

## **BILL ANALYSIS**

Senate Research Center  
79R18478 KEG-F

C.S.H.B. 2233  
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Finance  
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Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

As the sole administrator of the treasury and the state's many financial resources, the office of the comptroller of public accounts (comptroller) relies on statutory authority and rulemaking power to manage those resources. As the dynamics of financial markets and our economic systems continue to evolve, the tools available to the comptroller often require adjustment to maximize the effectiveness of the agency's resource control. Being the sole administrator of the state's financial resources also places the comptroller in the unique position of working in concert with other state governmental entities that rely on the comptroller's expertise to adequately provide the necessary financial support.

C.S.H.B. 2233 makes adjustments in various portions of the Texas statutes to facilitate the administration of the state's financial resources.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 78 (Section 74.601, Property Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 103.051, Civil Practice and Remedies Code, by amending Subsection (a) and adding Subsection (b-1), as follows:

(a) Deletes existing text requiring a claimant, to apply for compensation under this chapter, to file with the comptroller of public accounts' (comptroller) judiciary section a certification of the claimant's actual innocence of the crime for which the claimant was sentenced that is signed by the attorney representing the state in the prosecution of felonies in the county in which the sentence was rendered.

(b-1) Provides that the comptroller's duty on receipt of an application is limited to the ministerial function of determining the completeness of the application. Requires the comptroller, if the comptroller determines that the claimant's application does not provide all of the documentation required by Subsection (a), to deny the claim without prejudice.

SECTION 2. Amends Article 103.002, Code of Criminal Procedure, to prohibit an officer from imposing a cost or fee for a service not performed or for a service or purpose for which a cost or fee is not expressly provided by law. Requires all moneys collected as costs or fees that are not expressly provided by law to be remitted to the comptroller for deposit into the general revenue fund to be administered under Chapters 101 and 111, Tax Code.

SECTION 3. Amends Article 103.0031(e), Code of Criminal Procedure, to require that a private attorney or vendor receive 30 percent of the total amount collected, not to exceed the amount added as the collection fee, and the remainder of the amount collected to be allocated in accordance with this chapter and Chapter 133, Local Government Code, if a county or municipality has entered into a contract under Subsection (a) and a person pays an amount that is less than the aggregate total to be collected under Subsections (a) and (b). Deletes existing text requiring the allocation to the comptroller and the county or municipality to be reduced proportionately.

SECTION 4. Amends Section 43.002(a), Education Code, to require the Texas Education Agency (TEA), rather than the comptroller, on the first working day of each month in a state fiscal year, to transfer from the permanent school fund to the available school fund a certain amount.

SECTION 5. Amends Section 51.009(c), Education Code, to delete existing text requiring indirect cost recovery fees to be accounted for as educational and general funds.

SECTION 6. Amends Section 63.202, Education Code, by amending Subsection (b) and adding Subsection (h), as follows:

(b) Provides that Subsection (h) is an exception to this subsection.

(h) Requires expenses of managing and administering the assets of the permanent health fund for higher education (fund) to be paid from the fund.

SECTION 7. Amends Section 63.302, Education Code, by amending Subsection (b) and adding Subsection (h), as follows:

(b) Makes a conforming change.

(h) Makes a conforming change.

SECTION 8. Amends Sections 25.0015(b) and (c), Government Code, as follows:

(b) Requires amounts paid under this subsection to be paid in equal quarterly, rather than monthly, installments.

(c) Makes a conforming change.

SECTION 9. Amends Section 25.00211(b), Government Code, to make a conforming change.

SECTION 10. Amends Section 26.007(b), Government Code, to make a conforming change.

SECTION 11. Amends Section 74.061(c) and (h), Government Code, as follows:

(c) Deletes existing text requiring the salary of a retired judge or justice while assigned under this chapter to be paid out of money appropriated from the general revenue fund for that purpose in an amount equal to the compensation received from state and county sources of the judge to the court to which he is assigned.

(h) Sets forth the amounts used for determining the salary from the state of a retired judge or justice assigned to a district court, notwithstanding Subsection (d), rather than (c), and deletes existing text adding the sum of the regular judge's salary from the county to the amount set forth by this subsection.

SECTION 12. Amends Section 403.019(c), Government Code, to require the attorney general to determine, in addition to the other requirements of this subsection, that a contract does not conflict with any contract formed under Section 2107.003(b), before approving the contract.

SECTION 13. Amends Section 2107.003, Government Code, as follows:

Sec. 2107.003. New heading: COLLECTION BY ATTORNEY GENERAL, COMPTROLLER, OR OUTSIDE AGENT. (a) Requires a state agency, except as provided by Subsection (c), to report an uncollected and delinquent obligation to, rather than request, the attorney general for collection. Requires the state agency to report the obligation on or before the 120th day after the date the obligation becomes past due or delinquent, rather than to collect an obligation before the agency may employ, retain, or contract with a person other than a full-time employee of the state agency to collect the obligation.

(b) Requires the attorney general to provide legal services for collection of the obligation, to authorize the requesting state agency to employ, retain, or contract, subject to approval by the attorney general, with a person to collect the obligation, or, if the attorney general determines it to be economical and in the best interest of the state, to contract with one or more persons to collect the obligation, rather than a person other than a full-time employee of the agency to collect an obligation that the attorney general cannot collect.

(c) Makes no changes to this subsection.

(d) Provides that the agency contracting under Subsection (b) is entitled to recover from the obligor, in addition to the amount of the obligation, the costs incurred in undertaking the collection, including the costs of a contract under this section. Provides that the obligor is liable for costs of recovery under this section in an amount equal to 30 percent of the sum of the amount of the obligation and any interest due on the obligation.

(e) Requires a contract formed under Subsection (b) to provide for the compensation due to the contractor. Prohibits the amount of the compensation from exceeding 30 percent of the sum of the collected amount of the obligation, any penalty, and any interest.

(f) Authorizes a contract formed under Subsection (b) or (c) to permit or require the contractor to pursue in the name of this state a judicial action to collect the amount of the obligation in a proper court in or outside of this state.

(g) Provides that, in a suit in a Texas state court to collect an obligation under this section, the state is not required to post security for costs, liable for costs, and liable for fees for certain services.

(h) Requires an amount collected under a contract formed under Subsection (b), including the costs of recovery and court costs or other costs, to be deposited in the fund or account to which the obligation was required to be deposited. Requires the contracting agency to pay the compensation due under the contract to the contractor and to pay the applicable court any court costs collected.

(i) Requires the contracting agency to require a person contracting under Subsection (b) to post a bond or other security in an amount the contracting agency determines is sufficient to cover all revenue or other property of the state that is expected to come into the possession or control of the contractor in the course of providing contract services.

(j) Provides that a person who contracts under Subsection (b) is an agent of this state for purposes of determining priority of a claim to be collected under the contract with respect to claims of other creditors. Provides that the contractor does not exercise any sovereign power of the state.

(k) Authorizes the contracting state agency to provide a person contracting under Subsection (b) any information, including confidential information, that the agency is not prohibited from sharing under an agreement with another state or with the United States and that is in the custody of the agency holding the claim and necessary to the collection of the obligation.

