEW ~~[SUNSET—ADVISORY]~~  
14 COMMISSION.

15          (a) The Performance Review ~~[Sunset Advisory]~~ Commission  
16 consists of the lieutenant governor and three other ~~[four]~~ members  
17 of the senate and one public member appointed by the lieutenant  
18 governor and the speaker of the house of representatives and three  
19 other ~~[four]~~ members of the house of representatives and one public  
20 member appointed by the speaker of the house. ~~[Each appointing~~  
21 ~~authority may designate himself as one of the legislative~~  
22 ~~appointees.]~~

23          (d) Legislative members other than the lieutenant governor  
24 and the speaker of the house of representatives serve four-year  
25 terms, with terms staggered so that the terms of one-half of the  
26 legislative members appointed by the lieutenant governor and the  
27 terms of one-half of the legislative members appointed by the

1 speaker expire September 1 of each odd-numbered year. The [~~if the~~]  
 2 lieutenant governor and [~~or~~] the speaker shall serve [~~serves~~] on  
 3 the commission[~~, he continues to serve~~] until resignation from the  
 4 commission or until the lieutenant governor or speaker [~~he~~] ceases  
 5 to hold the office. Public members serve two-year terms expiring  
 6 September 1 of each odd-numbered year.

7 (i) The speaker of the house of representatives is the  
 8 chairman of the commission [~~shall have a chairman and vice-chairman~~  
 9 ~~as presiding officers. The chairmanship and vice-chairmanship must~~  
 10 ~~alternate every two years between the two membership groups~~  
 11 ~~appointed by the lieutenant governor and the speaker. The chairman~~  
 12 ~~and vice-chairman may not be from the same membership group. The~~  
 13 ~~lieutenant governor shall designate a presiding officer from his~~  
 14 ~~appointed membership group and the speaker shall designate the~~  
 15 ~~other presiding officer from his appointed membership group~~].

16 SECTION 55.08. Subsection (a), Section 325.008, Government  
 17 Code, is amended to read as follows:

18 (a) Before September 1 of the even-numbered year before the  
 19 year in which a state agency subject to this chapter and its  
 20 advisory committees are abolished, the commission shall:

21 (1) review and take action necessary to verify the  
 22 reports submitted by the agency under Section 325.007;

23 (2) consult the Legislative Budget Board, the  
 24 Governor's Budget and Planning Office, [~~the State Auditor,~~] and the  
 25 comptroller of public accounts, or their successors, on the  
 26 application to the agency of the criteria provided in Section  
 27 325.011;



1           (3) conduct a performance evaluation of the agency  
2 based on the criteria provided in Section 325.011 and prepare a  
3 written report; and

4           (4) review the implementation of commission  
5 recommendations contained in the reports presented to the  
6 legislature during the preceding legislative session.

7           SECTION 55.09. Chapter 325, Government Code, is amended by  
8 adding Sections 325.0081 through 325.0086 to read as follows:

9           Sec. 325.0081. OTHER POWERS AND DUTIES. (a) The  
10 commission shall conduct performance audits of all departments,  
11 including institutions of higher education, as specified in the  
12 audit plan developed under Subsection (c).

13           (b) The commission shall conduct the audits in accordance  
14 with generally accepted auditing standards as prescribed by the  
15 American Institute of Certified Public Accountants, the  
16 Governmental Accounting Standards Board, the United States General  
17 Accounting Office, or other professionally recognized entities  
18 that prescribe auditing standards.

19           (c) The commission shall develop and approve an audit plan  
20 for the state for each fiscal year. In devising the plan, the  
21 commission shall consider recommendations concerning coordination  
22 of agency functions made jointly by representatives of the  
23 commission and the Legislative Budget Board.

24           (d) At any time during an audit the commission may require  
25 the assistance of the administrative head, official, auditor,  
26 accountant, or other employees of the entity being audited.

27           (e) The commission is entitled to access to all of the

1 books, accounts, confidential or unconfidential reports, vouchers,  
2 or other records of information in any department or entity subject  
3 to audit, including access to all electronic data except as  
4 provided by Subsection (f).

5 (f) The commission has access to information and data the  
6 release of which is restricted under federal law only with the  
7 approval of the appropriate federal administrative agency. The  
8 commission shall have access to copyrighted or restricted  
9 information obtained by the comptroller under subscription  
10 agreements and used in the preparation of economic estimates only  
11 for audit purposes.

12 (g) The commission may conduct economy and efficiency  
13 audits and effectiveness audits as defined by this chapter and  
14 specified in the audit plan.

15 (h) To the extent that the performance of the powers and  
16 duties of the commission under law is not impeded, the commission  
17 shall make reasonable efforts to coordinate requests for employee  
18 assistance under Subsection (d) or requests for access to books,  
19 accounts, vouchers, records, or data under Subsection (e) or (f) so  
20 as not to hinder the daily operations of the audited entity.

21 Sec. 325.0082. ECONOMY AND EFFICIENCY AUDIT. An economy  
22 and efficiency audit is an audit to determine:

23 (1) whether the audited entity is managing or  
24 utilizing its resources, including personnel, property, equipment,  
25 and space, in an economical and efficient manner;

26 (2) causes of inefficiencies or uneconomical  
27 practices, including inadequacies in management information

1 systems, internal and administrative procedures, organizational  
2 structure, use of resources, allocation of personnel, purchasing,  
3 policies, and equipment; and

4 (3) whether program and statistical reports of the  
5 audited entity contain useful data and are fairly presented.

