

BILL ANALYSIS

Senate Research Center
79R18295 KEG/CBH-F

C.S.H.B. 3540
By: Pitts (Ogden)
Finance
5/21/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 3540 sets forth certain statutory changes necessary to comply with assumptions made in the General Appropriations Act, respond to state fiscal concerns, and address certain fiscal matters. This bill also implements selected Legislative Budget Board Staff Performance Report recommendations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Education Agency in SECTION 6A.02 (Section 22.102, Education Code).

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 8.01 (Sections 242.806 and 242.811, Health and Safety Code), and SECTION 8.02 (Section 531.078, Government Code) of this bill.

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 11B.03 (Section 152.0412, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. DELAYED ELIGIBILITY FOR MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM OF TEXAS

SECTION 1.01. Amends Section 812.003(e), Government Code, to provide that membership in the Employees Retirement System of Texas (ERS) begins on the 91st day after the first day a person is employed or holds office. Deletes existing text relating to persons whose employment or office holding begins before September 1, 2005.

SECTION 1.02. Repealer: Sections 812.003(d) and (h) (Membership in Employee Class), Government Code.

ARTICLE 2. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE FOR STATE EMPLOYEES

SECTION 2.01. Amends Section 1551.104(a), Insurance Code, to provide that subject to Sections 1551.101 and 1551.102, each full-time employee is covered automatically by the basic coverage plan for employees and each annuitant is covered by the basic coverage plan for annuitants unless participation is specifically waived as provided by Section 1551.1045.

SECTION 2.02. Amends Subchapter C, Chapter 1551, Insurance Code, by adding Section 1551.1045, as follows:

Sec. 1551.1045. WAIVER. (a) Authorizes an employee or annuitant, subject to Subsections (b) and (c), to waive in writing any coverage provided under this chapter.

(b) Requires a full-time employee, to waive coverage under the basic coverage plan for employees, to demonstrate, in the manner required by the board of trustees of ERS (board), that the employee meets certain criteria.

(c) Requires an annuitant, to waive coverage under the basic coverage plan for annuitants for the purpose of eligibility for an incentive payment under Section 1551.222, to demonstrate, in the manner required by the board, that the annuitant meets certain criteria.

SECTION 2.03. Amends Subchapter E, Chapter 1551, Insurance Code, by adding Section 1551.222, as follows:

Sec. 1551.222. INCENTIVE PAYMENTS. (a) Authorizes the board to allow an incentive payment under this section to an employee or annuitant who elects to waive coverage under the basic coverage plan for employees or annuitants as provided by Section 1551.1045(b) or (c).

(b) Provides that the incentive payment authorized by this section is in the amount authorized by the General Appropriations Act and authorizes it to be used by the employee or annuitant, in the manner prescribed by the board, only to pay for other group coverage plans provided under the group benefits program, including the supplemental health coverage offered under Section 1551.221.

(c) Requires the board, at the time of initial enrollment in the group benefits program and during subsequent open-enrollment periods, to inform employees and annuitants that they may make an election described by Subsection (a), if eligible, and receive any authorized incentive payment.

SECTION 2.04. Amends Subchapter G, Chapter 1551, Insurance Code, by adding Section 1551.324, as follows:

Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE EMPLOYEES AND ANNUITANTS; INCENTIVE PAYMENTS. (a) Authorizes the state contribution for an employee's coverage or an annuitant's coverage under this chapter, notwithstanding any other provision of this subchapter, to be reduced, as provided in the General Appropriations Act, to reflect the reduced cost of coverage for an employee or annuitant who elects to waive basic coverage as provided by Section 1551.1045(b) or (c).

(b) Authorizes the state, instead of the full state contribution for an employee or annuitant who makes an election described by Subsection (a), to contribute, as specified by the General Appropriations Act, an amount for the incentive payment authorized by Section 1551.222.

ARTICLE 3. COMPENSATION FOR CERTAIN STATE EMPLOYEES WHO RETURN TO STATE EMPLOYMENT

SECTION 3.01. Amends Section 659.042, Government Code, as follows:

Sec. 659.042. EXCLUSIONS. Provides that a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee is not entitled to longevity pay under this subchapter.

SECTION 3.02. Amends Section 659.043(a), Government Code, to entitle a state employee to longevity pay to be included in the employee's monthly compensation if the employee has accrued at least two, rather than three, years of lifetime service not later than the last day of the preceding month.

SECTION 3.03. Reenacts Section 659.044, Government Code, as amended by Section 32, Chapter 1158, Acts of the 77th Legislature, Regular Session, 2001, and Section 104, Chapter 1158, Acts of the 77th Legislature, Regular Session, 2001, and amends as follows:

Sec. 659.044. AMOUNT. (a) Provides that the monthly amount of longevity pay is \$20 for every two years of lifetime service credit, except as provided by Subsections (e) and (f).

(b) Provides that the amount increases when the certain years on lifetime service credit are accrued. Deletes existing text relating to certain years of lifetime service credit.

(c) Provides that an increase is effective beginning with the month following the month in which certain years of lifetime service credit are accrued.

(d)-(e) Makes no changes to existing text.

