

By: Ellis S.B. No. 1952
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COMMITTEE SUBSTITUTE FOR S.B. No. 1952 By: Ellis

A BILL TO BE ENTITLED
AN ACT

relating to the reorganization of, efficiency in, and other reform measures applying to state government.

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power or duty remain in effect as rules of the Department of Public Safety of the State of Texas until amended or repealed by the Department of Public Safety of the State of Texas.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 issuance of a certificate of registration under this chapter and the fee for the renewal of a certificate of registration under this chapter is increased by \$200.

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

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

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

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

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

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

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

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

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

Sec. 1152.053. FEE INCREASE. (a) The fee for the registration of a person under this chapter and the fee for the

renewal of a registration under this chapter is increased by \$200.

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 4. MANAGEMENT AND CONSTRUCTION OF STATE AGENCY OFFICE SPACE

SECTION 4.01. Subsection (c), Section 2165.104, Government Code, is amended to read as follows:

(c) To the extent possible without sacrificing critical public or client services, the commission may not allocate usable office space, as defined by the commission, to a state agency under Article I, II, V, VI, VII, or VIII of the General Appropriations Act or to the Texas Higher Education Coordinating Board, the Texas Education Agency, the State Board for Educator Certification, the Telecommunications Infrastructure Fund Board, or the Office of Court Administration of the Texas Judicial System in an amount that exceeds an average of 135 [153] square feet per agency employee for each agency site. To the extent that any of those agencies allocates its own usable office space, as defined by the commission, the agency shall allocate the space to achieve the required ratio. This subsection does not apply to:

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

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

[3] laboratory space,

[4] storage space exceeding 1,000 gross square feet,

[5] library space,

[6] space for hearing rooms used to conduct hearings required under the administrative procedure law, Chapter 2001, or

[7] another type of space specified by commission

rule, if the commission determines that it is not practical to apply this subsection to that space].

SECTION 4.02. The change in law made by Section 4.01 of this article applies only to a lease for usable office space entered into or renewed on or after September 1, 2003. A lease entered into or renewed before September 1, 2003, shall be reviewed by the Texas Building and Procurement Commission as the lease comes up for renewal to determine whether it would be cost-effective to bring the lease into compliance with Subsection (c), Section 2165.104, Government Code, as amended by this article.

SECTION 4.03. Notwithstanding any other law, including Subchapter A, Chapter 2254, and Chapters 2165, 2166, and 2167, Government Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001, Transportation Code, the Texas Department of Transportation may enter into one or more agreements with a private entity offering the best value to the state that includes:

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

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

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

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

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

ARTICLE 5. DISPOSAL OF SURPLUS AND SALVAGE PROPERTY

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

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

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

SECTION 5.02. Subsection (a), Section 2175.134, Government Code, is amended to read as follows:

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

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

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

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

(b) On receiving notice under this section, the comptroller shall, if necessary, ~~[+]~~

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

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

SECTION 5.05. Subsection (a), Section 2175.191, Government Code, is amended to read as follows:

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

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

Sec. 2175.361. DEFINITIONS. In this subchapter:

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

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

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

(B) under 40 U.S.C. Section 483c, 549, or 550, or under any other federal law providing for the disposal [Section 484(j) or (k)] of [the] federal surplus property [act]. ~~[The term includes federal real property acquired under Section 484(k) of the federal act.]~~

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

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

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

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

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

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

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

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

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

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) and (f) to read as follows:

(d) Membership in the employee class begins on the 91st day after the first day a person is employed or holds office.

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

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

SECTION 6.02. Subchapter F, Chapter 813, Government Code,

is amended by adding Section 813.514 to read as follows:

Sec. 813.514. CREDIT PURCHASE OPTION FOR CERTAIN SERVICE.

(a) A member may establish credit under this section in the employee class only for service performed during the 90-day waiting period provided by Section 812.003(d) or (e).

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

(c) After a member makes the deposits required by this section, the retirement system shall grant the member one month of equivalent membership service credit for each month of credit approved. A member may establish not more than three months of equivalent membership service credit under this section.

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

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

SECTION 6.03. Section 822.001, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

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

(d) A person who is reemployed or who again holds office after withdrawing contributions for previous service credit begins membership on the 91st day after the first day the person is reemployed or again holds office.

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

SECTION 6.04. 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 the 90-day waiting period provided by Section 822.001(c) or (d).

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

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

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

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

SECTION 6.05. Section 812.003, Government Code, as amended by this article, and Section 813.514, Government Code, as added by this article, apply only to a person who is first employed by or begins to hold an office of the state on or after the effective date of this article and to a former employee or office holder who has withdrawn retirement contributions under Subchapter B, Chapter 812, Government Code, and is reemployed by or begins to again hold an office of the state on or after the effective date of this article.

SECTION 6.06. Section 822.001, Government Code, as amended by this article, and Section 823.406, Government Code, as added by

this article, apply only to a person who is first employed on or after the effective date of this article and to a former employee who has withdrawn retirement contributions under Section 822.003, Government Code, and is reemployed on or after the effective date of this article.

ARTICLE 7. STATE AGENCY HUMAN RESOURCES STAFFING AND FUNCTIONS
SECTION 7.01. Subtitle B, Title 6, Government Code, is amended by adding Chapter 670 to read as follows:

CHAPTER 670. HUMAN RESOURCES STAFFING AND FUNCTIONS

Sec. 670.001. DEFINITION. In this chapter, "state agency" means a department, commission, board, office, authority, council, or other governmental entity in the executive branch of government that is created by the constitution or a statute of this state and has authority not limited to a geographical portion of the state. The term does not include a university system or institution of higher education as defined by Section 61.003, Education Code.

Sec. 670.002. HUMAN RESOURCES STAFFING FOR LARGE STATE AGENCIES. A state agency with 500 or more full-time equivalent employees shall adjust the agency's human resources staff to achieve a human resources employee-to-staff ratio of not more than one human resources employee for every 85 staff members.

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

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

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

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

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

(b) Not later than January 1, 2004, the State Council on Competitive Government shall conduct an initial feasibility study 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 September 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 nonmanagerial staff positions. This subsection expires September 1, 2006.

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

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

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

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

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

SECTION 8.05. Subsection (b), Section 656.048, Government Code, is repealed.

ARTICLE 9. ABANDONMENT OF PROCEEDS ON DEMUTUALIZATION

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

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

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

(2) the owner has not:

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

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

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

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

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

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

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

ARTICLE 10. SALES TAX ON MOTOR VEHICLES

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

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

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

(a) The tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made shall collect taxes imposed by this chapter, subject to Section 152.0412, unless another person is required by this chapter to collect the taxes.

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

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

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

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

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

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

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

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

(e) On request, a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, shall provide a certified appraisal of the retail value of a motor vehicle. The comptroller by rule shall establish a fee that a dealer may charge for providing the certified appraisal. The county tax assessor-collector shall retain a copy of a certified appraisal received under this section.

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

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

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

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

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

(b) The comptroller shall certify the date on which the Texas Department of Transportation's registration and title system, as modified under Subsection (a) of this section, is in use by the 25 county tax assessor-collectors that remitted to the comptroller the largest amount of taxes imposed under Chapter 152, Tax Code, during the state fiscal year ending August 31, 2003.