(l) Provides that a person acting under a contract formed under Subsection (b) or (c) and each employee or agent of that person is subject to all prohibitions against the disclosure of confidential information obtained from the contracting agency, the reporting state agency, or their employees. Provides that a contractor or the contractor's employee or agent who discloses confidential information in violation of the prohibition is subject to the same penalties for that disclosure as would apply to the contracting agency or its employees.

(m) Requires the contracting agency to require a person who contracts under Subsection (b) to obtain and maintain insurance adequate to provide reasonable coverage for damages negligently, recklessly, or intentionally caused by the contractor or the contractor's employee or agent in the course of collecting an obligation under the contract and to protect this state from liability for those damages. Provides that the state is not liable for and may not indemnify a person acting under a contract under Subsection (b) for damages negligently, recklessly, or intentionally caused by the contractor or the contractor's employee or agent in the course of collecting an obligation under the contract.

(n) Provides that, in addition to grounds for termination provided by the contract terms, the attorney general or the contracting agency, as applicable, may terminate a contract formed under Subsection (b) if the contractor or the contractor's employee or agent violates the federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692 et seq.), discloses confidential information to a person not authorized to receive the information, or performs any act that results in a final judgment for damages against this state.

SECTION 14. Amends Section 2254.102(c), Government Code, to provide that this subchapter does not apply to a contract with an agency to collect an obligation under Section 2107.003(b).

SECTION 15. Amends Sections 403.071(g) and (h), Government Code, as follows:

(g) Deletes existing text authorizing a state agency to contract in writing for the comptroller to audit claims presented by the state agency after the comptroller prepares warrants or uses the electronic funds transfer system to pay the claims. Makes conforming changes.

(h) Makes conforming changes.

SECTION 16. Amends Section 403.074(g), Government Code, to require the comptroller to pay under this section any claim that satisfies the requirements of Article 26.051, Code of Criminal Procedure.

SECTION 17. Amends Section 404.024, Government Code, by adding Subsection (m), to authorize the comptroller, in entering into a direct security repurchase agreement or a reverse security repurchase agreement, to agree to accept cash on an overnight basis in lieu of the securities, obligations, or participation certificates identified in Section 404.001(3). Provides that cash held by the state under this subsection is not a deposit of state or public funds for the purposes of any law, including this subchapter or Subchapter D, that requires a deposit of state or public funds to be collateralized by eligible securities.

SECTION 18. Amends Section 404.124(c), Government Code, to require the underwriter of any notes issued under this section, if the cash management committee determines that competitive bids are appropriate, to be selected by the method of sale that is most advantageous to the state under the circumstances, including a sale using an Internet auction site, rather than by the solicitation of sealed bids.

SECTION 19. Amends Subchapter A, Chapter 659, Government Code, by adding Section 659.007, as follows:

Sec. 659.007. EARNINGS STATEMENT. Defines "state agency." Authorizes a state agency to provide a written or electronic earnings statement to an officer or employee of the agency. Authorizes the comptroller to adopt rules and establish procedures concerning the earnings statements provided by state agencies that under Subchapter C, Chapter 2101, are required to use the uniform statewide payroll system.

SECTION 20. Reenacts and amends Sections 659.004(a) and (d), Government Code, as amended by Sections 32 and 104, Acts of the 77th Legislature, Regular Session, 2001, as follows:

(a) Makes no further changes to this subsection.

(d) Makes no further changes to this subsection.

SECTION 21. Amends Section 659.044(e), Government Code, to amend the existing amounts of an employee's longevity pay under this subsection.

SECTION 22. Amends Section 659.225(a)(3), Government Code, to redefine "merit salary increase."

SECTION 23. Amends Sections 659.256(c) and (f), Government Code, as follows:

(c) Requires that, when an employee is promoted within, rather than to a position in a higher salary group in, Salary Schedule A of the General Appropriations Act or from Salary Schedule B or C of the General Appropriations Act to Salary Schedule A of the General Appropriations Act, the employee receive a salary rate that is at least 3.4 percent, rather than one step, higher than the employee's salary rate before promotion. Deletes existing text relating to the step rates to be used when an employee is promoted from a position in Salary Schedule B or C of the General Appropriations Act or a position in Salary Schedule A of the General Appropriations Act.

(f) Prohibits an employee from receiving more than the maximum rate of the employee's new salary group, even if the increase is less than one step in a salary group that is divided into steps, rather than Salary Schedule A of the General Appropriations Act, or 3.4 percent in a salary group that is not divided into steps, rather than Salary Schedule B of the General Appropriations Act.

SECTION 24. Amends Section 659.257(c), Government Code, to make conforming changes.

SECTION 25. Amends Section 660.024(a), Government Code, to authorize the advance written approval required under this section to be communicated electronically. Deletes existing text requiring a copy of the written approval to be submitted with the travel voucher to the comptroller in accordance with Section 660.027.

SECTION 26. Amends Sections 660.027(b), (d), and (e), Government Code, as follows:

(b) Amends the requirements for validity of a voucher submitted under Subsection (a).

(d) Amends the specific information by which the voucher is required to be supported.

(e) Authorizes the comptroller to require a state agency to provide to the comptroller the description, information, and documentation required under Subsection (d) in a specific manner.

SECTION 27. Amends Section 1431.001(2), Government Code, to redefine "eligible countywide district."

SECTION 28. Amends Section 2256.011, Government Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Provides that Subsection (e) is an exception to this subsection.

(e) Authorizes an entity to agree to secure the agreement by accepting cash on an overnight basis in lieu of the obligations identified in Section 2256.009(a)(1). Provides that cash held by an entity under this subsection is not a deposit of public funds for purposes of any statute, including Chapter 2257, that requires a deposit of public funds to be collateralized by eligible securities.

SECTION 29. (a) Amends Section 103.007, Human Resources Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires a person who operates a facility that is licensed under this chapter to file an application for a renewal license not later than the 45th day before the expiration date of the current license.

(d) Requires an application for license renewal submitted to the Texas Department of Human Services (department) later than the 45th day before the expiration date of the current license to be accompanied by a late application fee in accordance with department rules.

(b) Makes application of the change in law made by this section prospective.

SECTION 30. Amends Chapter 103, Human Resources Code, by adding Section 103.0076, as follows:

Sec. 103.0076. FEASIBILITY INSPECTION. (a) Requires the department to adopt a procedure under which a person who is considering applying for a license to operate an adult day-care facility may request an on-site compliance review by qualified department personnel of an existing unlicensed building for conformance with the department's licensing standards and the relevant occupancy chapters of the Life Safety Code of the National Fire Protection Association. Requires the department, in adopting the procedure, to set reasonable deadlines by which the department must complete the feasibility inspection.

(b) Requires the department, not later than the 30th day after the date a person requests a feasibility inspection under this section, to complete the inspection and inform the person in writing of the results of the inspection. Prohibits the department, if the building complies with the department's licensing standards and the relevant Life Safety Code occupancy chapters, from changing the standards and chapters applicable to the project unless the change is required by federal law or the person fails to complete the project within a reasonable time.