(f) Entitles a state employee who retired from state employment before June 1, 2005, and who returned to state employment before September 1, 2005, to receive longevity pay. Provides that the monthly amount of longevity pay the employee is entitled to receive equals the amount of longevity pay the employee was entitled to receive immediately before September 1, 2005. Provides that a state employee who retired from state employment before June 1, 2005, and who returns to state employment on or after September 1, 2005, is not entitled to receive longevity pay.

SECTION 3.04. Amends Section 659.126, Government Code, as follows:

Sec. 659.126. LOSS OF ELIGIBILITY TO RECEIVE BENEFIT REPLACEMENT PAY. (a) Provides that an eligible state employee who leaves state employment after August 31, 1995, for at least 30 consecutive days, rather than 12 consecutive months, on returning to state employment or on assuming a state office, is ineligible to receive benefit replacement pay.

(b) Provides that an eligible state-paid judge who leaves office after August 31, 1995, for at least 30 consecutive days, rather than 12 consecutive months, on return to state office or on accepting a state employment, is ineligible to receive benefit replacement pay.

(c) Provides that for purposes of Subsection (a), a state employee is not considered to have left state employment under certain circumstances

(d) Provides that an eligible state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee is ineligible to receive benefit replacement pay.

SECTION 3.05. Amends Section 661.152, Government Code, by adding Subsection (l), as follows:

(l) Provides that for purposes of computing vacation leave under Subsection (d) for a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee, years of total state employment includes only the length of state employment after the date the state employee retired.

SECTION 3.06. Amends Sections 659.305(a), (b), (c), and (g), Government Code, as follows:

(a) Provides that the amount of full-time state employee's hazardous duty pay for a particular month is the lesser \$10, rather than \$7, for each 12-month period of lifetime service credit accrued by the employee or \$300, rather than \$210.

(b)-(g) Makes conforming changes.

SECTION 3.07. (a) Makes application of Section 659.126, Government Code, as amended by this Act, prospective, except as provided by Subsection (b).

(b) Provides that a state employee who leaves state employment before the effective date of this article is ineligible to receive benefit replacement pay unless the employee returns to state employment before September 30, 2005.

SECTION 3.08. Effective date, this article: September 1, 2005.

ARTICLE 4. EXTENDING STATE REIMBURSEMENT PROGRAM: PETROLEUM STORAGE TANKS

SECTION 4.01. Amends Section 26.351(f), Water Code, to require the person performing corrective action under this section, if the release was reported to the Texas Commission on Environmental Quality (commission) on or before December 22, 1998, to meet the deadline for sites that require either a corrective action plan or groundwater monitoring, to have met all other deadlines under this subsection, and to have submitted annual progress reports that demonstrate progress toward meeting closure requirements, a site closure request must be submitted to the executive director no later than September 1, 2007, rather than 2005. Deletes existing text requiring an agreement in writing that no corrective action plan was required to be received by the agency,

SECTION 4.02. Amends Section 26.355(b), Water Code, to provide that an owner or operator of an underground or aboveground storage tank from which a regulated substance is released is liable to the state unless the site at which the release occurred has been admitted into the petroleum storage tank state-lead program under Section 26.3573(r-1). Makes nonsubstantive and conforming changes.

SECTION 4.03. Amends Section 26.35731(b), Water Code, to provide that the commission has discretion whether to postpone considering, processing, or paying, rather than prohibiting the commission from considering, processing, or paying a claim for reimbursement from the petroleum storage tank remediation account for corrective action work begun without prior commission approval after September 1, 1993, and filed with the commission prior to January 1, 2005. Deletes existing text relating to prior commission approval until all claims for reimbursement for corrective action work preapproved by the commission have been considered, processed, and paid.

SECTION 4.04. Amends Section 26.3573, Water Code, by amending Subsections (d), (r), and (s) and adding Subsection (r-1), as follows:

(d) Authorizes the commission to use the money in the petroleum storage tank remediation account to pay certain amounts. Deletes existing text relating to amounts to be paid.

(r) Prohibits the petroleum storage tank remediation account, except as provided by Subsection (r-1), from being used to reimburse any person for corrective action performed after September 1, 2005.

(r-1) Defines "state-lead program." Requires the executive director of the commission (executive director) to grant an extension for corrective action reimbursement to a person who is an eligible owner or operator under Section 26.3571. Authorizes the petroleum storage tank remediation account to be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2007. Authorizes an eligible owner or operator who is granted an extension under this subsection to, not later than July 1, 2007, apply to the commission in writing using a form provided by the commission to have the site subject to corrective action placed in the state-lead program. Requires the eligible owner or operator to agree in the application to allow site access to state personnel and state contractors as a condition of placement in the state-lead program under this subsection. Requires the executive director by order, on receiving the application for placement in the state-lead program under this subsection, to place the site in the state-lead program until the corrective action is completed to the satisfaction of the

commission. Provides that an eligible owner or operator of a site that is placed in the state-lead program under this subsection is not liable to the commission for any costs related to the corrective action.

(s) Prohibits the petroleum storage tank remediation account from being used to reimburse any person for corrective action contained in a reimbursement claim filed with the commission after March 1, 2008, rather than 2006.

SECTION 4.05. Amends Section 26.3574(b), Water Code, to provide that a fee is imposed on the delivery of a petroleum product on withdrawal from bulk of that product as provided by this subsection. Requires each operator of a bulk facility on withdrawal from bulk of a petroleum product to collect from the person who orders the withdrawal a fee in an amount determined by a certain method.