(c) If the date certified by the comptroller under

Subsection (b) of this section is later than September 23, 2003, the Texas Department of Transportation shall transfer \$23 million from the state highway fund to the general revenue fund on the first day of each month after that date until the earlier of:

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

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

(A) \$200 million; or

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

ARTICLE 11. INSURANCE FOR VOLUNTEER MEMBERS OF STATE BOARDS

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

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

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

Sec. 1551.321. STATE CONTRIBUTION FOR CERTAIN INDIVIDUALS. (a) The state or a state agency may not make any contribution to the cost of any coverages or benefits provided under this chapter for an individual described by Section 1551.101(c) or a dependent of the individual.

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

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

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

ARTICLE 12. UNCLAIMED PROPERTY

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) After making a determination that an emergency exists, the governor may submit to the Legislative Budget Board a plan that:

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

(c) If the Legislative Budget Board agrees with the governor's determination under Subsection (b), the governor and the board may jointly issue an emergency order requiring the agency to implement the changes in its organization and operations as provided in the order.

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

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

ARTICLE 15. TEXAS HIGHER EDUCATION COORDINATING BOARD

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

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

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

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

(1) central administration;

(2) academic affairs coordination and support;

(3) general counsel and other legal services;

(4) budgeting, accounting, and data reporting;

(5) fiscal management;

(6) facilities planning and construction;

(7) governmental relations;

(8) audit services;

(9) real estate management;

(10) information technology services; and

(11) aircraft operation and usage.

(c) Not later than November 1, 2004, the board shall prepare a report of the review and deliver the report to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, and chair of the standing committee of each house of the legislature with primary jurisdiction over higher education. In the report, the board shall state its findings and identify opportunities for legislative and administrative action relating to:

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

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

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

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

(e) This section expires September 1, 2005.

ARTICLE 17. FEES FOR RAIL SAFETY PROGRAM

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

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

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

Sec. 2. (a) The Railroad Commission of Texas by rule shall adopt and provide for the collection of reasonable fees to be assessed annually against railroads operating within this state. The amount of a fee imposed under this article may not exceed an amount estimated by the commission to be sufficient in the aggregate to recover the costs of administering the commission's rail safety program.

(b) To provide for the equitable allocation of the cost of

administering the commission's rail safety program among railroads, the commission may consider the gross ton miles for railroad operations within this state for each railroad operating in the state when assessing a fee.

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

ARTICLE 18. TEXAS TRANSPORTATION INSTITUTE

SECTION 18.01. Chapter 88, Education Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. TEXAS TRANSPORTATION INSTITUTE

Sec. 88.301. DEFINITION. In this subchapter, "institute" means the Texas Transportation Institute, a component of The Texas A&M University System.

Sec. 88.302. FUNDING; LIMITATION ON GENERAL REVENUE.

(a) General revenue of the state may not be appropriated or used to fund an activity or program of the institute if money from the state highway fund could lawfully be appropriated and used to fund the activity or program.

(b) In any request or proposal by the board to the legislature, Legislative Budget Board, or Texas Higher Education Coordinating Board for an appropriation for the institute, the board shall include a description of each major activity or program of the center and a statement of the board's opinion whether the activity or program could be lawfully funded in whole or part by money from the state highway fund.

SECTION 18.02. Section 88.302, Education Code, as added by this article, does not affect the validity of an appropriation made to the Texas Transportation Institute before the effective date of this article or the use of the appropriated money by the institution.

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

SECTION 19.01. The following sections are repealed:

- (1) Section 2165.154, Government Code; and
- (2) Section 2165.204, Government Code.

ARTICLE 20. DEFINITION OF RECYCLED PRODUCT

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

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

ARTICLE 21. TEXAS INNOCENCE COMMISSION

SECTION 21.01. Chapter 43, Code of Criminal Procedure, is amended by adding Article 43.27 to read as follows:

Art. 43.27. TEXAS INNOCENCE COMMISSION

Sec. 1. CREATION. The Texas Innocence Commission is created on the date the governor determines the need for the creation of the commission.

Sec. 2. COMPOSITION. (a) The commission is composed of nine members. The governor shall appoint two members, one of whom must be a dean of a law school and one of whom must be a law enforcement officer. The attorney general shall appoint one member, who must be an attorney who represents the state in the prosecution of felonies. The chair of the criminal justice committee of the senate shall appoint one member, who may be a member of the legislature. The chair of the criminal jurisprudence committee of the house of representatives shall appoint one member, who may be a member of the legislature. The chief justice of the supreme court shall appoint one member, who must be a member of the judiciary. The chancellor of The University of Texas System shall appoint two members, one who must be a law professor and one who must work in the forensic science field. The Texas Criminal Defense Lawyers Association shall appoint one member, who must be a criminal defense lawyer.

(b) Each member serves a two-year term.

(c) The governor shall designate a member to serve as

13-1 presiding officer.

13-2 Sec. 3. DUTIES. (a) The commission shall investigate
 13-3 thoroughly all post-conviction exonerations, including convictions
 13-4 vacated based on a plea to time served, to:

13-5 (1) ascertain errors and defects in the criminal
 13-6 procedure used to prosecute the defendant's case at issue;

13-7 (2) identify errors and defects in the criminal
 13-8 justice process in this state generally;

13-9 (3) develop solutions and methods to correct the
 13-10 identified errors and defects; and

13-11 (4) identify procedures and programs to prevent future
 13-12 wrongful convictions.

13-13 (b) The commission may enter into contracts for research
 13-14 services as considered necessary to complete the investigation of a
 13-15 particular case, including forensic testing and autopsies.

13-16 (c) The commission may administer oaths and issue
 13-17 subpoenas, signed by the presiding officer, to compel the
 13-18 production of documents and the attendance of witnesses as
 13-19 considered necessary to conduct a thorough investigation. A
 13-20 subpoena of the commission shall be served by a peace officer in the
 13-21 manner in which district court subpoenas are served. On
 13-22 application of the commission, a district court of Travis County
 13-23 shall compel compliance with the subpoena in the same manner as for
 13-24 district court subpoenas.

13-25 Sec. 4. REPORT. (a) The commission shall compile a
 13-26 detailed annual report of its findings and recommendations,
 13-27 including any proposed legislation to implement procedures and
 13-28 programs to prevent future wrongful convictions.

13-29 (b) The report shall be made available to the public on
 13-30 request.

13-31 (c) The findings and recommendations contained in the
 13-32 report may not be used as binding evidence in a subsequent civil or
 13-33 criminal proceeding.

13-34 Sec. 5. SUBMISSION. The commission shall submit the report
 13-35 described by Section 4 to the governor, the lieutenant governor,
 13-36 and the speaker of the house of representatives not later than
 13-37 December 1 of each even-numbered year.

13-38 Sec. 6. RESPONSE. Not later than the 60th day after the
 13-39 date of receipt of the report required by this article, the
 13-40 governor, lieutenant governor, and speaker of the house of
 13-41 representatives shall, singly or jointly, issue a formal written
 13-42 response to the findings and recommendations of the commission.