6 Sec. 325.0083. EFFECTIVENESS AUDIT. An effectiveness audit  
7 is an audit to determine, according to established or designated  
8 program objectives, responsibilities or duties, statutes and  
9 regulations, program performance criteria, or program evaluation  
10 standards:

11 (1) whether the objectives and intended benefits are  
12 being achieved efficiently and effectively; and

13 (2) whether the program duplicates, overlaps, or  
14 conflicts with another state program.

15 Sec. 325.0084. IMPROPER PRACTICES AND ILLEGAL  
16 TRANSACTIONS. (a) If in the course of an audit the commission  
17 finds evidence of uneconomical use of resources or ineffective  
18 program performance, the commission, after consulting with the head  
19 of the department, shall immediately report the evidence to the  
20 governor and the administrative head and the chairman of the  
21 governing body of the affected department.

22 (b) If in the course of an audit the commission finds  
23 evidence of an illegal transaction, the commission, after  
24 consulting with the head of the department, shall immediately  
25 report the transaction to the governor and the appropriate legal  
26 authority.

27 (c) The commission shall review a report alleging

1 uneconomical use of resources or ineffective program performance  
2 immediately. The commission shall consult with and may hold  
3 hearings with the administrative head and the chairman of the  
4 governing body of the affected department regarding the report.

5 (d) If the administrative head or the governing body of the  
6 affected department refuses to make the changes recommended by the  
7 commission at the hearing or provide any additional information or  
8 reports requested, the commission shall report the refusal to the  
9 legislature.

10 Sec. 325.0085. REVIEW OF INTERSCHOLASTIC COMPETITION. The  
11 commission may periodically review and analyze the effectiveness  
12 and efficiency of the policies, management, fiscal affairs, and  
13 operations of an organization that is a component or part of a state  
14 agency or institution and that sanctions or conducts  
15 interscholastic competition. The commission shall report the  
16 findings to the governor, lieutenant governor, and speaker of the  
17 house of representatives. The legislature may consider the  
18 commission's reports in connection with the legislative  
19 appropriations process.

20 Sec. 325.0086. RECORDS MANAGEMENT REVIEW. (a) The  
21 commission may periodically review and analyze the effectiveness  
22 and efficiency of the policies and management of a state  
23 governmental committee or state agency that is involved in:

24 (1) analyzing and recommending improvements to the  
25 state's system of records management; and

26 (2) preserving the essential records of this state,  
27 including records relating to financial management information.

1        (b) In this section, "state agency" has the meaning assigned  
2 by Section 2056.001.

3        SECTION 55.10. Section 403.0205, Government Code, is  
4 repealed.

5        PART 4. POWERS AND FUNCTIONS OF THE STATE PRESERVATION BOARD

6        SECTION 55.11. Section 443.007, Government Code, is amended  
7 by adding Subsection (e) to read as follows:

8        (e) The board may adopt any management or oversight method  
9 or procedure reasonably necessary to ensure that the requirements  
10 under Subsection (a) are met in the most economical and efficient  
11 manner.

12        SECTION 55.12. Chapter 443, Government Code, is amended by  
13 adding Section 443.0232 to read as follows:

14        Sec. 443.0232. CONSULTATION WITH THE LEGISLATIVE  
15 INFORMATION SERVICES BOARD. (a) The board shall consult with the  
16 Legislative Information Services Board regarding the installation  
17 of information technology equipment in the Capitol, the General  
18 Land Office Building, and their grounds. The interest of  
19 preservation must be balanced against the need of the legislative  
20 branch of state government for computer hardware and other types of  
21 office machinery and communication tools.

22        (b) The consultation under Subsection (a) shall include an  
23 analysis of:

24        (1) the extent of any permanent changes in the  
25 appearance of the buildings or their grounds likely to be caused by  
26 the installation of information technology equipment, including  
27 wiring and antennas;

1           (2) methods for minimizing the impact of the  
2 installation on the appearance of the buildings or grounds; and

3           (3) ways to ensure that any necessary alterations in  
4 the appearance of the buildings or grounds conform, to the extent  
5 reasonably practicable, with the architectural and historical  
6 integrity of the buildings or grounds.

7                           PART 5. CONFORMING AMENDMENTS

8           SECTION 55.13. Subsection (a), Section 81.113, Government  
9 Code, is amended to read as follows:

10           (a) Except as provided by Subsection (b), the state bar  
11 shall credit an attorney licensed in this state with meeting the  
12 minimum continuing legal education requirements of the state bar  
13 for a reporting year if during the reporting year the attorney is  
14 employed full-time as an attorney by:

- 15                   (1) the senate;  
16                   (2) the house of representatives;  
17                   (3) a committee, division, department, or office of  
18 the senate or house;  
19                   (4) ~~[the Texas Legislative Council,~~  
20 ~~[~~(5)~~] the Legislative Budget Board;~~  
21                   (5) [~~(6)~~] the Legislative Reference Library;  
22 ~~[~~(7)~~ the office of the state auditor,]~~ or  
23                   (6) [~~(8)~~] the Performance Review ~~[Sunset Advisory]~~  
24 Commission.

25           SECTION 55.14. Subsection (a), Section 301.021, Government  
26 Code, is amended to read as follows:

27           (a) If for any reason it is necessary to obtain assistance

1 in addition to the services provided by the Legislative Budget  
2 Board [~~State Auditor~~], attorney general, [~~Texas Legislative~~  
3 ~~Council~~], or Department of Public Safety, each general  
4 investigating committee may employ and compensate assistants to  
5 assist in any investigation, audit, or legal matter.