SECTION 4.06. Amends Section 26.361, Water Code, as follows:

Sec. 26.361. EXPIRATION OF REIMBURSEMENT PROGRAM. Provides that notwithstanding any other provision of this subchapter, the reimbursement program established under this subchapter expires September 1, 2008, rather than 2006. Prohibits the commission, on or after September 1, 2008, rather than 2006, from using money from the petroleum storage tank remediation account to reimburse an eligible owner or operator for any expenses of corrective action or to pay the claim of a person who has contracted with an eligible owner or operator to perform corrective action.

SECTION 4.07. Effective date, this article: September 1, 2005.

ARTICLE 5. PUBLIC SCHOOL FACILITIES

SECTION 5.01. Amends Section 46.033, Education Code, as follows

Sec. 46.033. ELIGIBLE BONDS. Provides that bonds, including bonds issued under Section 45.006 (Maintenance Tax Required for Judgment Ordering Ad Valorem Tax Refund; Bonds), are eligible to be paid with state and local funds under this subchapter if the district made payments on the bonds during the 2004-2005, rather than 2002-2003, school year or taxes levied to pay the principle of and interest on the bonds were included in the district's audited debt service collections for that school year.

SECTION 5.02. Amends Section 46.034(c), Education Code, to make conforming changes.

ARTICLE 6. SCHOOL EMPLOYEES AND RETIREES

PART A. COMPENSATION SUPPLEMENTATION FOR CERTAIN SCHOOL EMPLOYEES

SECTION 6A.01. Amends Sections 22.004(a), (b), (c), (i), and (j), as follows:

(a) Requires a school district (district) to participate in the uniform group coverage program established under Chapter 1579 (Texas School Employees Group Benefits Program), rather than Article 3.50-7, Insurance Code, as provided by Subchapter D (Participating Entities), rather than Section 5, of that chapter, rather than article.

(b) Requires the coverage to meet the substantive coverage requirements of Chapter 1251 (Group and Blanket Health Insurance), Subchapter A (Exclusion From or Denial of Health Coverage Prohibited) Chapter 1364, and Subchapter A (Coverage for In Vitro Fertilization Procedure), Chapter 1366, Insurance Code, rather than Article 3.51-6, Insurance Code, and any other law applicable to group health insurance policies or contracts issued in this state.

(c) Requires the cost of coverage provided under the program described by Subsection (a) to be paid by the state, the district, and the employees in the manner provided by Subchapter F (Contributions), rather than Article 3.50-7, Insurance Code. Requires the

cost of coverage provided under a plan adopted under Subsection (b) to be shared by the employees and the district using contribution by the state described by Subchapter F, Chapter 1579, rather than Section 9, Article 3.50-7, Insurance Code, or Subchapter D, rather than by Article 3.50-8.

(i) and (j) Makes conforming changes.

SECTION 6A.02. Amends Chapter 22, Education Code, by adding Subchapter D, as follows:

SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

Sec. 22.101. DEFINITIONS. Defines "cafeteria plan," "employee," "participating charter school," and "regional education service center."

Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY. (a) Authorizes the Texas Education Agency (agency) to adopt rules to implement this subchapter.

(b) Authorizes the agency to enter into interagency contracts with any other agency of this state for the purpose of assistance in implementing this subchapter.

Sec. 22.103. ELIGIBILITY; WAITING PERIOD. Provides that a person is not eligible for a monthly distribution under this subchapter before the 91st day after the first day the person becomes an employee.

Sec. 22.104. DISTRIBUTION BY AGENCY. Requires the agency each month, subject to the availability of funds, to deliver to each district, including a district that is ineligible for state aid under Chapter 42 (Foundation School Program), each other educational district that is a member of the Teacher Retirement System of Texas (TRS), each participating charter school, and each regional educational service center state funds in an amount, as determined by the agency, equal to the product of the number of eligible employees employed by the district, school, or service center multiplied by the amount specified in the General Appropriations Act for the purposes of this subchapter and divided by 12. Requires the agency to distribute funding to only one entity listed in this section.

Sec. 22.105. FUNDS HELD IN TRUST. Provides that all funds received by a district, other educational district, participating charter school, or regional education service center under this subchapter are held in trust for the benefit of the of the employees on whose behalf the district, school, or service center received the funds.

Sec. 22.106. RECOVERY OF DISTRIBUTIONS. Entitles the agency to recover from a district, other educational district, participating charter school, or regional education service center any amount distributed under this subchapter to which the district, school, or service center was not entitled.

Sec. 22.107. DETERMINATION BY AGENCY FINAL. Provides that a determination by the agency under this subchapter is final and prohibits it from being appealed.

Sec. 22.108. DISTRIBUTION BY SCHOOL. Requires each district, other educational district that is participating in TRS, participating charter school, or regional education service center, each month, to distribute to its eligible employees the funding received under this subchapter. Requires an individual, to receive the monthly distribution, to meet the definition of an employee under Section 22.101 for that month.

Sec. 22.109. USE OF SUPPLEMENTAL COMPENSATION. Authorizes an employee to use a monthly distribution received under this subchapter for any employee benefit, including depositing the amount of the distribution into a cafeteria plan, if the employee is enrolled in the cafeteria plan, or using the amount of the distribution for health care premiums through a premium conversion plan. Authorizes the employee to take the amount of the distribution as supplemental compensation.