13-43 Sec. 7. REIMBURSEMENT. A member of the commission is not
 13-44 entitled to compensation but is entitled to reimbursement for the
 13-45 member's travel expenses as provided by Chapter 660, Government
 13-46 Code, and the General Appropriations Act.

13-47 Sec. 8. ASSISTANCE. The Texas Legislative Council, the
 13-48 Legislative Budget Board, the Criminal Justice Policy Council, and
 13-49 The University of Texas at Austin shall assist the commission in
 13-50 performing the commission's duties.

13-51 Sec. 9. OTHER LAW. The commission is not subject to Chapter
 13-52 2110, Government Code.

13-53 SECTION 21.02. The appointments to the Texas Innocence
 13-54 Commission as required by Article 43.27, Code of Criminal
 13-55 Procedure, as added by this article, shall be made not later than
 13-56 the 60th day after the commission is created.

13-57 ARTICLE 22. ECONOMIC DEVELOPMENT PROGRAMS

13-58 SECTION 22.01. Subchapter B, Chapter 481, Government Code,
 13-59 is amended by adding Section 481.0215 to read as follows:

13-60 Sec. 481.0215. COORDINATION OF ECONOMIC DEVELOPMENT
 13-61 EFFORTS. (a) The executive director of the department shall work
 13-62 with the legislature and state agencies to identify grants and
 13-63 programs at all levels of government and to maximize access to
 13-64 federal funds for economic development.

13-65 (b) At the direction of the governor, the executive director
 13-66 of the department shall work with each state agency that
 13-67 administers a program relating to job training or job creation,
 13-68 including the Texas Workforce Commission, the Council on Workforce
 13-69 and Economic Competitiveness, the Department of Agriculture, and

the Office of Rural Affairs, to address the challenges facing the agencies relating to job training and job creation.

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

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

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

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

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

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

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

(c) The fund may be used for economic development, infrastructure development, community development, job training programs, and business incentives.

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

(e) The governor may negotiate on behalf of the state to grant money from the fund and may only direct the use of money from the fund with the express written consent of the Legislative Budget Board.

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

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

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

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

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

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

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

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

(c) The advisory board shall collect and disseminate information on federal, state, local, and private community economic development programs, including loans, grants, and other funding sources.

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

(e) The Texas Department of Economic Development may recommend that a taxing unit enter into a tax abatement agreement with a person under this chapter. In determining whether to approve an agreement to abate taxes on real property in a reinvestment zone

under Subsection (b), the board of directors of the reinvestment zone and the governing body of a taxing unit shall consider any recommendation made by the Texas Department of Economic Development.

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

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

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

(f) The Texas Department of Economic Development may recommend that a taxing unit enter into a tax abatement agreement with a person under this chapter. In determining whether to enter into a tax abatement agreement under this section, the commissioners court of a county shall consider any recommendation made by the Texas Department of Economic Development.

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

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

ARTICLE 23. BOARD OF PARDONS AND PAROLES

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

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

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

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

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

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

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[+]

16-1 ~~[(1)]~~ the board or panel is not affected by the fact
 16-2 that the action is taken when a ground for removal of a board member
 16-3 exists~~[, and~~

16-4 ~~[(2) the policy board is not affected by the fact that~~
 16-5 ~~the action is taken when a ground for removal of a member of the~~
 16-6 ~~policy board exists].~~

16-7 (d) ~~[(e)]~~ If the general counsel to the board has knowledge
 16-8 that a potential ground for removal exists, the general counsel
 16-9 shall notify the presiding officer of the board of the potential
 16-10 ground. The presiding officer shall notify the governor and the
 16-11 attorney general that a potential ground for removal exists. If the
 16-12 potential ground for removal involves the presiding officer, the
 16-13 general counsel to the board shall notify the governor and the
 16-14 attorney general that a potential ground for removal exists.

16-15 (e) ~~[(f)]~~ It is a ground for removal from the board that a
 16-16 member fails to comply with policies or rules adopted by the
 16-17 ~~[policy]~~ board.

16-18 SECTION 23.04. Section 508.035, Government Code, is amended
 16-19 by amending Subsection (c) and adding Subsection (d) to read as
 16-20 follows:

16-21 (c) The presiding officer reports directly to the governor
 16-22 and serves as the administrative head of the ~~[policy board and the]~~
 16-23 board.

16-24 (d) The presiding officer may:
 16-25 (1) delegate responsibilities and authority to other
 16-26 members of the board, parole commissioners, or to employees of the
 16-27 board;

16-28 (2) appoint advisory committees from the membership of
 16-29 the board or from parole commissioners to further the efficient
 16-30 administration of board business; and

16-31 (3) establish policies and procedures to further the
 16-32 efficient administration of the business of the board.

16-33 SECTION 23.05. Section 508.036, Government Code, is amended
 16-34 to read as follows:

16-35 Sec. 508.036. ~~[POLICY BOARD: COMPOSITION.]~~ GENERAL
 16-36 ADMINISTRATIVE DUTIES. (a) The presiding officer ~~[governor shall~~
 16-37 ~~designate six members of the board to serve as the Board of Pardons~~
 16-38 ~~and Paroles Policy Board. The governor shall designate the~~
 16-39 ~~presiding officer of the board as one of the six members of the~~
 16-40 ~~policy board, and the presiding officer of the board shall serve as~~
 16-41 ~~presiding officer of the policy board. Service on the policy board~~
 16-42 ~~is an additional duty of office for members appointed to the policy~~
 16-43 ~~board.~~

16-44 ~~[(b) Members of the board designated as members of the~~
 16-45 ~~policy board serve on the policy board for six-year terms that are~~
 16-46 ~~concurrent with their six-year terms on the board, with the service~~
 16-47 ~~of two members expiring February 1 of each odd-numbered year.~~

16-48 ~~[(c) The policy board] shall:~~
 16-49 (1) develop and implement policies that clearly
 16-50 separate the policy-making responsibilities of the board and the
 16-51 management responsibilities of the board administrator, parole
 16-52 commissioners, and the staff of the board [adopt rules relating to
 16-53 the decision-making processes used by the board and parole panels];

16-54 (2) establish caseloads and required work hours for
 16-55 members of the board and parole commissioners [assign duties to
 16-56 members of the policy board that are in addition to the duties those
 16-57 members have in handling a caseload];

16-58 (3) update parole guidelines, assign precedential
 16-59 value to previous decisions of the board relating to the granting of
 16-60 parole and the revocation of parole or mandatory supervision, and
 16-61 develop policies to ensure that members of the board and parole
 16-62 commissioners use guidelines and previous decisions of the board
 16-63 and parole commissioners in making decisions under this chapter;

16-64 (4) require members of the board and parole
 16-65 commissioners to file activity reports[, on forms provided by the
 16-66 policy board,] that provide information on release decisions made
 16-67 by members of the board and parole commissioners, the workload and
 16-68 hours worked of the members of the board and parole commissioners,
 16-69 and the use of parole guidelines by members of the board and parole

commissioners; and

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

(b) The board shall:

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

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

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

(4) prepare annually a complete and detailed written report that meets the reporting requirements applicable to financial reporting provided in the General Appropriations Act and accounts for all funds received and disbursed by the board during the preceding fiscal year.