(c) Authorizes the department to charge a reasonable fee for conducting a feasibility inspection under this section.

(d) Requires a fee collected under this section to be deposited in the general revenue fund and to be appropriated only to the department to conduct feasibility inspections under this section.

(e) Provides that the feasibility inspection procedure provided by this section does not include inspection of an existing unlicensed building for conformance with the Texas Accessibility Standards as administered and enforced by the Texas Department of Licensing and Regulation.

[ While the statutory reference in Sections 29 and 30 of this bill is to the Texas Department of Human Services, the above amendments affect the Health and Human Services Commission, as the successor agency to the Department of Human Services.]

SECTION 31. (a) Amends Section 142.0105, Health and Safety Code, as follows:

Sec. 142.0105. LICENSE RENEWAL. (a) Authorizes a person who is otherwise eligible to renew a license to renew an unexpired license by submitting a completed application for renewal and pay the required renewal fee to the Texas Department of the Health (TDH) not later than the 45th day before the expiration date of the license.

(b) Provides that an application for license renewal submitted to TDH later than the 45th day before the expiration date of the current license is subject to an additional late application fee in accordance with TDH rules. Deletes existing text relating to specific renewal fees based on the length of time a license has been expired.

(c) Requires TDH, not later than the 120th day, rather than 60th, day before the date a person's license is scheduled to expire, to send written notice of the impending expiration to the person at the person's last known address according to the records of TDH. Requires the written notice to include an application for licensure and instructions for completing the application.

(b) Makes application of the change in law made by this section prospective.

SECTION 32. Amends Section 142.017, Health and Safety Code, by amending Subsection (e) and adding Subsection (j), as follows:

(e) Provides an exception to this section as provided in Subsection (j).

(j) Provides that TDH is not required to provide the home and support services agency with a reasonable period of time following the first day of a violation to correct the violation before assessing an administrative penalty if TDH makes certain determinations regarding the violation.

SECTION 33. Amends Subchapter A, Chapter 142, Health and Safety Code, by adding Sections 142.0031 and 142.0032, as follows:

Sec. 142.0031. EARLY COMPLIANCE REVIEW. (a) Requires TDH, by rule, to adopt a procedure under which a person proposing to construct or modify a free-standing hospice may submit building plans to TDH for review for compliance with TDH's architectural requirements before beginning construction or modification. Requires TDH, in adopting the procedure, to set reasonable deadlines by which TDH must complete review of submitted plans.

(b) Requires TDH, not later than the 30th day after the date the building plans are submitted under this section, to review the plans for compliance with TDH's architectural requirements and inform the person in writing of the results of the review. Prohibits TDH, if the plans comply with TDH's architectural requirements, from subsequently changing the architectural requirements applicable to the project unless the change is required by federal law or the person fails to complete the project within a reasonable time.

(c) Authorizes TDH to charge a reasonable fee for conducting a review under this section.

(d) Requires a fee collected under this section to be deposited in the general revenue fund and authorizes said fee to be appropriated only to TDH to conduct reviews under this section.

(e) Provides that the review procedure provided by this section does not include review of building plans for compliance with the Texas Accessibility Standards as administered and enforced by the Texas Department of Licensing and Regulation.

Sec. 142.0032. FEASIBILITY INSPECTION. (a) Requires TDH to adopt a procedure under which a person who is considering applying for a license to operate a free-standing hospice may request an on-site compliance review by qualified TDH personnel of an existing unlicensed building for conformance with TDH's licensing standards and the relevant occupancy chapters of the Life Safety Code of the National Fire Protection Association. Requires TDH, in adopting the procedure, to set reasonable deadlines by which TDH must complete the feasibility inspection.

(b) Requires TDH, not later than the 30th day after the date a person requests a feasibility inspection under this section, to complete the inspection and inform the person in writing of the results of the inspection. Prohibits TDH, if the building complies with TDH's licensing standards and the relevant Life Safety Code occupancy chapters applicable to the project unless the change is required by federal law or the person fails to complete the project within a reasonable time.

- (c) Authorizes TDH to charge a reasonable fee for conducting a feasibility inspection under this section.
- (d) Requires a fee collected under this section to be deposited in the general revenue fund and to be appropriated only to TDH to conduct feasibility inspections under this section.
- (e) Provides that the feasibility inspection procedure provided by this section does not include inspection of an existing unlicensed building for conformance with the Texas Accessibility Standards as administered and enforced by the Texas Department of Licensing and Regulation.

SECTION 34. Amends Section 242.034, Health and Safety Code, by adding Subsection (i), to provide that an application for license renewal that is submitted to TDH later than the 45th day before the expiration date of a current license is subject to an additional late application fee in accordance with TDH rules.

SECTION 35. Amends Subchapter B, Chapter 242, Health and Safety Code, by adding Section 242.0386, as follows:

Sec. 242.0386. FEASIBILITY INSPECTION. (a) Requires TDH to adopt a procedure under which a person who is considering applying for a license to operate a free-standing hospice may request an on-site compliance review by qualified TDH personnel of an existing unlicensed building for conformance with TDH's licensing standards and the relevant occupancy chapters of the Life Safety Code of the National Fire Protection Association. Requires TDH, in adopting the procedure, to set reasonable deadlines by which TDH must complete the feasibility inspection.

(b) Requires TDH, not later than the 30th day after the date a person requests a feasibility inspection under this section, to complete the inspection and inform the person in writing of the results of the inspection. Prohibits TDH, if the building complies with TDH's licensing standards and the relevant Life Safety Code occupancy chapters applicable to the project unless the change is required by federal law or the person fails to complete the project within a reasonable time.

(c) Authorizes TDH to charge a reasonable fee for conducting a feasibility inspection under this section.

(d) Requires a fee collected under this section to be deposited in the general revenue fund and to be appropriated only to TDH to conduct feasibility inspections under this section.

(e) Provides that the feasibility inspection procedure provided by this section does not include inspection of an existing unlicensed building for conformance with the Texas Accessibility Standards as administered and enforced by the Texas Department of Licensing and Regulation.

SECTION 36. (a) Amends Section 242.097, Health and Safety Code, by adding Subsection (e), to provide that a fee charged under Subsection (a) or (b) that is not paid by a nursing or convalescent home on or before the due date is late and that the home must pay an additional fee in accordance with TDH rules.

(b) Makes application of the change in law made by this section prospective.

SECTION 37. (a) Amends Section 242.0975, Health and Safety Code, by adding Subsection (d), to provide that a fee charged under Subsection (a) or (b) that is not paid by a facility on or before the due date is late and the facility must pay an additional fee in accordance with TDH rules.

(b) Makes application of the change in law made by this section prospective.



SECTION 38. (a) Amends Section 247.024, Health and Safety Code, by adding Subsection (e), to provide that an application for license renewal that is submitted to TDH later than the 45th day before the expiration date of a current license is subject to an additional late application fee in accordance with TDH rules.

(b) Makes application of the change in law made by this section prospective.