Sec. 22.110. SUPPLEMENTAL COMPENSATION. Requires an amount distributed to an employee under this subchapter to be in addition to certain rates of compensation.

SECTION 6A.03. Amends Section 822.201(c), Government Code, to provide that any amount, rather than contributions to a health reimbursement arrangement account, received by an employee under Subchapter D, Chapter 22, Education Code, former Article 3.50-8, Insurance Code, former Chapter 1580, Insurance Code, or Rider 9, page III-39, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (the General Appropriations Act), is excluded from salary and wages.

SECTION 6A.04. Amends Section 1579.253(b), Insurance Code, to authorize the employee to pay the employee's contribution under this subsection from the amount distributed to the employee under Subchapter D, Chapter 22, Education Code, rather than Chapter 1580, Insurance Code.

SECTION 6A.05. Amends Section 1581.702, Insurance Code, to make conforming changes.

SECTION 6A.06. Repealer: Chapter 1580 (Active Employee Health Coverage or Compensation Supplementation), Insurance Code; Section 57, Chapter 201, Acts of the 78th Legislature, Regular Session, 2003; Chapter 313, Acts of the 78th Legislature, Regular Session, 2003; and Section 1.01, Chapter 366, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 6A.07. Provides that the functions and duties of TRS with respect to the compensation supplementation program established under Chapter 1580, Insurance Code, and other applicable law, and any appropriation relating to that program are transferred to the agency. Provides that a reference in law to TRS with respect to the compensation supplementation program means the agency.

SECTION 6A.08 Effective date, this part: September 1, 2005.

PART B. CERTAIN PROVISIONS RELATING TO BENEFITS FOR RETIRED SCHOOL EMPLOYEES

SECTION 6B.01. Repealer: 822.001(f) (Membership Requirement), Government Code.

SECTION 6B.02. Amends Section 1575.203(a), Insurance Code, to require each active employee, as a condition of employment, to contribute to the fund an amount equal to 0.65, rather than 0.5, percent of the employee's salary, each state fiscal year.

SECTION 6B.03. Provides that the change in law made by this part to Section 1575.203, Insurance Code, takes effect September 1, 2005.

ARTICLE 7. DRUG PURCHASING FOR STATE AGENCIES

SECTION 7.01. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.080, as follows:

Sec. 531.080. JOINT PURCHASING OF PRESCRIPTION DRUGS AND OTHER MEDICATIONS. (a) Authorizes the Health and Human Services Commission (HHSC) and each health and human services agency authorized by the executive commissioner of HHSC (executive commissioner), subject to Subsection (b), to enter into an agreement with one or more other states for the joint bulk purchasing of prescription drugs and other medications to be used in the Medicaid program, the state child health plan, or another program under the authority of HHSC.

(b) Prohibits an agreement under this section from being entered into until certain conditions exist.

(c) Requires HHSC, if an agreement is entered into, to adopt procedures applicable to an agreement and joint purchase required by this section. Requires the procedures to ensure that this state receives:

(1) all prescription drugs and other medications purchased with money provided by this state; and

(2) an equitable share of any price benefits resulting from the joint bulk purchase.

(d) Requires HHSC, in determining the feasibility and cost-effectiveness of entering into an agreement under this section, to identify:

(1) the most cost-effective existing joint bulk purchasing agreement; and

(2) any potential groups of states with which this state could enter into a new cost-effective joint bulk purchasing agreement.

SECTION 7.02. Requires HHSC, not later than January 15, 2006, to determine the feasibility and cost-effectiveness of entering into an agreement under Section 531.080, Government Code, as added by this article. Requires HHSC, if it determines that such action is feasible and cost-effective, to take action to enter into an agreement that takes effect March 1, 2006.

SECTION 7.03. Requires the agency affected by the provision, if before implementing any provision of this article a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, to request the waiver or authorization and authorizes a delay implementing that provision until the waiver or authorization is granted.

ARTICLE 8. QUALITY ASSURANCE FEES

SECTION 8.01. Repealer: Section 252.209 (Legislative Review; Expiration), Health and Safety Code.

ARTICLE 9. FAITH- AND COMMUNITY-BASED INITIATIVES TO PROVIDE HEALTH AND HUMAN SERVICES

SECTION 9.01. Amends Chapter 401, Government Code, by adding Subchapter G, as follows:

SUBCHAPTER G. TEXAS MENTORING INITIATIVE

Sec. 401.151. ESTABLISHMENT AND PURPOSE OF TEXAS MENTORING INITIATIVE. (a) Requires the office of the governor to establish the Texas mentoring initiative to fund certain activities.

(b) Requires the office of the governor to administer the Texas mentoring initiative subject to the availability of funds appropriated for that purpose.

Sec. 401.152. GRANTS. Requires the office of the governor to provide grants through the Texas mentoring initiative to support certain activities and accounts.

SECTION 9.02. Amends Subtitle I, Title 4, Government Code, by adding Chapter 535, as follows:

CHAPTER 535. RENEWING OUR COMMUNITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 535.001. DEFINITIONS. Defines "account," "community-based organization," and "faith-based organization."