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

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

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

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

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

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

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

(2) the programs operated by the board;

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

(4) the rules of the board;

(5) the current budget for the board;

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

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

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

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

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

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

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

(1) parole commissioners;

(2) a general counsel to the board;
 (3) ~~[(2)]~~ a board administrator to manage the day-to-day activities of the board;
 (4) ~~[(3)]~~ hearing officers;
 (5) ~~[(4)]~~ personnel to assist in clemency and hearing matters; and
 (6) ~~[(5)]~~ secretarial or clerical personnel.

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

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

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

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

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

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

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

(3) case studies useful in decision making in hearings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) a parole decision; or
- (2) a decision to revoke parole or mandatory supervision.

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

- (1) the eligibility of an inmate for release on parole or release to mandatory supervision;
- (2) the conduct of a parole or mandatory supervision hearing; or
- (3) conditions to be imposed on a releasee.

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

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

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

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

- (1) release on parole;
- (2) release to mandatory supervision; and
- (3) revocation of parole or mandatory supervision.

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

(c) A parole panel may:

- (1) grant, deny, or revoke parole;
- (2) revoke mandatory supervision; and
- (3) conduct parole revocation hearings and mandatory supervision revocation hearings.

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 in behalf of an inmate; and
- (2) the time, place, and manner of contact between a person representing an inmate and:

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

(B) an employee of the board; or

(C) an employee of the department.

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

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

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

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

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

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

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

(a) A releasee, a person released although ineligible for release, or a person granted a conditional pardon is entitled to a hearing before a parole panel or a designated agent of the board under the rules adopted by the ~~[policy]~~ board and within a period that permits a parole panel, a designee of the board, or the department to dispose of the charges within the periods established by Sections 508.282(a) and (b) if the releasee or person:

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

(2) is arrested after an ineligible release.

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

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

(1) the governor;

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

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

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

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

Sec. 492.0131. PAROLE RULES, POLICIES, PROCEDURES. The board and the presiding officer of the Board of Pardons and Paroles ~~[Policy Board]~~ shall jointly review all rules, policies, and procedures of the department and the Board of Pardons and Paroles that relate to or affect the operation of the parole process. The board and the presiding officer of the Board of Pardons and Paroles ~~[policy board]~~ shall identify areas of inconsistency between the department and the Board of Pardons and Paroles and shall amend rules or change policies and procedures as necessary for consistent operation of the parole process.

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

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

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

Art. 48.011. MEETINGS: CAPITAL CASE. (a) In a capital case, the members of the Board of Pardons and Paroles shall perform the members' duties in clemency matters by meeting as a body or by

participating in a telephone conference call as permitted by Section 551.124, Government Code.

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

(c) The Board of Pardons and Paroles shall adopt rules as necessary to implement the requirements of this article.

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

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

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

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

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

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

ARTICLE 24. TEACHER PAPERWORK AND EDUCATION PROGRAMS

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; or

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

(b) The board of trustees shall review paperwork requirements imposed on classroom teachers and shall transfer to existing noninstructional staff a reporting task that can

reasonably be accomplished by that staff.

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

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

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

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

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

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

SECTION 24.03. Section 42.152, Education Code, is amended by adding Subsection (c-1) to read as follows:

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

SECTION 24.04. (a) Section 11.164, Education Code, as amended by this article, applies beginning with the 2003-2004 school year.

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

ARTICLE 25. TEXAS B-ON-TIME LOAN PROGRAM

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

SUBCHAPTER Q. TEXAS B-ON-TIME LOAN PROGRAM

Sec. 56.451. DEFINITIONS. In this subchapter:

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

(2) "Eligible institution" means:

(A) an institution of higher education; or
(B) a private or independent institution of higher education.

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

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

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

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

(1) administer the Texas B-On-time loan program;
(2) determine the repayment and other terms of a Texas B-On-time loan; and

(3) in consultation with the student financial aid officers of eligible institutions, adopt any rules necessary to implement the program or this subchapter.

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

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

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

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

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

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

(2) meet one of the following academic requirements:

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

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

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

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

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

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

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

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

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

(4) completed at least 75 percent of the semester credit hours attempted by the person in the most recent academic year and has a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent on all coursework previously attempted at institutions of higher education, if the person is enrolled in any academic year after the person's first academic year; and

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

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

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

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

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

(d) A person who qualifies for and subsequently receives a Texas B-On-time loan, who receives an undergraduate certificate or

24-1 associate degree, and who, not later than the 12th month after the
 24-2 month the person receives the certificate or degree, enrolls in a
 24-3 program leading to a higher-level undergraduate degree continues to
 24-4 be eligible for a Texas B-On-time loan to the extent other
 24-5 eligibility requirements are met.

24-6 Sec. 56.457. WAIVER OF COURSE LOAD REQUIREMENT. (a) The
 24-7 coordinating board shall adopt rules to allow a person who is
 24-8 otherwise eligible to receive a Texas B-On-time loan, in the event
 24-9 of a hardship or other good cause, to receive a Texas B-On-time loan
 24-10 while enrolled in a number of semester credit hours that is less
 24-11 than the number of semester credit hours required under Section
 24-12 56.455 or 56.456, as applicable.

24-13 (b) The coordinating board may not allow a person to receive
 24-14 a Texas B-On-time loan while enrolled in fewer than six semester
 24-15 credit hours.

24-16 Sec. 56.458. LOAN USE. A person receiving a Texas B-On-time
 24-17 loan may use the money to pay for any usual and customary costs of
 24-18 attendance at an eligible institution incurred by the student,
 24-19 including tuition, fees, books, and room and board.

24-20 Sec. 56.459. LOAN AMOUNT. (a) The amount of a Texas
 24-21 B-On-time loan for a semester or term for a student enrolled
 24-22 full-time at an eligible institution other than an institution
 24-23 covered by Subsection (b), (c), or (d) is an amount determined by
 24-24 the coordinating board as the average statewide amount of tuition
 24-25 and required fees that a resident student enrolled full-time in an
 24-26 undergraduate degree program would be charged for that semester or
 24-27 term at general academic teaching institutions.

24-28 (b) The amount of a Texas B-On-time loan for a student
 24-29 enrolled full-time at a private or independent institution of
 24-30 higher education is an amount determined by the coordinating board
 24-31 as the average statewide amount of tuition and required fees that a
 24-32 resident student enrolled full-time in an undergraduate degree
 24-33 program would be charged for that semester or term at general
 24-34 academic teaching institutions.

24-35 (c) The amount of a Texas B-On-time loan for a student
 24-36 enrolled full-time at a public technical institute is the amount
 24-37 determined by the coordinating board as the average statewide
 24-38 amount of tuition and required fees that a resident student
 24-39 enrolled full-time in an associate degree or certificate program
 24-40 would be charged for that semester or term at public technical
 24-41 institutes.

24-42 (d) The amount of a Texas B-On-time loan for a student
 24-43 enrolled full-time at a public junior college is the amount
 24-44 determined by the coordinating board as the average statewide
 24-45 amount of tuition and required fees that a student who is a resident
 24-46 of the junior college district and is enrolled full-time in an
 24-47 associate degree or certificate program would be charged for that
 24-48 semester or term at public junior colleges.

24-49 (e) Not later than January 31 of each year, the coordinating
 24-50 board shall publish the amounts of each loan established by the
 24-51 board for each type of institution for the academic year beginning
 24-52 the next fall semester.