SECTION 39. Amends Subchapter B, Chapter 247, Health and Safety Code, by adding Section 247.0262, as follows:

Sec. 247.0262. FEASIBILITY INSPECTION. (a) Requires TDH to adopt a procedure under which a person who is considering applying for a license to operate an assisted living facility may request an on-site compliance review by qualified TDH personnel of an existing unlicensed building for conformance with TDH's licensing standards and the relevant occupancy chapters of the Life Safety Code of the National Fire Protection Association. Requires TDH, in adopting the procedure, to set reasonable deadlines by which TDH must complete the feasibility inspection.

(b) Requires TDH, in adopting the procedure under Subsection (a), to set reasonable deadlines by which TDH must complete a feasibility inspection.

(c) Requires TDH, not later than the 30th day after the date a person requests a feasibility inspection under this section, to complete the inspection and inform the person in writing of the results of the inspection. Prohibits TDH, if the building complies with TDH's licensing standards and the relevant Life Safety Code occupancy chapters applicable to the project unless the change is required by federal law or the person fails to complete the project within a reasonable time.

(d) Authorizes TDH to charge a reasonable fee for conducting a feasibility inspection under this section.

(e) Requires a fee collected under this section to be deposited in the general revenue fund and to be appropriated only to TDH to conduct feasibility inspections under this section.

(f) Provides that the feasibility inspection procedure provided by this section does not include inspection of an existing unlicensed building for conformance with the Texas Accessibility Standards as administered and enforced by the Texas Department of Licensing and Regulation.

SECTION 40. (a) Amends Section 252.034, Health and Safety Code, by adding Subsection (f), to provide that an application for license renewal that is submitted to TDH later than the 45th day before the expiration date of a current license is subject to an additional late application fee in accordance with TDH rules.

(b) Makes application of the change in law made by this section prospective.

SECTION 41. Amends Subchapter B, Chapter 252, Health and Safety Code, by adding Section 252.0376, as follows:

Sec. 252.0376. FEASIBILITY INSPECTION. (a) Requires TDH to adopt a procedure under which a person who is considering applying for a license to operate a free-standing hospice may request an on-site compliance review by qualified TDH personnel of an existing unlicensed building for conformance with TDH's licensing standards and the relevant occupancy chapters of the Life Safety Code of the National Fire Protection Association. Requires TDH, in adopting the procedure, to set reasonable deadlines by which TDH must complete the feasibility inspection.

(b) Requires TDH, not later than the 30th day after the date a person requests a feasibility inspection under this section, to complete the inspection and inform the person in writing of the results of the inspection. Prohibits TDH, if the building

complies with TDH's licensing standards and the relevant Life Safety Code occupancy chapters applicable to the project unless the change is required by federal law or the person fails to complete the project within a reasonable time.

(c) Authorizes TDH to charge a reasonable fee for conducting a feasibility inspection under this section.

(d) Requires a fee collected under this section to be deposited in the general revenue fund and to be appropriated only to TDH to conduct feasibility inspections under this section.

(e) Provides that the feasibility inspection procedure provided by this section does not include inspection of an existing unlicensed building for conformance with the Texas Accessibility Standards as administered and enforced by the Texas Department of Licensing and Regulation.

SECTION 42. (a) Amends Section 252.095, Health and Safety Code, by adding Subsection (e), to provide that a fee charged under Subsection (a) that is not paid on or before the due date is late and that the facility must pay an additional fee in accordance with TDH rules.

(b) Makes application of the change in law made by this section prospective.

[While the statutory reference in Sections 31-42 of this bill is to the Texas Department of Health, the following amendments affect the Health and Human Services Commission, as the successor agency to the Texas Department of Health.]

SECTION 43. (a) Amends Section 103.006(b), Human Resources Code, to provide that the license expires two years, rather than one year, from the date of its issuance.

(b) Makes application of the change in law made by this section to a license issued under Section 103.006, Human Resources Code, as amended by this section, prospective.

SECTION 44. (a) Amends Section 142.006(b), Health and Safety Code, to provide that a license issued under this chapter expires two years, rather than one year, after the date of issuance.

(b) Makes application of the change in law made by this section to a license issued under Section 142.006, Health and Safety Code, prospective.

SECTION 45. (a) Amends Section 142.010, Health and Safety Code, to require TDH, rather than the Texas Board of Health, to set license fees for home and community support services agencies in amounts that are reasonable to meet the costs of administering this chapter, except that the fees may not be less than \$600, rather than \$300, or more than \$2,000, rather than \$1,000, for a license to provide home health, hospice, or personal assistance services.

(b) Makes application of the change in law made by this section to a license issued under Chapter 142, Health and Safety Code, prospective.

SECTION 46. Amends Sections 247.023(a) and (b), Health and Safety Code, to provide that the license under this section expires on the second anniversary of the date of its issuance and to make a conforming change.

SECTION 47. (a) Amends Sections 247.024(a), Health and Safety Code, to prohibit the fees imposed under this chapter from exceeding \$1,500, rather than \$750 and to make a conforming change.

(b) Makes application of the change in law made by this section prospective.

SECTION 48. Amends Section 101.001(a), Insurance Code, to provide that Chapter 981, rather than Article 1.14-2, Insurance Code, determines who is qualified as an eligible surplus lines insurer.

SECTION 49. Amends Subchapter A, Chapter 101, Insurance Code, by adding Section 101.005, as follows:

Sec. 101.005. APPLICABILITY OF CHAPTER TO ELIGIBLE SURPLUS LINES INSURERS. Provides that, notwithstanding any other provision of this chapter, this chapter does not apply to an eligible surplus lines insurer.

SECTION 50. Amends Section 101.053, Insurance Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Deletes existing text providing that Sections 101.051 and 101.052 do not apply to the lawful transaction of surplus lines insurance under Chapter 981.

(d) Defines "lawful transaction of surplus lines insurance," for purposes of Subsection (b-1).

SECTION 51. Amends Section 101.201(b), Insurance Code, to make a conforming change.

SECTION 52. Amends Section 101.203(c), Insurance Code, to make conforming changes.

SECTION 53. Amends Section 101.301(b), Insurance Code, to make conforming changes.

SECTION 54. Amends Section 225.002, Insurance Code, to provide that this chapter applies only to a surplus lines agent who collects gross premiums for surplus lines insurance.

SECTION 55. Amends Section 226.001, Insurance Code, as follows:

Sec. 226.001. New heading: DEFINITION. Deletes existing definition of "insurer."

SECTION 56. Amends Section 226.002, Insurance Code, to provide that this chapter applies only to an unauthorized insurer who charges gross premiums for insurance on a subject resident, located, or to be performed in this state.

SECTION 57. Amends Sections 226.003(a), (b), and (g), Insurance Code, to make conforming changes.

SECTION 58. Amends Sections 226.005(b) and (c), Insurance Code, to authorize an insured or agent to pay the tax imposed under this subchapter in lieu of the unauthorized insurer and to make conforming changes.

SECTION 59. Amends Section 226.052, Insurance Code, to make a conforming change.

SECTION 60. Amends Section 981.002(1), Insurance Code, to redefine "eligible surplus lines insurer."

SECTION 61. Amends Section 981.004, Insurance Code, by adding Subsection (c), to provide that an eligible surplus lines insurer is not an unauthorized insurer and is not subject to Chapter 101.