Sec. 535.002. CONSTRUCTION. Prohibits this chapter from being construed to exempt a faith- or community-based organization from any applicable state or federal law or from being an endorsement or sponsorship by this state of the religious character, expression, beliefs, doctrines, or practices of a faith-based organization.

Sec. 535.003. APPLICABILITY OF CERTAIN FEDERAL LAW. Requires a power authorized or duty imposed under this chapter to be performed in a manner that is consistent with 42 U.S.C. Section 604a.

[Reserves Sections 535.004-535.050 for expansion.]

SUBCHAPTER B. RENEWING OUR COMMUNITIES ACCOUNT

Sec. 535.051. RENEWING OUR COMMUNITIES ACCOUNT. (a) Provides that the renewing our communities account (account) is an account in the general revenue fund that may be appropriated only to HHSC for the purposes and activities authorized by this chapter and for reasonable and administrative expenses under this chapter.

(b) Provides that the account consists of certain funds.

(c) Exempts the account from the application of Section 403.095 (Use of Dedicated Revenue).

(d) Sets forth the purposes of the account.

Sec. 535.052. POWERS AND DUTIES REGARDING ACCOUNT. (a) Requires HHSC to take certain actions relating to the account.

(b) Authorizes HHSC to take certain actions relating to awarding grants to certain entities.

Sec. 535.053. FAITH- AND COMMUNITY-BASED INITIATIVES ADVISORY COMMITTEE. Requires the executive commissioner of HHSC (executive commissioner) to appoint faith and community leader in this state to serve on the faith- and community-based initiatives advisory committee (advisory committee). Requires the advisory committee members to be representative of the religious and cultural diversity of this state.

(b) Requires the advisory committee to make recommendations to the executive commissioner regarding the executive commissioner's powers and duties with respect to the account as described by Section 535.052.

(c) Requires the advisory committee, except as otherwise provided by this subsection, to meet at least twice each calendar year. Provides that the advisory committee is not required to meet if the remaining amount appropriated from the account to HHSC for the state fiscal biennium is insufficient for the performance of any duties or activities under this chapter.

(d) Provides that Chapter 2110 (State Agency Advisory Committees), does not apply to the advisory committee.

(e) Provides that the advisory committee is subject to Chapter 551 (Open Meetings).

SECTION 9.03. Effective date, this article: September 1, 2005.

ARTICLE 10. TRANSPORTATION FEES AND FISCAL MATTERS

SECTION 10.01. Amends Subchapter A, Chapter 222, Transportation Code, by adding Section 222.0021, as follows:

Sec. 222.0021. TRANSFERS TO GENERAL REVENUE FUND. Requires the comptroller each month, out of money in the state highway fund that is not dedicated by the Texas Constitution, to transfer the amount of \$5,666,667 from the state highway fund to the general revenue fund.

SECTION 10.02. Amends Section 502.161(a), Transportation Code, to set forth the fees for a registration year for registration of a passenger car, a municipal bus, or a private bus that weighs 6,000 pounds or less.

SECTION 10.03. Amends Section 502.162(a), Transportation Code, to set forth that the fee for a registration year for registration of a commercial motor vehicle or truck-tractor that weighs 6,000 pounds or less is \$58.50. Provides that the fees for a registration year for registration of all other commercial motor vehicles or truck-tractors is \$25 plus a certain amount determined according to the vehicle's total gross weight and tire equipment.

SECTION 10.04. Amends Section 502.168, Transportation Code, as follows:

Sec. 502.168. FEE: MOTOR BUS. Provides that the fee for a registration year for registration of a motor bus that weighs 6,000 pounds or less is \$58.50. Sets forth that the fee for a registration year for registration of all other motor buses is \$25 plus a certain amount determined according to the vehicle's total gross weight.

SECTION 10.05. Amends Section 522.021(a), Transportation Code, to require an application for a commercial driver's license or commercial driver learner's permit to include a copy of certain documents if the application is for a nonresident commercial driver's license and the applicant is a resident of a foreign jurisdiction.

SECTION 10.06. Amends Section 522.029, Transportation Code, by amending Subsection (a) and adding Subsection (j), as follows:

(a) Provides that the fee for a commercial driver's license or commercial driver learner's permit issued by TxDOT is \$60, except as provided by Subsections (f), (h), and (j).

(j) Provides that the fee for a nonresident commercial driver's license is \$100.

SECTION 10.07. Amends Section 522.051, Transportation Code, by amending Subsection (a) and adding Subsection (f), as follows:

(a) Provides that an original commercial driver's license or commercial driver learner's permit expires six years after the applicant's next birthday, except as provided by Subsection (f) and Section 522.033.

(f) Provides that a nonresident commercial driver's license issued to an applicant described by Section 522.021(a-1) who submitted a copy of a visa expires on the date the person's visa expires.

ARTICLE 11. COLLECTION OF CERTAIN STATE TAXES

PART A. SALES TAX

SECTION 11A.01. Amends Section 151.419(b), Tax Code, to delete existing text relating to a discount waiver permitted by Section 151.423 (Reimbursement to Tax Payer for Tax Collection) on the payment of all taxes under the direct payment permit only.

SECTION 11A.02. Amends Sections 151.424(a) and (c), Tax Code, as follows:

(a) Deletes existing text relating to the amount permitted to be deducted and withheld under Section 151.423.