24-53 (f) If in any academic year the amount of money in the Texas
 24-54 B-On-time student loan account is insufficient to provide the loans
 24-55 to all eligible persons in amounts specified by this section, the
 24-56 coordinating board shall determine the amount of available money
 24-57 and shall allocate that amount to eligible institutions in
 24-58 proportion to the number of full-time equivalent undergraduate
 24-59 students enrolled at each institution. Each institution shall use
 24-60 the money allocated to award Texas B-On-time loans to eligible
 24-61 students enrolled at the institution selected according to
 24-62 financial need.

24-63 Sec. 56.460. NOTIFICATION OF PROGRAM; RESPONSIBILITIES OF
 24-64 SCHOOL DISTRICTS. (a) The coordinating board shall distribute to
 24-65 each eligible institution and to each school district a copy of the
 24-66 rules adopted under this subchapter.

24-67 (b) Each school district shall notify its middle school
 24-68 students, junior high school students, and high school students,
 24-69 those students' teachers and counselors, and those students'

parents or guardians of the Texas B-On-time loan program and the eligibility requirements of the program.

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

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

(1) within:

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

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

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

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

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

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

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

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

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

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

(b) Money in the Texas B-On-time student loan account may be used only as provided by this subchapter.

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

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

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

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

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

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

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

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

(c) The board shall deposit to the credit of the fund any ~~[the]~~ proceeds from the sale of bonds ~~[in the fund]~~, excluding:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 25.05. (a) The Texas Higher Education Coordinating Board and the eligible institutions shall award loans under the Texas B-On-time student loan program established under Subchapter Q, Chapter 56, Education Code, as added by this article, beginning with the 2003 fall semester.

(b) The Texas Higher Education Coordinating Board shall adopt the initial rules for awarding loans under the Texas B-On-time student loan program established under Subchapter Q, Chapter 56, Education Code, as added by this article, as soon as practicable after the effective date of this article. The coordinating board may adopt those initial rules in the manner provided by law for emergency rules.

SECTION 25.06. This article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas

Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2003.

ARTICLE 26. THE BUSINESS OF INSURANCE; PAST DISCRIMINATION

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

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

(b) It is not a defense to an action of the commissioner under Subsection (a) of this section that the contract giving rise to the alleged violation was entered into before the effective date 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 on which the plaintiff was denied insurance or the unfair act occurred or the date the plaintiff, in the exercise of reasonable diligence, should have discovered the occurrence of the unfair act.

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

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

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

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

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

(4) "Proceeds" means the face value or other payout value of insurance policies and annuities plus reasonable interest

to date of payment without diminution for wartime or immediate postwar currency devaluation.

SECTION 26.05. Article 21.74, Insurance Code, is amended by adding Sections 2A and 2B to read as follows:

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

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

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

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

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

(c) Each insurer shall certify:

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

(2) that the proceeds of the policies, in circumstances in which the beneficiaries or heirs could not, after diligent search, be located or identified, have been distributed to Holocaust survivors or to qualified charitable nonprofit organizations for the purpose of assisting Holocaust survivors;

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

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

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

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

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

(c) Information contained in the registry:

(1) is public information;

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

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

SECTION 26.06. (a) Article 21.21-6A, Insurance Code, as added by this article, applies only to an offense committed on or after the effective date of this article. An offense committed before the effective date of this article is governed by the law in effect immediately before the effective date of this article, and that law is continued in effect for that purpose. For the purposes of this subsection, an offense is committed before the effective date of this article if any element of the offense occurs before that date.

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

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

ARTICLE 27. OIL SPILL PREVENTION AND RESPONSE

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

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

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

(2) provide for prompt response to abate and contain spills and discharges of oil and ensure the removal and cleanup of pollution from such spills and discharges;

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

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

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

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

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

(22) "Response costs" means:

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

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

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

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

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

30-1 Sec. 40.052. HAZARDOUS SUBSTANCES DISCHARGES. If the
 30-2 unauthorized discharge involves predominantly a hazardous
 30-3 substance, the Texas ~~[Natural Resource Conservation]~~ Commission on
 30-4 Environmental Quality shall carry out responsibility for
 30-5 abatement, containment, removal, and cleanup of the hazardous
 30-6 substances discharged, pursuant to Subchapter G, Chapter 26, Water
 30-7 Code~~[, and to the state coastal discharge contingency plan]~~.

30-8 SECTION 27.05. Subsection (c), Section 40.101, Natural
 30-9 Resources Code, is amended to read as follows:

30-10 (c) In order to prevent duplication of effort among state
 30-11 agencies, the commissioner shall utilize the expertise of the Texas
 30-12 ~~[Natural Resource Conservation]~~ Commission on Environmental
 30-13 Quality on technical and scientific actions, including but not
 30-14 limited to:

- 30-15 (1) taking samples in the spill area;
- 30-16 (2) monitoring meteorological conditions that may
- 30-17 affect spill response operations; and
- 30-18 (3) regulating disposal of spilled material.

30-19 SECTION 27.06. Subsection (b), Section 40.103, Natural
 30-20 Resources Code, is amended to read as follows:

30-21 (b) Any person or discharge cleanup organization that
 30-22 renders assistance in abating, containing, or removing pollution
 30-23 from any unauthorized discharge of oil may receive compensation
 30-24 from the fund for response costs, provided the commissioner
 30-25 approves compensation prior to the assistance being rendered.
 30-26 ~~[Prior approval for compensation may be provided for in the state~~
 30-27 ~~coastal discharge contingency plan.]~~ The commissioner, on petition
 30-28 and for good cause shown, may waive the prior approval
 30-29 prerequisite.

30-30 SECTION 27.07. Section 40.104, Natural Resources Code, is
 30-31 amended to read as follows:

30-32 Sec. 40.104. QUALIFIED IMMUNITY FOR RESPONSE ACTIONS.
 30-33 (a) No action taken by any person or discharge cleanup
 30-34 organization to abate, contain, or remove pollution from an
 30-35 unauthorized discharge of oil, whether such action is taken
 30-36 voluntarily, or pursuant to the national contingency plan ~~[or state~~
 30-37 ~~coastal discharge contingency plan]~~, or pursuant to a discharge
 30-38 response plan required under this chapter, or pursuant to the
 30-39 request of an authorized federal or state official, or pursuant to
 30-40 the request of the responsible person, shall be construed as an
 30-41 admission of responsibility or liability for the discharge.

30-42 (b) No person or discharge cleanup organization that
 30-43 voluntarily, or pursuant to the national contingency plan ~~[or the~~
 30-44 ~~state coastal discharge contingency plan]~~, or pursuant to any
 30-45 discharge response plan required under this chapter, or pursuant to
 30-46 the request of an authorized federal or state official, or pursuant
 30-47 to the request of the responsible person, renders assistance or
 30-48 advice in abating, containing, or removing pollution from an
 30-49 unauthorized discharge of oil is liable for response costs,
 30-50 damages, or civil penalties resulting from acts or omissions
 30-51 committed in rendering such assistance or advice, except for acts
 30-52 or omissions of gross negligence or wilful misconduct.