6 SECTION 55.15. Subsection (a), Section 301.028, Government  
7 Code, is amended to read as follows:

8 (a) Each standing committee, including a general  
9 investigating committee, may request necessary assistance from all  
10 state agencies, departments, and offices, including:

11 (1) the Legislative Budget Board [~~State Auditor~~];

12 (2) [~~the Texas Legislative Council~~],

13 [~~(3)~~] the Department of Public Safety; and

14 (3) [~~(4)~~] the attorney general.

15 SECTION 55.16. Subsections (a) and (d), Section 301.041,  
16 Government Code, are amended to read as follows:

17 (a) A duly appointed senator's or representative's  
18 membership on the Legislative Budget Board, Legislative Library  
19 Board, [~~Legislative Audit Committee, Texas~~] Legislative  
20 Information Services Board [~~Council~~], or any other interim  
21 committee terminates if the member:

22 (1) resigns the membership;

23 (2) ceases membership in the legislature for any  
24 reason; or

25 (3) fails to be nominated or elected to the  
26 legislature for the next term.

27 (d) In filling a vacancy created under this section, the

1 lieutenant governor or the speaker may appoint a senator or  
2 representative, as appropriate, other than a committee chairman  
3 designated by law to serve as a member of the Legislative Budget  
4 Board, Legislative Library Board, [~~Legislative Audit Committee,~~  
5 ~~Texas~~] Legislative Information Services Board [~~Council~~], or any  
6 other interim committee. An appointment made under this subsection  
7 does not constitute an appointment to any position other than that  
8 of a member of a board[~~, council,~~] or committee covered by this  
9 section.

10 SECTION 55.17. Section 302.032, Government Code, is amended  
11 to read as follows:

12 Sec. 302.032. LEGISLATIVE BRIBERY: PROMISES OR THREATS. A  
13 person commits an offense if, with the intent to influence a member  
14 of or candidate for the house of representatives in casting a vote  
15 for speaker of the house of representatives, the person:

16 (1) promises or agrees to cause:

17 (A) the appointment of a person to a chairmanship  
18 or vice-chairmanship of a house committee or subcommittee;

19 (B) the appointment of a person to a particular  
20 house committee or subcommittee, the Legislative Budget Board, the  
21 [~~Texas~~] Legislative Information Services Board [~~Council~~], the  
22 Legislative Library Board, [~~the Legislative Audit Committee,~~] or  
23 any other position the speaker appoints;

24 (C) preferential treatment on any legislation or  
25 appropriation;

26 (D) the employment of a person; or

27 (E) economic benefit to a person; or



1           (2) threatens to cause:

2                   (A) the failure to appoint a person to a  
3 chairmanship or vice-chairmanship of a house committee or  
4 subcommittee;

5                   (B) the failure to appoint a person to a  
6 particular house committee or subcommittee, the Legislative Budget  
7 Board, the [~~Texas~~] Legislative Information Services Board  
8 [~~Council~~], the Legislative Library Board, [~~the Legislative Audit~~  
9 ~~Committee~~], or any other position the speaker appoints;

10                  (C) unfavorable treatment on any legislation or  
11 appropriation;

12                  (D) the refusal of or removal from employment of  
13 a person; or

14                  (E) the withholding of economic benefit from a  
15 person.

16           SECTION 55.18. Section 302.033, Government Code, is amended  
17 to read as follows:

18           Sec. 302.033. LEGISLATIVE BRIBERY: ACCEPTING BENEFITS. A  
19 member of or candidate for the house of representatives commits an  
20 offense if, on the representation or understanding that the member  
21 or candidate will cast a vote for a particular person for speaker of  
22 the house of representatives, the member or candidate solicits,  
23 accepts, or agrees to accept:

24                   (1) the appointment of or refusal to appoint a person  
25 to a chairmanship or vice-chairmanship of a house committee or  
26 subcommittee;

27                   (2) the appointment of or refusal to appoint a person

1 to a particular house committee or subcommittee, the Legislative  
2 Budget Board, the [~~Texas~~] Legislative Information Services Board  
3 [~~Council~~], the Legislative Library Board, [~~the Legislative Audit~~  
4 ~~Committee~~], or any other position the speaker appoints;

5 (3) preferential or unfavorable treatment on any  
6 legislation or appropriation;

7 (4) the employment of, refusal of employment of, or  
8 removal from employment of a person; or

9 (5) economic benefit to or withholding of economic  
10 benefit from a person.

11 SECTION 55.19. Section 306.007, Government Code, is amended  
12 to read as follows:

13 Sec. 306.007. MINUTES AND REPORTS ELECTRONICALLY AVAILABLE  
14 TO LEGISLATURE. A state officer or board, commission, or other  
15 agency in the executive branch of state government, and an agency in  
16 the judicial branch of state government other than a court, shall  
17 make reports required by law and minutes of meetings of the agency's  
18 governing body available to members of the legislature and to  
19 agencies in the legislative branch of state government in an  
20 electronic format determined by the [~~Texas~~] Legislative  
21 Information Services Board [~~Council~~].