(c) Deletes existing text relating to a taxpayer being entitled to a deduction permitted under Section 151.423 on the amount of the remaining tax liability.

SECTION 11A.03. Amends Section 151.425, Tax Code, to provide that the taxpayer, if a taxpayer fails to file a report required by this chapter when due or to pay the tax when due, forfeits any claim to a discount, rather than a deduction or discount, allowed under Section 151.424, but not Section 151.423 of this code.

SECTION 11A.04. Amends Section 151.428(c), Tax Code, to make conforming changes.

SECTION 11A.05. Amends Section 152.047(a), Tax Code, to make a conforming change.

SECTION 11A.06. Repealer: Section 151.432 (Reimbursement to Tax Payer for Tax Collection), Tax Code.

SECTION 11A.07. Effective date, this part: October 1, 2005.

PART B. MOTOR VEHICLE SALES AND USE TAX

SECTION 11B.01. Amends Section 152.002, Tax Code, by adding Subsection (f) to provide that the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412.

SECTION 11B.02. Amends Section 152.041(a), Tax Code, to require the tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made to collect taxes imposed by this chapter, subject to Section 152.0412, unless another person is required by this chapter to collect taxes.

SECTION 11B.03. Amends Subchapter C, Chapter 152, Tax Code, by adding Section 152.0412, as follows:

Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX ASSESSOR-COLLECTOR. (a) Defines "standard presumptive value."

(b) Requires a county tax assessor-collector, 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, to compute the tax on the amount paid.

(c) Requires a county tax assessor-collector, 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, to compute the tax on the standard presumptive value unless the purchaser establishes the retail value.

(d) Requires the county tax assessor-collector to compute the tax imposed by this chapter on the retail value of a motor vehicle if certain conditions exist.

(e) Requires a motor vehicle dealer operating under Subchapter B (General Distinguishing Number), on request, to provide a certified appraisal of the retail value of a motor vehicle. Requires the comptroller by rule to establish a fee that a dealer may charge for providing the certified appraisal. Requires the county tax assessor-collector to retain a copy of a certified appraisal received under this section for a period prescribed by the comptroller.

(f) Requires TxDOT to maintain information on the standard presumptive values of motor vehicles as part of TxDOT's registration and title system. Requires TxDOT to update the information at least quarterly each calendar year.

(g) Provides that this section does not apply to a transaction described by Section 152.024 or 152.025.

SECTION 11B.04. Requires TxDOT, to take certain actions, not later than October 1, 2005.

SECTION 11B.05. Effective date, this part: July 1, 2005 or September 1, 2005, except as provided by this part and Subsection (b) of this section.

(b) Effective date, Section 152.0412, Tax Code, as added by this part: October 1, 2005.

PART C. HOTEL OCCUPANCY TAXES

SECTION 11C.01. Amends Section 156.001, Tax Code , to redefine "hotel."

SECTION 11C.02. Amends Section 351.002(c), Tax Code, to provide that the tax does not apply to a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for that period, rather than is a permanent resident under Section 156.101 of this code.

SECTION 11C.03. Amends Section 352.001(1), Tax Code, to redefine "hotel."

SECTION 11C.04. Amends Section 352.002(c), Tax Code, to make conforming changes.

SECTION 11C.05. Repealer: Section 156.101 (Exception-Permanent Resident), Tax Code.

SECTION 11C.06. Effective date, this part: July 1, 2005, or October 1, 2005.

PART D. MOTOR FUELS TAX

SECTION 11D.01. Amends Section 162.503, Tax Code, as follows:

Sec. 162.503. ALLOCATION OF GASOLINE TAX. (a) Requires the comptroller, except as provided by Subsection (b), on or before the fifth workday after the end of each month, after making all deductions for refund purposes and for the amounts allocated under Sections 162.502 and 162.5025, to allocate the net remainder of the taxes collected under Subchapter B in a certain manner.

(b) Prohibits the comptroller, during the months of June, July, and August of each odd-numbered year, from making the allocations to the state highway fund and county and road district highway fund otherwise required by Subsections (a)(2) and (3). Requires the comptroller, after September 5 and before September 11 of that year, to allocate and deposit to the state highway fund the total amount of revenue that would have been otherwise allocated and deposited to that fund during those months.

SECTION 11D.02. Amends Section 162.504, Tax Code, to make conforming changes related to allocation of the diesel fuel tax.

SECTION 11D.03. Amends Section 162.505, Tax Code, to make conforming changes related to allocation of the liquefied gas tax.

SECTION 11D.04. Effective date, this part: June 1, 2007.

PART E. FRANCHISE TAX

SECTION 11E.01. Amends Section 171.001, Tax Code, by adding Subsection (d), to provide that a corporation does business in this state, for the purposes of Subsection (a), if the corporation is a foreign corporation and meets certain criteria.

SECTION 11E.02. Amends Subchapter C, Chapter 171, Tax Code, by adding Section 171.1001, as follows:

Sec. 171.1001. DEFINITIONS. Defines "arm's length," "controlling interest," "interest payment," "management fee," "related party," "royalty payment," and "valid business purpose."