30-53 SECTION 27.08. Subdivision (1), Subsection (a), Section
 30-54 40.107, Natural Resources Code, is amended to read as follows:

30-55 (1) In any action to recover natural resources
 30-56 damages, the amount of damages established by the commissioner in
 30-57 conjunction with the trustees~~[, according to the procedures and~~
 30-58 ~~plans contained in the state coastal discharge contingency plan,]~~
 30-59 shall create a rebuttable presumption of the amount of such
 30-60 damages.

30-61 SECTION 27.09. Subdivisions (1) and (4), Subsection (c),
 30-62 Section 40.107, Natural Resources Code, are amended to read as
 30-63 follows:

30-64 (1) The commissioner, in conjunction with the
 30-65 trustees, shall develop an inventory that identifies and catalogs
 30-66 the physical locations, the seasonal variations in location, and
 30-67 the current condition of natural resources; provides for data
 30-68 collection related to coastal processes; and identifies the
 30-69 recreational and commercial use areas that are most likely to

suffer injury from an unauthorized discharge of oil. The inventory shall be completed by September 1, 1995~~[, and shall be incorporated into the state coastal discharge contingency plan after public review and comment]~~.

(4) The commissioner shall adopt administrative procedures and protocols for the assessment of natural resource damages from an unauthorized discharge of oil. As developed through negotiated rulemaking with the trustees and other interested parties, the procedures and protocols shall require the trustees to assess natural resource damages by considering the unique characteristics of the spill incident and the location of the natural resources affected. These procedures and protocols shall be adopted by rule, by the trustee agencies after negotiation, notice, and public comment, by June 1, 1994~~[, and shall be incorporated into the state coastal discharge contingency plan]~~.

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

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

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

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

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~~

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

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

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

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

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

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

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

~~[(B) execute a release of the bond if a supersedeas bond has been posted].~~

SECTION 27.15. Subdivisions (1), (2), and (3), Subsection (a), Section 40.258, Natural Resources Code, are amended to read as follows:

(1) The commissioner shall promulgate rules ~~[and a state coastal discharge contingency plan]~~ that, to the greatest extent practicable, conform to the national contingency plan and rules promulgated under federal law.

(2) The commissioner may impose requirements under such rules ~~[and the state coastal discharge contingency plan]~~ that are in addition to or vary materially from federal requirements if the state interests served by the requirements substantially outweigh the burdens imposed on those subject to the requirements.

(3) Any request for judicial review of any rule ~~[or any provision of the state coastal discharge contingency plan based on Subdivision (1) or (2) of this subsection]~~ must be filed in a district court in Travis County within 90 days of the effective date of the rule or plan challenged.

SECTION 27.16. The following provisions of the Natural Resources Code are repealed:

(1) Sections 40.006, 40.053, 40.115, and 40.303;

(2) Subsection (f), Section 40.110;

(3) Subsection (b), Section 40.117;

(4) Subsection (e), Section 40.151; and

(5) Subdivision (2), Subsection (g), Section 40.254.

ARTICLE 28. REPORTS

SECTION 28.01. Subsection (a), Section 363.064, Health and Safety Code, is amended to read as follows:

(a) A regional or local solid waste management plan must:

(1) include a description and an assessment of current efforts in the geographic area covered by the plan to minimize production of municipal solid waste, including sludge, and efforts to reuse or recycle waste;

(2) identify additional opportunities for waste minimization and waste reuse or recycling;

(3) include a description and assessment of existing or proposed community programs for the collection of household hazardous waste;

(4) make recommendations for encouraging and achieving a greater degree of waste minimization and waste reuse or recycling in the geographic area covered by the plan;

(5) encourage cooperative efforts between local governments in the siting of landfills for the disposal of solid waste;

(6) consider the need to transport waste between municipalities, from a municipality to an area in the jurisdiction of a county, or between counties, particularly if a technically suitable site for a landfill does not exist in a particular area;

(7) allow a local government to justify the need for a landfill in its jurisdiction to dispose of the solid waste generated in the jurisdiction of another local government that does

not have a technically suitable site for a landfill in its jurisdiction;

(8) establish recycling rate goals appropriate to the area covered by the plan;

(9) recommend composting programs for yard waste and related organic wastes that may include:

(A) creation and use of community composting centers;

(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, is amended to read as follows:

(b) The report due by December 1 of an even-numbered year shall include, in addition:

(1) the commission's recommendations for necessary and desirable legislation; and

(2) the following reports:

(A) the assessments and reports required by Section ~~[Sections]~~ 361.0219(c) ~~[, 361.0232, 361.510, 371.063, and 382.141]~~, Health and Safety Code;

(B) the reports required by Section 26.0135(d) ~~[of this code]~~ and Section 5.02, Chapter 133, Acts of the 69th Legislature, Regular Session, 1985; and

(C) a summary of the analyses and assessments required by Section 5.1773 ~~[of this code]~~.

SECTION 28.04. (a) The following provisions of the Health and Safety Code are repealed:

(1) Sections 361.020, 361.0201, 361.0232, 361.0233, 361.0234, 361.510, 371.063, and 382.141;

(2) Subsection (d), Section 361.040; and

(3) Subsection (c), Section 361.0871.

(b) Subsection (c), Section 5.178, Water Code, is repealed.

ARTICLE 29. SCHOOL BUS SAFETY STANDARDS

SECTION 29.01. Subsection (a), Section 34.002, Education Code, is amended to read as follows:

(a) The Department of Public Safety, with the advice of the ~~[General Services Commission and the]~~ Texas Education Agency, shall establish safety standards for school buses used to transport students in accordance with Section 34.003 ~~[34.002, Education Code]~~.

SECTION 29.02. Subsections (a) and (b), Section 547.7015, Transportation Code, are amended to read as follows:

(a) The department ~~[General Services Commission, with the advice of the department,]~~ shall adopt and enforce rules governing

the design, color, lighting and other equipment, construction, and operation of a school bus for the transportation of schoolchildren that is:

(1) owned and operated by a school district in this state; or

(2) privately owned and operated under a contract with a school district in this state.

(b) In adopting rules under this section, the department [~~General Services Commission~~] shall emphasize:

(1) safety features; and

(2) long-range, maintenance-free factors.

SECTION 29.03. Rules that were adopted under Section 547.7015, Transportation Code, before the effective date of this article and that are in effect on the effective date of this article are continued in effect as rules of the Department of Public Safety until the rules are amended, repealed, or superseded by an action of the department.

ARTICLE 30. CORPORATE ETHICS AND INTEGRITY

SECTION 30.01. Subchapter B, Chapter 402, Government Code, is amended by adding Section 402.0231 to read as follows:

Sec. 402.0231. CORPORATE INTEGRITY UNIT. (a) In this section, "corporate fraud" means a violation of state or federal law or rules relating to fraud committed by a corporation, limited liability company, or registered limited liability partnership or an officer, director, or partner of those entities while acting in a representative capacity.

(b) A corporate integrity unit is created within the office of the attorney general to assist in the enforcement of the laws relating to corporate fraud or other similar illegal activities. The unit shall:

(1) assist district attorneys and county attorneys in the investigation and prosecution of corporate fraud or other similar illegal activities allegedly committed by corporations, limited liability companies, and registered limited liability partnerships;

(2) assist state agencies with investigation of complaints and administrative enforcement actions for corporate fraud violations, including the assessment of an administrative penalty or other administrative sanction; and

(3) serve as a clearinghouse for information relating to the investigation and prosecution of corporate fraud and other similar illegal activities in this state.