22 SECTION 55.20. Section 326.001, Government Code, is amended  
23 to read as follows:

24 Sec. 326.001. DEFINITION. In this chapter, "legislative  
25 agency" means:

26 (1) the senate;

27 (2) the house of representatives;

(3) a committee, division, department, or office of the senate or house;

(4) the ~~[Texas]~~ Legislative Information Services Board ~~[Council]~~;

(5) the Legislative Budget Board;

(6) the Legislative Reference Library; or

(7) ~~[the office of the State Auditor, or~~

~~(8)]~~ any other agency in the legislative branch of state government.

SECTION 55.21. Subsections (a) and (b), Section 326.003, Government Code, are amended to read as follows:

(a) The ~~[State Auditor's Office,]~~ Legislative Budget Board~~[,]~~ and the Performance Review ~~[Sunset Advisory]~~ Commission shall form a committee to make recommendations relating to the coordination of the agencies' functions.

(b) The committee shall meet on a regular basis at least quarterly. The director of the Legislative Budget Board ~~[State Auditor]~~ shall call each meeting.

SECTION 55.22. Subsection (b), Section 468.003, Government Code, is amended to read as follows:

(b) The ~~[Texas]~~ Legislative Information Services Board ~~[Council]~~ shall provide office space and other support in Austin necessary for the state demographer to perform the demographer's duties for the legislature.

SECTION 55.23. Subsection (d), Section 531.203, Government Code, is amended to read as follows:

(d) The committee may use staff of standing committees in

1 the senate and house of representatives with appropriate  
2 jurisdiction, the Department of Information Resources, [~~the state~~  
3 ~~auditor, the Texas Legislative Council,~~] and the Legislative Budget  
4 Board in carrying out its responsibilities.

5 SECTION 55.24. Subdivision (11), Section 572.002,  
6 Government Code, is amended to read as follows:

7 (11) "State employee" means an individual, other than  
8 a state officer, who is employed by:

9 (A) a state agency;

10 (B) the Supreme Court of Texas, the Court of  
11 Criminal Appeals of Texas, a court of appeals, or the Texas Judicial  
12 Council; or

13 (C) either house of the legislature or a  
14 legislative agency, council, or committee, including the  
15 Legislative Budget Board, the [~~Texas~~] Legislative Information  
16 Services Board [~~Council~~], [~~the State Auditor's Office,~~] and the  
17 Legislative Reference Library.

18 SECTION 55.25. Subsection (a), Section 660.203, Government  
19 Code, is amended to read as follows:

20 (a) An individual is entitled to reimbursement for the  
21 actual expense of meals and lodging incurred while performing the  
22 duties of the individual's office or employment if the individual  
23 is:

24 (1) a judicial officer;

25 (2) a chief administrative officer of a state agency,  
26 subject to Subsection (c);

27 (3) [~~the executive director of the Texas Legislative~~

1 ~~Council,~~

2           ~~[(4)]~~ the secretary of the senate;

3           (4) ~~[(5)]~~ a member of the Texas Natural Resource  
4 Conservation Commission, the Texas Workforce Commission, the  
5 Public Utility Commission of Texas, the Board of Pardons and  
6 Paroles, or the Sabine River Compact Administration; or

7           (5) ~~[(6)]~~ a full-time member of a board and receives a  
8 salary from the state for service on that board.

9           SECTION 55.26. Section 660.206, Government Code, is amended  
10 to read as follows:

11           Sec. 660.206. REPRESENTATION OF CERTAIN OFFICERS AND  
12 EMPLOYEES. (a) A state employee who is designated by a member of  
13 the legislature, a judicial officer, a chief administrator of a  
14 state agency, ~~[the executive director of the Texas Legislative~~  
15 ~~Council,~~ the secretary of the senate, or a board member to  
16 represent the designating party at a particular meeting or  
17 conference is entitled to reimbursement for the actual expense of  
18 meals and lodging on the trip.

19           (b) A member of the legislature, a judicial officer, a chief  
20 administrator of a state agency, ~~[the executive director of the~~  
21 ~~Texas Legislative Council,~~ the secretary of the senate, and a  
22 board member may authorize a state employee traveling with the  
23 authorizing party to a particular meeting or conference to receive  
24 reimbursement for the actual expense of the employee's meals and  
25 lodging on the trip.

26           SECTION 55.27. Subsection (a), Section 762.003, Government  
27 Code, is amended to read as follows:

(a) The commission is composed of:

(1) nine members appointed by the governor; and

(2) ~~[the executive director of the Texas Legislative Council or a person designated by the executive director; and~~

~~[(3)]~~ in addition to the persons described by Subdivision ~~[Subdivisions]~~ (1) ~~[and (2)]~~, residents of this state who have long service in the cause of uniformity in state legislation as shown by:

(A) at least 20 years of service representing the state as an associate member of the national conference;

(B) election as a life member of the national conference; or

(C) at least 15 years of service as a member of the commission and at least five years of combined service as a judge or justice of a trial or appellate court of this state.

SECTION 55.28. Section 762.011, Government Code, is amended to read as follows:

Sec. 762.011. SUPPORT SERVICES. The ~~[Texas]~~ Legislative Information Services Board ~~[Council]~~ shall provide accounting, clerical, and other support services necessary for the commission to carry out its duties.

SECTION 55.29. Subsection (c), Section 2052.0021, Government Code, is amended to read as follows:

(c) A state agency shall make each report required by law available to members of the legislature in an electronic format determined by the ~~[Texas]~~ Legislative Information Services Board ~~[Council]~~. The agency shall promptly send a suitable printed copy

1 of the report to a member of the legislature at the request of the  
2 member.