SECTION 11E.03. Amends Subchapter C, Chapter 171, Tax Code, by adding Sections 171.1101-171.1103, as follows:

Sec. 171.1101. ADD-BACK OF PAYMENTS TO RELATED PARTY. Requires a corporation, except as provided by Section 171.1102, to add back to reportable federal taxable income any royalty payments, interest payments, and management fees made to a related party during the period on which earned surplus is based to the extent deducted in computing reportable federal taxable income.

Sec. 171.1102. SAFE HARBORS FOR CERTAIN PAYMENTS AND FEES. (a) Provides that a corporation is not required to add back royalty payments to a related party to the extent that certain conditions exist.

(b) Provides that a corporation is not required to add back interest payments to a related party to the extent that certain conditions exist.

(c) Provides that a corporation is not required to add back a royalty payment or an interest payment made to a related party, or a management fee paid to related party, if the combined tax paid to this state, or to this state and one or more other states each of which has a tax rate equal to or greater than the rate under Section 171.002(a)(2) (Additional Tax), by the corporation if the royalty payment or interest payment had not been made.

(d) Provides that a corporation is not required to add back a management fee paid to a related party to the extent that the transaction was done for a valid business purpose and the fee was paid at arm's length.

Sec. 171.1103. ADJUSTMENT TO INCOME AND EXPENSES BY COMPTROLLER. (a) Authorizes the comptroller to distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among two or more organizations, trades, or businesses, whether or not incorporated, whether or not organized in the United States, and whether or not affiliated if certain conditions exist.

(b) Requires the comptroller to apply the administrative and judicial interpretations of Section 482, Internal Revenue Code, in administering this section.

SECTION 11E.04. (a) Makes application of this part, subject to other provisions of this section, prospective to reports originally due on or after the effective date of this part.

(b) Provides that certain conditions exist for a corporation becoming subject to the franchise tax under this part.

SECTION 11E.05. Effective date, this part: September 1, 2005. Makes application of this part prospective.

ARTICLE 12. RESTRICTIONS ON PROPERTY VALUATION AND STATE AID TO SCHOOL DISTRICTS

SECTION 12.01. Amends Section 11.431(e), Tax Code, to require the chief appraiser to accept and approve or deny an application for a residence homestead exemption after the deadline for filing the application has passed if the application is not filed not later than the delinquency date, rather than one year from the delinquency date, for the taxes on the homestead.

SECTION 12.02. Amends Section 25.25(c), Tax Code, to authorize the appraisal review board, on motion of the chief appraiser or of a property owner, to direct by written order changes in the appraisal roll for any of the five preceding years if the property is real property and to direct by written order changes in the appraisal roll for either or both of the two preceding years if the property is personal property to correct certain errors, appraisals, and inclusions.

SECTION 12.03. Amends Section 42.253(i), Education Code, to require the commissioner of education (commissioner), except as provided by Section 42.457 (b) (Affect of Appraisal Appeal), if the amount of the warrants differs from the amount to which a district is entitled because of variations in the district's tax rate, student enrollment, or taxable value of property, to adjust the district's entitlement for the next fiscal year accordingly.

SECTION 12.04. Amends Section 42.257(b), Education Code, to require the commissioner, if the final determination is made after the last day of the state fiscal year corresponding to the tax year for which the determination is made, to add one-fifth of the difference to the September payment to the district of the current year entitlement from the foundation school fund for each of the next five years.

SECTION 12.05. Amends Section 42.259(f), to require any previously unpaid additional funds from prior years owed to a district, except as provided by Section 42.257(b) or by Subsection (c) (8) or (d) (3) of this section (Foundation School Funds Transfers), to be paid to the district together with the September payment of the current year entitlement.

SECTION 12.06. Amends Section 403.302(h), Government Code, to require the request for audit [of the total taxable value of property in a school district] to be filed with the comptroller not later than the first, rather than the third, anniversary of the date of the final certification of the annual study findings. Deletes existing text relating to filing the request for audit.

SECTION 12.07. (a) Makes application of Section 11.431, Tax Code, as amended by this Act, prospective.

(b) Provides that the change in law made by this article to Section 25.25 does not affect a motion filed under that section before the effective date of this article.

SECTION 12.08. Effective date, this article: July 1, 2005, or September 1, 2005.

ARTICLE 13. MISCELLANEOUS FEES AND FUNDS

PART A. TRANSFERRING CERTAIN TOBACCO SETTLEMENT PROCEEDS INTO DEDICATED GENERAL REVENUE ACCOUNTS

SECTION 13A.01. Amends Subchapter G, Chapter 403, Government Code, by adding Section 403.108 and 403.1081-403.1083, as follows:

Sec. 403.108. SECONDARY HEALTH ACCOUNT FOR HIGHER EDUCATION. (a) Defines "earnings account" and "secondary account."

(b) Provides that the secondary account and the earnings account are dedicated accounts in the general revenue fund.

(c) Provides that the secondary account consists of certain funds.

(d) Provides that the earnings account consists of the earnings received from investment of the assets in the secondary account. Requires the comptroller periodically to transfer those earnings from the secondary account to the earnings account.

(e) Authorizes money in the secondary account to be used only for a purpose described by Subsection (d) or (f).

(f) Requires the comptroller to manage and invest assets in the secondary account in authorized investments under Section 404.024 (Authorized Investments). Requires any expenses incurred by the comptroller in managing and investing assets in the secondary account to be paid from the account.