(c) To the extent allowed by law, a state agency or local law enforcement agency shall cooperate with the corporate integrity unit by providing information requested by the unit as necessary to carry out the purposes of this section. Information disclosed under this subsection is confidential and not subject to disclosure 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) "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.

(2) "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.

(3) "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.

(4) "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

controlled by the audited company; and

(B) meets independence standards adopted by appropriate standard-setting or regulatory entities.

(5) "State governmental entity" means:

(A) a board, commission, department, office, or other agency in the executive branch of state government created under the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; or

(C) the Texas Supreme Court, the Texas Court of Criminal Appeals, a court of appeals, a state judicial agency, or the State Bar of Texas.

(b) A company that enters into a contract with a state governmental entity that involves the expenditure of more than \$1 million shall:

(1) immediately report to the entity any financial irregularity relating to the contract or the company's financial position that is detrimental to the interest of the entity; and

(2) annually during the contract period submit to the entity a certified audit of the company's operations, except as provided by Subsection (g).

(c) The auditor's opinion in an audit required by Subsection (b)(2) must state whether the financial statements of the audited company present fairly, in all material respects and in accordance with accounting principles generally accepted in the United States, its financial position and results of operations relating to the obligation, receipt, expenditure, and use of state funds.

(d) A company that violates Subsection (b)(1) commits an offense. An offense under this subsection is a Class A misdemeanor.

(e) A company that violates Subsection (b)(2) is liable to the state for a civil penalty in an amount not to exceed \$10,000. The attorney general may bring suit to recover the civil penalty imposed under this subsection.

(f) If the attorney general prevails in an action for recovery of a civil penalty under Subsection (e), the attorney general is entitled to recover reasonable attorney's fees incurred in obtaining the penalty.

(g) A federally insured financial institution that has less than \$500 million in assets may, in lieu of a certified audit required by Subsection (b)(2), submit a directors examination conducted by an independent certified public accountant in accordance with the Statement of Standards for Attestation Engagements.

SECTION 30.03. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2263 to read as follows:

CHAPTER 2263. ETHICS AND DISCLOSURE REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS AND SERVICE PROVIDERS

Sec. 2263.001. APPLICABILITY. (a) This chapter applies in connection with the management or investment of any state funds managed or invested:

(1) under the Texas Constitution or other law, including Chapters 404 and 2256; and

(2) by or for:

(A) a public retirement system as defined by Section 802.001 that provides service retirement, disability retirement, or death benefits for officers or employees of the state;

(B) an institution of higher education as defined by Section 61.003, Education Code; or

(C) another entity that is part of state government and that manages or invests state funds or for which state funds are managed or invested.

(b) This chapter applies in connection with the management or investment of state funds without regard to whether the funds are held in the state treasury.

(c) This chapter does not apply to or in connection with a state governmental entity that does not manage or invest state funds and for which state funds are managed or invested only by the

comptroller.

Sec. 2263.002. DEFINITION. In this chapter, "financial advisor or service provider" includes a person or business entity who acts as a financial advisor, financial consultant, money or investment manager, or broker.

Sec. 2263.003. CONSTRUCTION WITH OTHER LAW. To the extent of a conflict between this chapter and another law, the law that imposes a stricter ethics or disclosure requirement controls.

Sec. 2263.004. ETHICS REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISORS OR SERVICE PROVIDERS. (a) The governing body of a state governmental entity by rule shall adopt standards of conduct applicable to financial advisors or service providers who are not employees of the state governmental entity, who provide financial services to the state governmental entity or advise the state governmental entity or a member of the governing body of the state governmental entity in connection with the management or investment of state funds, and who:

(1) may reasonably be expected to receive, directly or indirectly, more than \$10,000 in compensation from the entity during a fiscal year; or

(2) render important investment or funds management advice to the entity or a member of the governing body of the entity, as determined by the governing body.

(b) A contract under which a financial advisor or service provider renders financial services or advice to a state governmental entity or other person as described by Subsection (a) is voidable by the state governmental entity if the financial advisor or service provider violates a standard of conduct adopted under this section.

Sec. 2263.005. DISCLOSURE REQUIREMENTS FOR OUTSIDE FINANCIAL ADVISOR OR SERVICE PROVIDER. (a) A financial advisor or service provider described by Section 2263.004 shall disclose in writing to the administrative head of the applicable state governmental entity and to the state auditor:

(1) any relationship the financial advisor or service provider has with any party to a transaction with the state governmental entity, other than a relationship necessary to the investment or funds management services that the financial advisor or service provider performs for the state governmental entity, if a reasonable person could expect the relationship to diminish the financial advisor's or service provider's independence of judgment in the performance of the person's responsibilities to the state governmental entity; and

(2) all direct or indirect pecuniary interests the financial advisor or service provider has in any party to a transaction with the state governmental entity, if the transaction is connected with any financial advice or service the financial advisor or service provider provides to the state governmental entity or to a member of the governing body in connection with the management or investment of state funds.

(b) The financial advisor or service provider shall disclose a relationship described by Subsection (a) without regard to whether the relationship is a direct, indirect, personal, private, commercial, or business relationship.

(c) A financial advisor or service provider described by Section 2263.004 shall file annually a statement with the administrative head of the applicable state governmental entity and with the state auditor. The statement must disclose each relationship and pecuniary interest described by Subsection (a) or, if no relationship or pecuniary interest described by that subsection existed during the disclosure period, the statement must affirmatively state that fact.

(d) The annual statement must be filed not later than February 1 on a form prescribed by the governmental entity, other than the state auditor, receiving the form. The statement must cover the reporting period of the previous calendar year. The state auditor shall develop and recommend a uniform form that other governmental entities receiving the form may prescribe.

(e) The financial advisor or service provider shall

promptly file a new or amended statement with the administrative head of the applicable state governmental entity and with the state auditor whenever there is new information to report under Subsection (a).

Sec. 2263.006. PUBLIC INFORMATION. Chapter 552 controls the extent to which information contained in a statement filed under this chapter is subject to required public disclosure or excepted from required public disclosure.

SECTION 30.04. Section B, Article 1.03, Texas Miscellaneous Corporation Laws Act (Article 1302-1.03, Vernon's Texas Civil Statutes), is amended to read as follows:

B. Except to the extent that any provisions of this Act are expressly made inapplicable by any provision of the Texas Business Corporation Act, the Texas Non-Profit Corporation Act, or any special Statute of this State pertaining to a particular type of corporation and except as otherwise provided by Article 5.20 of this Act, this Act shall govern (1) all domestic corporations, including without limitation those corporations heretofore or hereafter organized under any Statute of the State, and (2) only to the extent expressly provided in this Act, all foreign corporations, including without limitation those corporations heretofore or hereafter granted a permit to do business under any Statute of the State.