3 SECTION 55.30. Subsection (d), Section 2056.002,  
4 Government Code, is amended to read as follows:

5 (d) A state agency shall send two copies of each plan to both  
6 the Legislative Reference Library and the state publications  
7 clearinghouse of the Texas State Library and one copy each to:

8 (1) the governor;

9 (2) the lieutenant governor;

10 (3) the speaker of the house of representatives;

11 (4) the Legislative Budget Board; and

12 (5) the Performance Review [~~Sunset Advisory~~]  
13 Commission[+]

14 [~~(6) the state auditor, and~~

15 [~~(7) the comptroller~~].

16 SECTION 55.31. Section 2056.010, Government Code, is  
17 amended to read as follows:

18 Sec. 2056.010. AGENCY CONFORMANCE TO STRATEGIC PLAN. The  
19 Performance Review [~~comptroller, the Sunset Advisory~~] Commission,  
20 the [~~state auditor, the~~] Legislative Budget Board, or another  
21 agency that conducts performance audits of a state agency shall  
22 consider in the evaluation of an agency the extent to which the  
23 agency conforms to the agency's strategic plan.

24 SECTION 55.32. Section 2102.009, Government Code, is  
25 amended to read as follows:

26 Sec. 2102.009. ANNUAL REPORT. The internal auditor shall  
27 prepare an annual report and submit the report before November 1 of

each year to the governor, the Legislative Budget Board, the Performance Review [~~Sunset Advisory~~] Commission, the [~~state auditor, the~~] state agency's governing board, and the administrator. The Legislative Budget Board [~~state auditor~~] shall prescribe the form and content of the report[, ~~subject to the approval of the legislative audit committee~~].

SECTION 55.33. Subsections (a) and (c), Section 2102.0091, Government Code, are amended to read as follows:

(a) A state agency shall file with the Performance Review [~~Sunset Advisory~~] Commission, the budget division of the governor's office, [~~the state auditor,~~] and the Legislative Budget Board a copy of each report submitted to the state agency's governing board or the administrator of the state agency if the state agency does not have a governing board by the agency's internal auditor.

(c) In addition to the requirements of Subsection (a), a state agency shall file with the budget division of the governor's office[, ~~the state auditor,~~] and the Legislative Budget Board any action plan or other response issued by the state agency's governing board or the administrator of the state agency if the state agency does not have a governing board in response to the report of the state agency's internal auditor.

SECTION 55.34. Section 2155.203, Government Code, is amended to read as follows:

Sec. 2155.203. PURCHASES BY LEGISLATURE AND LEGISLATIVE AGENCIES. A house of the legislature, or an agency, council, or committee of the legislature, including the Legislative Budget Board, the [~~Texas~~] Legislative Information Services Board



1   ~~[Council]~~, ~~[the state auditor's office]~~, and the Legislative  
2   Reference Library, may use the commission's purchasing services for  
3   purchasing goods and services, including items covered by Section  
4   21, Article XVI, Texas Constitution.

5         SECTION 55.35.   Section   2158.065,   Government   Code,   is  
6   amended to read as follows:

7         Sec. 2158.065.   DISTRIBUTION OF PRINTED LAWS.   The secretary  
8   of state shall distribute the printed laws of each session of the  
9   legislature as follows:

10            (1)   one copy each to:

11                    (A)   the governor;

12                    (B)   the lieutenant governor;

13                    (C)   the speaker of the house of representatives;

14                    (D)   each court of appeals; and

15                    (E)   each county law library;

16            (2)   ~~[10 copies to the Texas Legislative Council,~~

17                    ~~(3)]~~   15 copies to the Legislative Reference Library;

18                    (3)   ~~(4)]~~   30 copies to the State Law Library; and

19                    (4)   ~~(5)]~~   60 copies to the Texas State Library.

20         SECTION 55.36.   Subsection       (c),       Section       201.403,  
21   Transportation Code, is amended to read as follows:

22            (c)   Not later than February 1 of each year, the director  
23   shall report to the commission, each house of the legislature, and  
24   the Performance Review ~~[Sunset Advisory]~~ Commission on the  
25   department's progress in the recruitment and hiring of women and  
26   minority applicants.

27         SECTION 55.37.   Subsection (c), Section 41.060, Utilities

Code, is amended to read as follows:

(c) The commission shall prepare a report for the Performance Review [~~Sunset Advisory~~] Commission that includes information submitted and responses by electric cooperatives in accordance with the Performance Review [~~Sunset Advisory~~] Commission's schedule for reviewing the commission.

SECTION 55.38. Subsection (a), Section 12, Chapter 357, Acts of the 64th Legislature, Regular Session, 1975 (Article 4413(32e), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The [~~Texas Legislative Council, the~~] Legislative Budget Board, [~~the Legislative Audit Committee,~~] the Advisory Commission on Intergovernmental Relations, and the Division of Planning Coordination shall, through their respective administrative officers, furnish staff assistance to the committee upon request.

SECTION 55.39. Subsection (a), Section 11, Chapter 672, Acts of the 65th Legislature, Regular Session, 1977 (Article 4413(42a), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The [~~Texas Legislative Council, the~~] Legislative Budget Board, [~~the Legislative Audit Committee,~~] the Texas Advisory Commission on Intergovernmental Relations, and the Division of Planning Coordination shall, through their respective administrative officers, furnish staff assistance to the committee upon request.