SECTION 62. Amends Section 981.005, Insurance Code, to delete the existing exception to this section provided by Section 12, Article 1.14-2, Insurance Code, and make conforming changes.

SECTION 63. Amends Section 981.006, Insurance Code, to provide that Chapter 82 applies to a surplus lines agent or an eligible surplus lines insurer that violates Chapter 225, rather than Section 12, Article 1.14-2, Insurance Code.

SECTION 64. Amends Section 981.008, Insurance Code, to make a conforming change.

SECTION 65. Amends Section 981.101, Insurance Code, by amending Subsection (b) and adding Subsections (d) and (e), as follows:

(b) Makes a conforming change.

(d) Requires each eligible surplus lines insurer to annually file with the stamping office a report, in a format prescribed by the stamping office, containing specific information regarding each surplus lines policy.

(e) Provides that information provided under Subsection (d) is confidential and may not be made available to the public.

SECTION 66. Amends Section 981.104(b), Insurance Code, to make a conforming change.

SECTION 67. Amends Section 981.160, Insurance Code, to make a conforming change.

SECTION 68. Amends Section 302.001, Local Government Code, by amending Subdivision (1) and adding Subdivision (3), to redefine "energy savings performance contract" and to define "usage measure."

SECTION 69. Amends Section 302.002(b), Local Government Code, to require each energy or water usage measure to comply with current local, state, and federal construction, plumbing, and environmental codes and regulations.

SECTION 70. Amends Section 302.003, Local Government Code, to authorize the governing body of the local government to also require a separate bond to cover the value of the guaranteed increased revenues from the contract and to make a conforming change.

SECTION 71. Amends Section 302.004, Local Government Code, to make conforming changes.

SECTION 72. Amends Section 302.005(b), Local Government Code, to make conforming changes.

SECTION 73. Amends Section 430.003, Local Government Code, as follows:

Sec. 430.003. New heading: EXEMPTIONS OF CERTAIN PROPERTY FROM INFRASTRUCTURE FEES. Prohibits any county, municipality, or utility district from collecting from a state agency or public or private institution of higher education, including a public junior college as defined by Section 61.003, Education Code, any fee charged for the development of maintenance programs of facilities for the control of excess water or storm water. Provides that this section does not apply to a municipality with a population of less than 25,000.

SECTION 74. Amends Section 433(a), Probate Code, to require any heir, devisee, legatee, or their assigns of an estate whose funds were paid to the state treasurer under this chapter before September 1, 1991, to initiate suit under this section not later than September 1, 2009.

SECTION 75. Amends Section 74.101(a), Property Code, to authorize the comptroller to require the report to be in a particular format, including an electronic format that can be read by a computer if the holder is reporting 10 or more items of property.

SECTION 76. Amends Section 74.401, Property Code, by adding Subsection (f), to authorize the comptroller to sell as a gift, novelty, or collectible item, but not as an investment, a stock, bond, certificate, or similar instrument that is nonredeemable and nontransferable because it has been canceled or issued by a company that has been dissolved or terminated and the existence of which has not been revised or reinstated. Authorizes the comptroller to sell an instrument under this subsection at a public sale or in another manner determined to be appropriate by the comptroller, including an online sale. Requires the comptroller, before selling an instrument under this subsection, to stamp the face of the instrument with a prominent mark indicating that the instrument has been canceled. Requires the comptroller, at the time of the sale and of the delivery of the instrument to the purchaser, to provide written notice to the purchaser as required

by this subsection. Sets forth specific requirements for the information to be included on the notice and for the printing of the notice.

SECTION 77. Amends Section 74.507(b), Property Code, to make a nonsubstantive change.

SECTION 78. Amends Section 74.601, Property Code, by adding Subsection (g), to authorize the comptroller, if an owner does not assert a claim for unclaimed funds reported to the comptroller and the owner is reported to be the state or a state agency, to deposit the unclaimed funds to the credit of the general revenue fund. Authorizes the comptroller to establish procedures and adopt rules as necessary to implement this section.

SECTION 79. (a) Amends Section 6.03, Tax Code, by adding Subsection (a-1), as follows:

(a-1) Provides that, notwithstanding Subsection (a) or any change in the method or procedure for appointing directors adopted under Section 6.031 before the date this subsection becomes effective, in an appraisal district established for a county with a population of less than 5,000, one director is appointed by the governing body of the most populous municipality that participates in the district, excluding the population of any portion of the municipality for which another appraisal district appraises property. Requires the governing body of the municipality to make the appointment by resolution and submit the resolution to the chief appraiser before December 15. Requires the governing body, if a vacancy occurs on the board of directors in the position held by the member appointed by the governing body, to appoint a person to fill the vacancy. Authorizes the governing body to recall a member appointed by the governing body by submitting a resolution to the chief appraiser stating that the municipality is recalling the member. Provides that a change under Section 6.031 made after this subsection becomes effective is not valid if the governing body adopts a resolution opposing the change and files it with the chief appraiser. Provides that the municipality is considered to be a taxing unit entitled to vote on the appointment of board members for purposes of Section 6.034. Provides that the other directors are appointed in the manner otherwise applicable to the district under this section or Section 6.031 by the other taxing units that participate in the appraisal district. Provides that, if those directors are appointed as provided by this section, the total dollar amount of taxes imposed in the district by the municipality is excluded from the calculation of the voting entitlements of the other taxing units. Prohibits the governing body of a municipality from participating in a vote to fill a vacancy in a position on the board held by a member appointed by the other taxing units or to recall a member of the board appointed by the other taxing units.

(b) Makes application of the change in law made by this section prospective to January 1, 2006.

(c) Sets forth the requirements for appointing one of the directors, if the directors of an appraisal district described by Section 6.03(a-1), Tax Code, as added by this Act, serve staggered terms.

(d) Provides that this section takes effect upon passage or September 1, 2005.

SECTION 80. Amends Subchapter C, Chapter 41, Tax Code, by adding Section 41.445, as follows:

Sec. 41.445. NOTICE OF FILING OF NOTICE OF PROTEST. Requires the appraisal review board, on request of a taxing unit that participates in the appraisal district, to send by regular mail to the presiding officer of the governing body of the taxing unit a copy of each notice of protest pertaining to certain properties. Requires the secretary to mail a copy of a notice of protest as required by this section not later than the 10th day after the date the notice is filed.

SECTION 81. Amends Sections 41.47(a) and (d), Tax Code, as follows:

(a) Requires the appraisal review board to make its determination regarding a protest under this section not later than the 30th day after the date the notice of a protest is filed or as soon as thereafter practicable.

(d) Requires the board to send by regular mail a notice of issuance of the order and a copy of the order to the presiding officer of the governing body of each taxing unit to which a copy of the notice of protest was mailed under Section 41.445.

SECTION 82. Amends Section 43.04, Tax Code, to authorize the governing body of a taxing unit to sue the chief appraiser or members of the appraisal review board, as applicable, for failure to comply with the deadlines imposed by Section 41.47(a).

SECTION 83. Makes application of Section 41.445, Tax Code, as added by this Act, and Sections 41.47 and 43.04, Tax Code, as amended by this Act, prospective to January 1, 2006.