SECTION 30.05. Part Five, Texas Miscellaneous Corporation Laws Act (Article 1302-5.01 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 5.20 to read as follows:

Art. 5.20. CERTIFICATION OF FALSE OR MISLEADING FINANCIAL REPORT; CRIMINAL PENALTY. (a) In this section:

(1) "Corporate official" means the president or other chief executive officer, the chief financial officer, or any other officer of or person performing a similar function for a corporation or other company that is required to file a periodic report under Section 13(a) or 15(d), Securities Exchange Act of 1934 (15 U.S.C. Sections 78m(a), 78o(d)).

(2) "Financial report" means a balance sheet, an income or loss statement, a cash flow statement, or any other presentation of financial information, however denominated, concerning a corporation or other company that is intended to portray a significant portion of the company's financial position.

(b) A corporate official who signs a sworn statement certifying that information contained in a financial report fairly represents, as of the period presented in the report, the financial condition or results of operation of the company issuing the report commits an offense if the corporate official makes the certification knowing that the report contains false or misleading information that affects or may affect the finances or operations of the issuing company, as appropriate, in any material respect.

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

SECTION 30.06. The office of the attorney general is not required to implement Section 402.0231, Government Code, as added by this article, unless a specific appropriation for the implementation is provided in the General Appropriations Act, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 30.07. Each state governmental entity required to adopt rules under Chapter 2263, Government Code, as added by this article, shall adopt its initial rules in time for the rules to take 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, conservation, and outdoor recreation; and
 - (B) consider the commission's composition in terms of:
 - (i) the geographical areas represented by members of the commission; and
 - (ii) the appropriate balance of representatives from rural and urban areas; and
- (2) may include persons who have an interest in and knowledge of hunting, fishing, wildlife, environmental concerns, land or water use issues, or water quality issues.

SECTION 34.02. (a) As soon as possible on or after September 1, 2003, the governor shall appoint nine members to the Parks and Wildlife Commission under Section 11.012, Parks and Wildlife Code, as amended by this article. The governor shall designate:

- (1) three members, including one public member, for terms expiring February 1, 2005;
- (2) three members, including one public member, for terms expiring February 1, 2007; and
- (3) three members, including one public member, for terms expiring February 1, 2009.

(b) The governor may reappoint a person who served as a member of the Parks and Wildlife Commission before September 1, 2003.

(c) The position of a member of the Parks and Wildlife Commission serving immediately before September 1, 2003, is abolished at the time five or more of the newly appointed directors

qualify for office. Until the abolition of the members' positions occurs under this section, the members serving immediately before September 1, 2003, have the same powers and duties that the members had immediately before that date and the commission continues to be composed in the way it was composed before that date, and the former law is continued in effect for that purpose.

ARTICLE 35. DESIGNATION OF PRESIDING OFFICERS

SECTION 35.01. Chapter 651, Government Code, is amended by adding Section 651.008 to read as follows:

Sec. 651.008. APPOINTMENT OF PRESIDING OFFICERS BY GOVERNOR. (a) In this section, "state agency" means a department, commission, board, office, council, authority, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including:

(1) a university system or institution of higher education as defined by Section 61.003, Education Code; and

(2) a river authority as defined by Section 30.003, Water Code.

(b) Notwithstanding other law, the governor may designate a member of the governing body of each state agency as the presiding officer of that governing body to serve in that capacity at the pleasure of the governor.

ARTICLE 36. LIMITATIONS APPLICABLE TO CERTAIN GROUP INSURANCE PROGRAMS

SECTION 36.01. Subchapter E, Chapter 3, Insurance Code, is amended by adding Article 3.50-7A to read as follows:

Art. 3.50-7A. LIMITATIONS APPLICABLE TO TEXAS SCHOOL EMPLOYEES UNIFORM GROUP COVERAGE PROGRAM. (a) This article applies only to the uniform group coverage program established under Article 3.50-7 of this code. A term used in this article has the meaning assigned by Section 2, Article 3.50-7 of this code.

(b) The Teacher Retirement System of Texas, as trustee, may not contract for or provide a health coverage plan that excludes from participation in the network a general hospital that:

(1) is located in a county, all or part of which is located within the geographical service area of the health coverage plan, in which at least two, but not more than four, general hospitals are located; and

(2) agrees to provide medical and health care services under the plan subject to the same terms and conditions as other hospital providers under the plan.

SECTION 36.02. (a) Section 1551.205, Insurance Code, is amended to conform to Section 30, Chapter 1231, Acts of the 77th Legislature, Regular Session, 2001, and further amended to read as follows:

Sec. 1551.205. LIMITATIONS. (a) The board of trustees may not contract for or provide a coverage plan that:

(1) excludes or limits coverage or services for acquired immune deficiency syndrome, as defined by the Centers for Disease Control and Prevention of the United States Public Health Service, or human immunodeficiency virus infection; or

(2) provides coverage for serious mental illness that is less extensive than the minimum coverage ~~[provided]~~ for serious mental ~~[any physical]~~ illness required by Section 3, Article 3.51-14.

(b) The board of trustees may not contract for or provide a coverage plan that excludes from participation in the network a general hospital that:

(1) is located in a county, all or part of which is located within the geographical service area of the health coverage plan, in which at least two, but not more than four, general hospitals are located; and

(2) agrees to provide medical and health care services under the plan subject to the same terms and conditions as other hospital providers under the plan.

(b) Section 30, Chapter 1231, Acts of the 77th Legislature, Regular Session, 2001, is repealed.

SECTION 36.03. Subchapter D, Chapter 1575, Insurance Code, is amended by adding Section 1575.163 to read as follows:

40-1 Sec. 1575.163. LIMITATIONS. The Teacher Retirement System
40-2 of Texas, as trustee, may not contract for or provide a health
40-3 benefit plan that excludes from participation in the network a
40-4 general hospital that:

40-5 (1) is located in a county, all or part of which is
40-6 located within the geographical service area of the health coverage
40-7 plan, in which at least two, but not more than four, general
40-8 hospitals are located; and

40-9 (2) agrees to provide medical and health care services
40-10 under the plan subject to the same terms and conditions as other
40-11 hospital providers under the plan.

40-12 ARTICLE 37. REGULATION OF INDUSTRIALIZED HOUSING
40-13 SECTION 37.01. Subsection (c), Section 1202.002,
40-14 Occupations Code, is amended to read as follows:

40-15 (c) Industrialized housing does not include:
40-16 (1) a residential structure that exceeds four [~~three~~]
40-17 stories or 69 [~~49~~] feet in height as measured from the finished
40-18 grade elevation at the building entrance to the peak of the roof;

40-19 (2) housing constructed of a sectional or panelized
40-20 system that does not use a modular component; or

40-21 (3) a ready-built home constructed in a manner in
40-22 which the entire living area is contained in a single unit or
40-23 section at a temporary location for the purpose of selling and
40-24 moving the home to another location.

40-25 ARTICLE 38. CONFLICTS CLAUSE; EFFECTIVE DATE
40-26 SECTION 38.01. In the event of a conflict between a
40-27 provision of this Act and another Act passed by the 78th
40-28 Legislature, Regular Session, 2003, that becomes law, this Act
40-29 prevails and controls regardless of the relative dates of
40-30 enactment.

40-31 SECTION 38.02. Except as otherwise provided by this Act,
40-32 this Act takes effect September 1, 2003.

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