#### PART 6. TRANSITION

SECTION 55.40. (a) The Texas Legislative Council is

abolished effective September 1, 2003.

(b) On September 1, 2003:

(1) all functions and activities assigned to or performed by the information systems division of the Texas Legislative Council immediately before that date are transferred to the Legislative Information Services Board;

(2) all funds, obligations, contracts, property, and records of the Texas Legislative Council relating to the services performed by the information systems division of the Texas Legislative Council are transferred to the Legislative Information Services Board;

(3) all employees of the information systems division of the Texas Legislative Council become employees of the Legislative Information Services Board;

(4) all of the property and records of the Texas Legislative Council relating to the services performed by the legal and research divisions of the Texas Legislative Council are transferred to either the senate or the house of representatives, as determined by the lieutenant governor and the speaker of the house of representatives;

(5) all employees of the legal and research divisions of the Texas Legislative Council become employees of either the senate or house of representatives, as determined by the lieutenant governor and the speaker of the house of representatives; and

(6) a reference in law to the Texas Legislative Council that relates to the services performed by the information systems division of the Texas Legislative Council means the

1 Legislative Information Services Board.

2       SECTION 55.41. (a) The office of state auditor and the  
3 legislative audit committee are abolished but continue in effect  
4 until December 1, 2003, for the sole purpose of transferring to the  
5 Legislative Budget Board all the rights, powers, duties, and  
6 functions exercised by the state auditor and the legislative audit  
7 committee immediately before the effective date of this Act. The  
8 transfer must be completed not later than December 1, 2003.

9       (b) All the funds, contracts, property, personnel, and  
10 records of the office of the state auditor and the legislative audit  
11 committee are transferred to the Legislative Budget Board for the  
12 purpose of performing the audit functions that the state auditor  
13 was authorized or required to perform immediately before the  
14 effective date of this Act.

15       (c) A reference in law or in an administrative rule to the  
16 state auditor or the office of the state auditor or the legislative  
17 audit committee means the Legislative Budget Board.

18       (d) A reference in law to a financial or compliance audit  
19 under Chapter 321, Government Code, as repealed by this Act, means  
20 an audit under Chapter 322, Government Code, as amended by this Act.

21       (e) A reference in law to an efficiency audit, an economy  
22 audit, or a program audit under Chapter 321, Government Code, as  
23 repealed by this Act, means an audit under Chapter 325, Government  
24 Code (Texas Sunset Act), as amended by this Act.

25       SECTION 55.42. (a) The Sunset Advisory Commission is  
26 abolished and the offices of the members of the commission serving  
27 on the effective date of this Act are abolished.

1           (b) The validity of an action taken by the Sunset Advisory  
2 Commission before it is abolished under Subsection (a) of this  
3 section is not affected by the abolishment.

4           SECTION 55.43. On September 1, 2003:

5                 (1) a rule, standard, or form adopted by the Sunset  
6 Advisory Commission is a rule, standard, or form of the Performance  
7 Review Commission and remains in effect until changed by the  
8 Performance Review Commission;

9                 (2) a reference in law to the Sunset Advisory  
10 Commission means the Performance Review Commission;

11                (3) all money, contracts, leases, rights, and  
12 obligations of the Sunset Advisory Commission are transferred to  
13 the Performance Review Commission;

14                (4) all property, including records, in the custody of  
15 the Sunset Advisory Commission becomes the property of the  
16 Performance Review Commission; and

17                (5) all funds appropriated by the legislature to the  
18 Sunset Advisory Commission are transferred to the Performance  
19 Review Commission.

20           SECTION 55.44. On September 1, 2003, the lieutenant  
21 governor shall assume the chairmanship of the Legislative  
22 Information Services Board and the speaker of the house of  
23 representatives shall assume the vice chairmanship of the board.  
24 The initial terms of the lieutenant governor and the speaker of the  
25 house of representatives expire February 1, 2005.

26           ARTICLE 56. ENERGY CONSERVATION IN STATE BUILDINGS

27           SECTION 56.01. Subsection (e), Section 447.004, Government

Code, as amended by Chapters 573, 1158, and 1398, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(e) A state agency or an institution of higher education may not begin construction of a new state building or a major renovation project before the design architect or engineer for the construction or renovation has:

(1) certified to the appropriate authority having jurisdiction [~~agency or institution~~] that the construction or renovation complies with:

(A) the standards established under this section; and

(B) the alternative energy and energy-efficient architectural and engineering design evaluation requirements under Sections 2166.401, 2166.403, and 2166.408; and

(2) provided [~~a copy of that certification~~] to the appropriate authority having jurisdiction and the state energy conservation office copies of:

(A) each certification under Subdivision (1);  
and

(B) any written evaluation or detailed economic feasibility study prepared in accordance with Section 2166.401, 2166.403, or 2166.408.

SECTION 56.02. Subsection (a), Section 2166.153, Government Code, is amended to read as follows:

(a) A project analysis consists of:

(1) a complete description of the project and a

1 justification of the project prepared by the using agency;

2 (2) a detailed estimate of the amount of space needed  
3 to meet the needs of the using agency and to allow for realistic  
4 growth;

5 (3) a description of the proposed project prepared by  
6 a design professional that:

7 (A) includes schematic plans and outline  
8 specifications describing the type of construction and probable  
9 materials to be used; and

10 (B) is sufficient to establish the general scope  
11 and quality of construction;

12 (4) an estimate of the probable cost of construction;

13 (5) a description of the proposed site of the project  
14 and an estimate of the cost of site preparation;

15 (6) an overall estimate of the cost of the project,  
16 including necessary funding for life-cycle costing, whole building  
17 integrated design, commissioning, and postoccupancy building  
18 performance verification;

19 (7) information prepared under Section 2166.451 about  
20 historic structures considered as alternatives to new  
21 construction;

22 (8) an evaluation of energy alternatives and  
23 energy-efficient architectural and engineering design alternatives  
24 as required by Sections [Section] 2166.401, 2166.403, and 2166.408;  
25 and

26 (9) other information required by the commission.