SECTION 84. Amends Section 151.304(b), Tax Code, to redefine "occasional sale."

SECTION 85. (a) Amends Subchapter L, Chapter 151, Tax Code, by adding Section 151.715, as follows:

Sec. 151.715. COLLECTION OF AMOUNTS IN EXCESS OF TAX IMPOSED; CIVIL PENALTY. (a) Prohibits a person from collecting certain amounts as a tax imposed under this chapter.

(b) Requires the comptroller to send a written notice to a person who violates Subsection (a) that directs the person to cease collecting amounts described by that subsection. Requires the person to pay a penalty of \$1000 for each sale on which the person collects an amount described by that subsection if, after the person receives two written notices from the comptroller, the person continues collecting an amount described above.

(c) Provides that the penalty provided by this section is assessed without regard to whether the person against whom the penalty is assessed remits to the comptroller the excess amounts collected.

(b) Makes application of Section 151.715, Tax Code, as added by this section, prospective.

SECTION 86. Amends Sections 162.001(9), (19), (20), (42), and (43), Tax Code, to redefine "blending," "diesel fuel," "distributor," "motor fuel," and "motor fuel transporter."

SECTION 87. Amends Section 162.004(b), Tax Code, to delete existing text requiring that the shipping document issued by the terminal operator or operator of a bulk plant contain the license number of the purchaser.

SECTION 88. Amends Section 162.016(a), Tax Code, to delete existing text requiring that the shipping document include the federal employer identification number, or the social security number if the employer identification number is not available, of the carrier transporting the motor fuel and the federal employer identification number, license number, and physical address of the purchaser of the motor fuel.

SECTION 89. Amends Section 162.113(d), Tax Code, to require the supplier or permissive supplier to take certain actions, rather than to provide that the supplier or permissive supplier has the right to take certain actions.

SECTION 90. Amends Section 162.115, Tax Code, by adding Subsection (m-1), to require a license holder, in addition to the records specifically required by this section, to keep any other record required by the comptroller.

SECTION 91. Amends Sections 162.116(a) and (d), Tax Code, as follows:

(a) Amends the specific information required to be included in the monthly return and supplements of each supplier and permissive supplier.

(d) Prohibits the comptroller from requiring a supplier to remit from a payment or credit in reduction of a customer's account any tax for which the supplier or permissive supplier was allowed to take a credit.

SECTION 92. Amends Section 162.118, Tax Code, to amend the specific information required to be included on the monthly return and supplements of each distributor.

SECTION 93. Amends Section 162.123, Tax Code, to amend the specific information required to be included on the monthly return and supplements of each blender.

SECTION 94. Amends Section 162.127, Tax Code, by adding Subsection (g), to require the comptroller to issue a refund warrant to a distributor not later than the 60th day after the date the comptroller receives a valid refund claim from the distributor. Provides that, if the comptroller does not issue a refund warrant by that date, the amount of the refund draws interest at the rate provided by Section 111.060 beginning on the 61st day after the date the comptroller receives the valid refund claim and ending on the date the comptroller issues the refund warrant.

SECTION 95. Amends Section 162.206, Tax Code, by amending Subsection (c) and adding Subsections (c-1) and (h-1), as follows:

(c) Prohibits a person from making a tax-free purchase and a licensed supplier or distributor from making a tax-free sale to a purchaser of any dyed diesel fuel under this section using a signed statement for the first sale or purchase and for any subsequent sale or purchase in a calendar month for specific gallon amounts.

(c-1) Provides that the monthly limitations prescribed by Subsection (c) apply regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month.

(h-1) Provides that, for purposes of this section, the purchaser is considered to have furnished the signed statement to the licensed supplier or distributor if the supplier or distributor verifies that the purchaser has an end-user number issued by the comptroller. Requires the licensed supplier or distributor to use the comptroller's Internet website or other materials provided or produced by the comptroller to verify this information.

SECTION 96. Amends Section 162.214(d), Tax Code, to make a conforming change.

SECTION 97. Amends Section 162.216, Tax Code, by adding Subsection (m-1), to make a conforming change.

SECTION 98. Amends Sections 162.217(a) and (d), Tax Code, to make conforming changes.

SECTION 99. Amends Section 162.219, Tax Code, to make conforming changes.

SECTION 100. Amends Section 162.224, Tax Code, to make conforming changes.

SECTION 101. Amends Section 162.229, Tax Code, to make conforming changes.

SECTION 102. Amends Section 162.230(d), Tax Code, to authorize a distributor that determines taxes were erroneously reported and remitted or that paid more taxes than were due to this state because of a mistake of fact or law to take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller.

SECTION 103. Amends Sections 162.404(c) and (d), Tax Code, as follows:

(c) Provides that the prohibition under Section 162.403(32) does not apply to the tax-free sale or distribution of diesel fuel authorized by Section 162.204(a)(1), rather than 162.204(1).

(d) Makes a conforming change.

SECTION 104. Amends Section 311.0125, Tax Code, by adding Subsection (f), to prohibit a municipality, if under this section a municipality has entered into a tax abatement agreement with an owner of real or personal property in a reinvestment zone designated under this chapter, from entering into a tax abatement agreement authorized by any other law of this state in connection with the same property of that owner.

SECTION 105. Provides that this section applies only to a homestead preservation reinvestment zone that is designated in the manner provided by statute by an ordinance adopted by the governing body of a municipality and in connection with which the municipality has established an ad valorem tax increment fund. Authorizes a taxing unit, as defined by Section 1.04, Tax Code, to enter into a tax abatement agreement with an owner of real or personal property in a homestead preservation reinvestment zone, regardless of whether the taxing unit deposits or agrees to deposit any portion of its tax increment into the tax increment fund for the zone. Sets forth the requirements and guidelines for entering into such an agreement.

SECTION 106. Provides that, if a provision of this Act relating to the expenditure of revenue from the tax increment fund established for a homestead preservation reinvestment zone conflicts with any other provision of any other act of the 79th Legislature, Regular Session, 2005, it is the intent of the legislature that the provision of this Act prevails, regardless of the relative dates of enactment of this Act and the other act or acts.

SECTION 107. Amends Section 623.052(b), Transportation Code, to make a conforming change.

SECTION 108. Amends Section 404.024, Government Code, by amending Subsections (b) and (l) and adding Subsections (n) and (o), as follows:

(b) Amends the requirements for investment of state funds not deposited in state depositories.

(l) Requires the procedures used by the comptroller in lending securities to include a requirement to fully secure the loan with cash, obligations described by Subsections (b)(1)-(6), or a combination of cash and the described obligations. Provides that, notwithstanding any provision to the contrary, cash may be reinvested in the items permitted under Subsection (b) or mutual funds secured by the items permitted under Subsection (b). Deletes existing definition of "obligation."

(n) Authorizes the comptroller, in entering into a direct security repurchase agreement or a reverse security repurchase agreement, to take certain actions.