27 SECTION 56.03. The section heading to section 2166.403,

Government Code, is amended to read as follows:

Sec. 2166.403. ALTERNATIVE ENERGY AND ENERGY-EFFICIENT ARCHITECTURAL AND ENGINEERING DESIGN IN NEW BUILDING CONSTRUCTION.

SECTION 56.04. Section 2166.403, Government Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1) and (b-2) to read as follows:

(b) During the planning phase of the proposed construction, the commission, or the governing body of the appropriate agency or institution that is undertaking a project otherwise exempt from this chapter under Section 2166.003, must present a detailed written evaluation at ~~[shall verify in]~~ an open meeting to verify the economic feasibility of:

(1) using energy-efficient architectural or engineering design alternatives; or

(2) incorporating into the building's design and proposed energy system alternative energy devices for space heating and cooling, water heating, electrical loads, and interior lighting.

(b-1) A detailed written evaluation under Subsection (b) must be made available to the public at least 30 days before the open meeting at which it is presented.

(b-2) In each detailed written evaluation under Subsection (b), the [The] commission or governing body shall determine economic feasibility for each function by comparing the estimated cost of providing energy for all or part of the function using conventional design practices and energy systems or operating under conventional architectural or engineering designs with the



1 estimated cost of providing energy for all or part of the function  
2 using alternative energy devices or operating under alternative  
3 energy-efficient architectural or engineering designs during the  
4 economic life of the building. The comptroller's state energy  
5 conservation office, or its successor, must approve any methodology  
6 or electronic software used by the commission or governing body, or  
7 an entity contracting with the commission or governing body, to  
8 make a comparison or determine feasibility under this subsection.

9 (c) If the use of alternative energy devices or  
10 energy-efficient architectural design alternatives for a  
11 particular function is determined to be economically feasible under  
12 Subsection (b-2) [~~(b)~~], the commission or governing body shall  
13 include the use of alternative energy devices or energy-efficient  
14 architectural design alternatives for that function in the  
15 construction plans.

16 SECTION 56.05. Subdivision (1), Subsection (d), Section  
17 2166.403, Government Code, is amended to read as follows:

18 (1) "Alternative energy" means a renewable energy  
19 resource. The term includes solar energy, biomass energy,  
20 geothermal energy, and wind energy.

21 SECTION 56.06. Subchapter I, Chapter 2166, Government Code,  
22 is amended by adding Section 2166.408 to read as follows:

23 Sec. 2166.408. EVALUATION OF ARCHITECTURAL AND ENGINEERING  
24 DESIGN ALTERNATIVES. (a) For each project for which a project  
25 analysis is prepared under Subchapter D and for which architectural  
26 or engineering design choices will affect the energy efficiency of  
27 the building, the commission or the private design professional

1 retained by the commission shall prepare a written evaluation of  
2 energy-efficient architectural or engineering design alternatives  
3 for the project.

4 (b) The evaluation must include information about the  
5 economic and environmental impact of various energy-efficient  
6 architectural or engineering design alternatives, including an  
7 evaluation of economic and environmental costs both initially and  
8 over the life of the architectural or engineering design.

9 (c) The evaluation must identify the best architectural and  
10 engineering designs for the project considering both economic and  
11 environmental costs and benefits.

12 SECTION 56.07. This article takes effect immediately if  
13 this Act receives a vote of two-thirds of all the members elected to  
14 each house, as provided by Section 39, Article III, Texas  
15 Constitution. If this Act does not receive the vote necessary for  
16 this article to take effect immediately, this article takes effect  
17 September 1, 2003.

18 ARTICLE 57. PAUL C. MORENO STATE OFFICE BUILDING

19 SECTION 57.01. The state office building located in El  
20 Paso, Texas, shall be known as the "Paul C. Moreno State Office  
21 Building", in honor of State Representative Paul C. Moreno.

22 SECTION 57.02. The Texas Building and Procurement  
23 Commission shall take appropriate action to ensure the building is  
24 identified as provided by this article.

25 ARTICLE 58. SALE OF DESERT PLANTS

26 SECTION 58.01. Subtitle F, Title 5, Agriculture Code, is  
27 amended by adding Chapter 122 to read as follows:

1                   CHAPTER 122. SALE OF DESERT PLANTS

2           Sec. 122.001. DEFINITION. In this chapter, "desert plant"  
3 means the following genera of plants:

- 4                   (1) Agave;  
5                   (2) Ariocarpus;  
6                   (3) Echinocactus;  
7                   (4) Echinocereus;  
8                   (5) Ferocactus;  
9                   (6) Fouquieria;  
10                  (7) Mammillaria;  
11                  (8) Opuntia; and  
12                  (9) Yucca.

13           Sec. 122.002. ADMINISTRATION. The department shall  
14 administer this chapter and adopt rules necessary for its  
15 enforcement.

16           Sec. 122.003. REQUIREMENTS FOR SALE OR TRANSPORT. Unless a  
17 desert plant is marked as provided by Section 122.005, a person may  
18 not:

- 19                   (1) sell the plant;  
20                   (2) offer the plant for sale; or  
21                   (3) transport the plant out of this state.

22           Sec. 122.004. REGISTRATION REQUIRED. (a) A person who  
23 grows or harvests a desert plant for sale must register with the  
24 department.

25           (b) A person described by Subsection (a) must include the  
26 following with the registration information provided to the  
27 department:

1           (1) a statement that the desert plants provided for  
2 sale will be harvested from the person's property; or

3           (2) written documentation from the owner of the  
4 property from which the desert plants will be harvested granting  
5 the person selling or offering to sell the plants the authority to  
6 harvest the plants.

7           Sec. 122.005. MARKING OF DESERT PLANTS. (a) A person  
8 subject to Section 122.004 shall mark each desert plant harvested  
9 for sale under this chapter with an identification mark prescribed  
10 by the department.

11           (b) The department may charge a fee for providing an  
12 identification mark under this section.

13           Sec. 122.006. STOP-SALE ORDER. In enforcing this chapter,  
14 the department may issue and enforce a written or printed order to  
15 stop the sale of a desert plant or a shipment of desert plants that  
16 is not marked as provided by Section 122.005. If an order is  
17 issued, a person may not sell the plant or shipment until it has  
18 been properly marked.

19           Sec. 122.007. AUTHORITY TO SEIZE PLANTS. In enforcing this  
20 chapter, the department with or without process may seize a desert  
21 plant or a shipment of desert plants that is:

22                   (1) not marked as provided by Section 122.005; and

23                   (2) intended for transfer out of this state.

24           Sec. 122.008. PENALTY. (a) A person commits an offense if  
25 the person advertises, sells, or offers for sale a desert plant or a  
26 shipment of desert plants that is not clearly and distinctly marked  
27 as provided by Section 122.005.

1        (b) An offense under this section is punishable by:

2            (1) a fine not to exceed \$1,000;

3            (2) imprisonment for a term not to exceed 180 days; or

4            (3) both fine and imprisonment under this subsection.

5        SECTION 58.02. Section 12.020, Agriculture Code, is amended  
6 by amending Subsections (a) and (b) and adding Subsection (c-1) to  
7 read as follows:

8            (a) If a person violates a provision of this code described  
9 by Subsection (c) or (c-1) ~~[of this section]~~ or a rule or order  
10 adopted by the department under a provision of this code described  
11 by Subsection (c) or (c-1) ~~[of this section]~~, the department may  
12 assess an administrative penalty against the person as provided by  
13 this section.

14            (b) The penalty for each violation may be in an amount not to  
15 exceed the maximum provided by Subsection (c) or (c-1) ~~[of this~~  
16 ~~section]~~. Each day a violation continues or occurs may be  
17 considered a separate violation for purposes of penalty  
18 assessments.

19            (c-1) In addition to provisions described by Subsection  
20 (c), Chapter 122 is subject to this section and the applicable  
21 penalty amount is \$500.

22        SECTION 58.03. Not later than December 1, 2003, the  
23 Department of Agriculture shall adopt rules to administer Chapter  
24 122, Agriculture Code, as added by this article.

25        SECTION 58.04. Chapter 122, Agriculture Code, as added by  
26 this article, and Section 12.020, Agriculture Code, as amended by  
27 this article, take effect January 1, 2004.

ARTICLE 59. CONTINUING EDUCATION EXEMPTION

SECTION 59.01. Any requirement for continuing education hours because of any professional certification license, or other form of authorization, held by a member of the legislature or an employee of the legislative branch of government is satisfied because of the person's legislative service during the period the person holds office or is employed in the legislative branch. This section supersedes any other applicable law to the extent of any conflict.

ARTICLE 60. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY LANDFILL  
REGULATION

SECTION 60.01. As soon as practicable after the effective date of this article, the Texas Commission on Environmental Quality shall adopt rules governing all aspects of the management and operation of a new commercial landfill facility that proposes to accept nonhazardous industrial solid waste for which a permit has not been issued on or before the effective date of this article.

SECTION 60.02. (a) The Texas Commission on Environmental Quality shall suspend the permitting process for any pending application for a permit for a new commercial landfill facility that proposes to accept nonhazardous industrial solid waste until the rules adopted under Section 60.01 of this article take effect.

(b) The Texas Commission on Environmental Quality shall provide that the rules adopted under Section 60.01 of this article apply to every application for a permit for a new commercial landfill facility that proposes to accept nonhazardous industrial solid waste that is filed on or after the effective date of this

1 article and every application for a permit for a new commercial  
2 landfill facility that proposes to accept nonhazardous industrial  
3 solid waste that is pending on the effective date of this article.

4 (c) The Texas Commission on Environmental Quality may allow  
5 an applicant who filed such an application that is pending on the  
6 effective date of this article to amend the application to conform  
7 to the rules adopted under Section 60.01 of this article.

8 ARTICLE 61. CONFLICTS CLAUSE; EFFECTIVE DATE

9 SECTION 61.01. In the event of a conflict between a  
10 provision of this Act and another Act passed by the 78th  
11 Legislature, Regular Session, 2003, that becomes law, this Act  
12 prevails and controls regardless of the relative dates of  
13 enactment.

14 SECTION 61.02. Except as otherwise provided by this Act,  
15 this Act takes effect September 1, 2003.