(o) Authorizes any government investment pool created to function as a money market mutual fund and managed by the comptroller or the Texas Treasury Safekeeping Trust Company, notwithstanding any other law to the contrary, to invest the funds it receives in investments that are "eligible securities" as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Part 270.2a-7), if it maintains a dollar-weighted average portfolio maturity of 90 days or less, with the maturity of each portfolio security calculated in accordance with Rule 2a-7 (17 C.F.R. Part 270.2a-7) and meets the diversification requirements of rule 2a-7.

SECTION 109. Amends Section 2256.011, Government Code, by adding Subsection (f), to authorize an entity, for purposes of this section, to agree to accept cash on an overnight basis in lieu of the obligations identified in Section 2256.009(a)(1). Provides that cash held by an entity under this subsection is not a deposit of public funds for purposes of any statute, including Chapter 2257, that requires a deposit of public funds to be collateralized by eligible securities.

SECTION 110. Amends Section 2256.016, Government Code, by amending Subsections (a) and (f) and adding Subsection (i), as follows:



- (a) Makes a conforming change.
- (f) Makes conforming changes.
- (i) Defines "stated maturity date."

SECTION 111. (a) Amends Section 422.015, Government Code, by adding Subsection (h) to authorize the comptroller to manage the assets of the Texas preservation trust fund account in the same manner as the comptroller is authorizes to manage certain other permanent funds.

(b) Amends Section 285.063, Health and Safety Code, by adding Section (b-1) to require certain hospital districts to submit certain information pertaining district boundaries to the comptroller.

(c) Amends Section 775.0753, Health and Safety Code, to require certain emergency service districts to submit certain information pertaining to district boundaries to the comptroller.

(c) Amends Section 776.0753, Health and Safety Code, to require certain emergency service districts to submit certain information pertaining to district boundaries to the comptroller.

(e) Amends Article 1.16(b), Insurance Code, to make conforming changes.

(f) Amends Section 222.002(b), Insurance Code, to include certain certificates, contracts, or policies covering risks on individuals or groups, rather than a person.

(g) Amends Section 223.003(a), Insurance Code, to provide that an annual tax is imposed on all, rather than each title insurance company that receives, premiums from the business of title insurance. Makes nonsubstantive changes.

(h) Amends Section 252.003, Insurance Code, to make modifications to the list of methods of loss or damage for which an insurer is required to pay maintenance taxes under this chapter. Makes a nonsubstantive change.

(i) Amends Section 271.002,(a), Insurance Code to provide that a maintenance fee is imposed on all, rather than each insurer with gross, premiums subject to certain assessment.

(j) Amends Section 1502.053, Insurance Code, as follows:

(a) Provides that the issuer of an approved children's health benefit is not subject to certain taxes.

(b) Provides that the issuer of a children's health benefit plan is not subject to the retaliatory tax imposed under Chapter 281 with respect to money received for coverage provided under that plan.

(k) Amend Section 383.101, Local Government Code to require certain county development districts to submit certain information pertaining to district boundaries to the comptroller.

(l) Amends Section 387.012, Local Government Code, as follows:

(a) Creates this subsection from existing text.

(b) Requires certain county assistant districts to submit certain information pertaining to district boundaries to the comptroller.

(m) Amends Section 21.05(e), Tax Code, to make modifications to criteria for defining instrumentality of air commerce.

(n) Amends Subchapter (b), Chapter 11, Tax Code, by adding Section 111.0515, as follows:

Sec. 111.0515. RESTRICTED OR CONDITIONAL PAYMENTS OF TAXES, PENALTIES, AND INTEREST PROHIBITED. Provides that certain restriction or conditions placed on checks are void.

(o) Amends Subchapter B, Chapter 111, Tax Code, as follows:

Sec. 111.065. EXPEDITIOUS ASSISTANCE FOR TAXPAYERS. (a) Sets forth certain requirements for the comptroller.

(b) Requires the comptroller to amend any audit or the records of any audit period as expeditiously as possible if necessary to comply with Subsection (a).

(p) Amends Section 111.107, Tax Code, as follows:

(a) Makes conforming changes.

(b) Makes a nonsubstantive change.

(q) Amends Sections 151.011(a) and (c), Tax Code, as follows:

(a) Makes nonsubstantive changes.

(b) Redefines "use."

(r) Amends Section 151.3111(b), Tax Code, to make modifications to the list of items to which Subsection (a) does not apply.

(s) Amends Sections 151.3162(d) and (e), Tax Code, as follows:

(d) Entitles a person to an exemption, rather a credit or refund, or a portion of certain taxes.

(e) Authorizes a taxpayer entitled to a credit or refund under Subsection (d), as that subsection existed on September 30, 2005, to elect to receive either a credit or a refund.

(t) Amends Section 171.110, Tax Code, to provide that except as otherwise provided by this section, in computing taxable earned surplus, a corporation is considered to have made an election to use the same methods used in filing its federal income tax return.

(u) Amends Section 171.1121(b), Tax Code, to require a corporation to use the same accounting methods to apportion taxable earned surplus as the corporation used to compute taxable earned surplus, rather than in computing reportable federal taxable income.

(v) Amends Section 171.801(2), Tax Code, to redefine "qualified capital investment."

(w) Amends Section 182.053(b), Tax Code, to prohibit the comptroller from setting the amount of security at less than \$1,000 or more than the greater of certain amounts, rather than \$50,000.

(x) Amends Section 201.102, Tax Code, to delete existing text providing an exception for a certain reimbursement amounts.

(y) Amends Sections 313.021(1) and (2), Tax Code, to redefine "qualified investment" and "qualified property."

(z) Amends Section 321.203, Tax Code, by amending Subsections (b)-(e) and adding Subsection (n), as follows:

(b) Provides that if a retailer has only one place of business in this state, all of the retailer's retail sales of taxable items, rather than tangible personal property, are consummated at that place of business except as provided by Subsection (e).

(c) Makes conforming changes.

(d) Makes conforming changes.

(e) Makes conforming changes.

(n) Provides that a sale of certain services is consummated at the location of the job site. Provides exceptions if the job site includes multiple municipalities.

(aa) Amends Section 321.302, Tax Code, to redefine "full amount of the tax due."

(bb) Amends Section 321.503, Tax Code, to delete existing text referring certain premium payments.

(cc) Amends Section 323.102(c), Tax Code, to make a conforming change.

(dd) Amends Section 323.203, Tax Code, to make conforming changes, and to provide that a sale of certain services is consummated at the location of the job site. Provides exceptions if the job site includes multiple municipalities.

(ee) Amends Section 323.503, Tax Code, to make a conforming change.

(ff) Amends the heading to Subchapter A, Chapter 16, Utilities Code, to read as follows:

**SUBCHAPTER A. ASSESSMENT ON UTILITY GROSS RECEIPTS**

(hh) Amends Sections 16.001(a) and (b), Utilities Code, as follows:

(a) Deletes existing text referring to a public utility and includes telecommunications and electric utilities amongst utilities on which an assessment is imposed.

(b) Makes a conforming change.

(ii) Amends Section 16.002(b), Utilities Code, to authorize certain utilities, rather than a public utilities, to make quarterly payments due on specific dates.

(jj) Repealer: (1) Section 151.103(d);

(2) Section 151.202(c);

(3) Section 323.203(1), as added by Chapter 1310, Acts of the 78th Legislature, Regular Session, 2003; and

(4) Section 323.203(1), Tax Code.

(kk) Provides that the changes in law made by this Act to Section 201.102, Tax Code, apply to a refund claim or determination under Chapter 111, Tax Code, without regard to whether the taxes are due before, on, or after the effective date of this Act.

(ll) Makes application of the changes in law made by this Act to Section 111.009, Tax Code, prospective.

(mm) Provides that if a change in law made to Section 16.001 or 16.002, Utilities Code, by this Act conflicts with another bill enacted by the 79th Legislature, Regular Session, 2005, that amends said sections, the other bill controls.

(nn) Provides that this section takes effect October 1, 2005.

SECTION 112. Amends Section 161.081, Health and Safety Code, by adding Subdivision (7), to define "attempt."

SECTION 113. Amends Subchapter H, chapter 161, Health and Safety Code, by adding Section 161.0821, as follows:

Sec. 161.082. PURCHASE OF CIGARETTES OR TOBACCO PRODUCTS BY PERSONS YOUNGER THAN 18 YEARS OF AGE PROHIBITED. Provides that a person who is younger than 18 years of age commits an offense if the person purchases or attempts to purchase cigarettes or other tobacco products. Provides that an offense under this section is a Class C misdemeanor.

SECTION 114. Amends Section 2303.401, Government Code, to define "certified job." Makes nonsubstantive changes.

SECTION 115. Amends Section 2303.4072, Government Code, to require a person to make a claim to the comptroller for certain state benefits not later than six, rather than 18, months after the date on which the enterprise project designation expires.

SECTION 116. Amends Section 2303.504, Government Code, as amended by Section 2.02, Chapter 1134, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 2303.504. New heading: STATE TAX REFUNDS AND CREDITS; REPORT. (a) Defines "triple jumbo enterprise project."

(a-1) Creates this subsection from existing text. Entitles an enterprise project certain tax credits.

(b) Makes no changes to this subsection.

(c) Makes a conforming change.

SECTION 117. Amends Sections 2303.516(b) and (d), Government Code, as follows:

(b) Authorizes the comptroller, rather than the Texas Economic Development Bank, to determine that a business or project is not entitled to a refund or credit of state taxes under Section 2303.504(a-1) if the comptroller makes certain findings. Makes conforming changes.

(d) Authorizes a qualified businesses to obtain a state benefit, earned through a specific enterprise, on completion of certain certifications and verifications.

SECTION 118. Amends Section 2303.517, Government Code, to make a conforming change.

SECTION 119. (a) Amends Section 151(a), (b), (c), (e), and (g), Tax Code, as follows:

(a) Provides that an enterprise project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of taxable items. Deletes existing text referring to certain items.

(b) Sets forth specific refund amounts for capital investments at the qualified business sites of certain certified jobs.

(c) Makes a conforming change.

(e) Defines "certified job."

(g) Makes modifications to the conditions of the refund provided by this section.

(b) Makes applications of changes in law to this section prospective.

SECTION 120 (a) Amends Section 151.4291(a), Tax Code, to make conforming changes.

(b) Makes applications of changes in law to this section prospective.

SECTION 121. Amends Section 171.721(2), Tax Code, to redefine "strategic investment area."

SECTION 121. Amends Section 171.751, Tax Code, to define "enterprise project." Redefines "qualified business" and "qualifying job."

SECTION 123. Amends Subchapter P, Chapter 171, Tax Code, by adding Section 171.7542, as follows:

Sec. 171.7542. LENGTH OF CREDIT. (a) Provides that this section only applies to certain corporations.

(b) Authorizes a corporation, notwithstanding Section 171.753, to establish credit equal to a certain amount.

(c) Authorizes the corporation to make certain claims.

(d) Requires a corporation that establishes credit authorized by Subsection (b) to provide certain information to the comptroller. Requires the corporation to provide the information on the first report originally due on or after September 1, 2005.

(e) Provides that this section expires January 1, 2009.

SECTION 124. Amends Section 171.801, Tax Code, by amending Subdivision (2) and adding Subdivision (4) to redefine "qualified capital investment" and to define "defense readjustment project" and "enterprise project."

SECTION 125. Amends Section 171.8015, Tax Code, as follows:

Sec. 171.8015. New heading: TANGIBLE PERSONAL PROPERTY FIRST PLACED IN SERVICE BY AN ENTERPRISE PROJECT. Makes modifications to the list of certain tangible personal property. Makes nonsubstantive changes.

SECTION 126. Amends Section 171.802, Tax Code, by amending Subsection (c) and adding Subsection (d-1), as follows:

(c) Makes conforming changes.

(d-1) Authorizes certain corporations to qualify for credit provided by this subchapter, regardless of whether the corporation meets the qualifications prescribed by Subsection (b).

SECTION 127. Amends Section 171.803, Tax Code, by adding Subsection (b), to authorize a corporation that on or after September 1, 2001, has been designated as an enterprise project or as a defense readjustment project, to establish credit equal to 7.5 percent of the qualified capital investment.

SECTION 128. Amends section 171.804, Tax Code, as follows:

(a) Creates this subsection from existing text. Makes a conforming change.

(b) Authorizes a corporation that has been designated as an enterprise project or as a defense readjustment project, to claim the entire credit earned on a report originally due on or after September 1, 2003, and before January 1, 2009.

SECTION 129. Repealer: (1) Section 2303.516(c), Government Code;

(2) Section 76, Chapter 1310, Acts of the 78th Legislature, Regular Session, 2003;

(3) Section 981.056, Insurance Code; and

(4) Sections 162.016(h) and 351.102(c), Tax Code.

SECTION 130. Provides that in accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute of Sections 226.001-226.003 and 226.005, Insurance Code, as set out in this Act, gives effect to changes made by Section 76, Chapter 1310, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 131. (a) Effective date: upon passage, except as provided by Subsection (b). Provides that if this Act does not receive the vote necessary for immediate effect, the changes in law made by this Act to the following statutes take effect September 1, 2005:

(A) Section 103.0031, Code of Criminal Procedure;

(B) Sections 25.0015, 25.00211, 26.007, 74.061, 403.071, 404.024, 660.024, 660.027, 2256.011, and 2256.016, Government Code;

(C) Section 433, Probate Code;

(D) Sections 74.101, 74.401, 74.507, and 74.601, Property Code; and Section 623.053, Transpiration Code.

(b) Provides that the effective date for Section 43.002, Education Code, Sections 659.255, 659.256, 659.257, 2303.401, 2303.4072, 2303.504, 2303.516, and 2303.517, Government Code, Sections 101.001, 101.005, 101.053, 101.201, 101.203, 101.301, 225.002, 226.001, 226.002, 226.003, 226.005, 226.052, 981.002, 981.004, 981.005, 981.006, 981.008, 981.101, 981.104, and 981.160, Insurance Code, and Sections 151.429, 151.4291, 151.715, 171.721, 171.751, 171.7542, 171.801, 171.8015, 171.802, 171.803 and 171.804, Tax Code, is September 1, 2005.