(g) Authorizes money in the earnings account to be appropriated only for a purpose specified in and subject to any conditions and reporting requirements

prescribed by Subchapter A (Permanent Health Fund for Higher Education), Chapter 63, Education Code, for the use of money from the permanent health fund for higher education.

(h) Authorizes an institution of higher education that has accepted a gift under former Subchapter I, Chapter 51, Education Code, that was conditioned on the institution's receipt of state matching funds from the eminent scholars fund to use money the institution receives under this section to provide the state matching funds and treat the money as if it were a distribution to the institution from the eminent scholars fund for purposes of the former Subchapter I.

(i) Requires an institution of higher education that receives a distribution from the earnings account to include certain information in the report required by Section 63.004 (Reporting Requirement), Education Code.

(j) Provides that Section 404.071 (Disposition of Interest on Investments) does not apply to the secondary account or the earnings account.

Sec. 403.1081. SECONDARY ACCOUNTS FOR EACH INSTITUTION OF HIGHER EDUCATION. (a) Defines "earnings account" and "secondary account."

(b) Sets forth that, in addition to the permanent endowment funds created by Section 63.101 (Creation of Funds), Education Code, there is a secondary account for the benefit of each institution of higher education or group of related components of an institution of higher education listed in Section 63.101(a), Education Code.

(c) Provides that each secondary account and earnings account is a dedicated account in the general revenue fund.

(d) Sets forth the funds constituting the secondary account.

(e) Sets forth that an earnings account for an institution consists of the earnings received from investment of the assets in the corresponding secondary account for the institution or group of components. Requires the comptroller to periodically transfer those earnings from the secondary account to the earnings account.

(f) Authorizes money in a secondary account to be used only for a purpose described by Subsection (e) or (g).

(g) Requires the comptroller to manage and invest assets in a secondary account in authorized investments under Section 404.024. Requires any expenses incurred by the comptroller in managing and investing assets in a secondary account to be paid from the account.

(h) Authorizes money in an earnings account to be appropriated only for a purpose specified in and subject to any conditions and reporting requirements prescribed by Subchapter B, Chapter 63, Education Code, for the use of money from the corresponding permanent endowment fund established by that subchapter.

(i) Authorizes an institution of higher education that has accepted a gift under former Subchapter I, Chapter 51, Education Code, that was conditioned on the institution's receipt of state matching funds and treat the money as if it were a distribution to the institution from the eminent scholars fund for the purposes of the former Subchapter I.

(j) Requires an institution of higher education that receives an appropriation from an earnings account to include certain information in the report required by Section 63.103, Education Code.

(k) Provides that Section 404.071 does not apply to a secondary account or an earnings account.

Sec. 403.1082. SECONDARY ACCOUNT FOR HIGHER EDUCATION NURSING, ALLIED HEALTH, AND OTHER HEALTH-RELATED PROGRAMS. (a) Defines "earnings account" and "secondary account."

(b) Provides that the secondary account and the earnings account are dedicated accounts in the general revenue fund.

(c) Sets forth the funds constituting the secondary account.

(d) Sets forth that an earnings account for an institution consists of the earnings received from investment of the assets in the corresponding secondary account for the institution or group of components. Requires the comptroller to periodically transfer those earnings from the secondary account to the earnings account.

(e) Authorizes money in a secondary account to be used only for a purpose described by Subsection (d) or (f).

(f) Requires the comptroller to manage and invest assets in a secondary account in authorized investments under Section 404.024. Requires any expenses incurred by the comptroller in managing and investing assets in a secondary account to be paid from the account.

(g) Authorizes money in an earnings account to be appropriated only for a purpose specified in and subject to any conditions and reporting requirements prescribed by Subchapter C, Chapter 63, Education Code, for the use of money from the corresponding permanent fund for higher education nursing, allied health, and other health-related programs.

(h) Requires the Texas Higher Education Coordinating Board (coordinating board) to include certain information report required by Section 63.203, Education Code.

(i) Provides that Section 404.071 does not apply to a secondary account or an earnings account.

Sec. 403.1083. SECONDARY ACCOUNT FOR MINORITY HEALTH RESEARCH AND EDUCATION. (a) Defines "earnings account" and "secondary account."

(b) Provides that the secondary account and the earnings account are dedicated accounts in the general revenue fund.

(c) Sets forth the funds constituting the secondary account.

(d) Sets forth that an earnings account for an institution consists of the earnings received from investment of the assets in the corresponding secondary account for the institution or group of components. Requires the comptroller to periodically transfer those earnings from the secondary account to the earnings account.

(e) Authorizes money in a secondary account to be used only for a purpose described by Subsection (d) or (f).

(f) Requires the comptroller to manage and invest assets in a secondary account in authorized investments under Section 404.024. Requires any expenses incurred by the comptroller in managing and investing assets in a secondary account to be paid from the account.

(g) Authorizes money in an earnings account to be appropriated only to the coordinating board for a purpose of providing grants as specified by Section

63.302(c), Education Code, for the use of money from the permanent fund for minority health research and education.

(h) Requires the Texas Higher Education Coordinating Board (coordinating board) to include certain information in the report required by Section 63.302(f), Education Code.

(i) Provides that Section 404.071 does not apply to a secondary account or an earnings account.

SECTION 13A.02. Amends Section 403.1069, Government Code, as follows:

Sec. 403.1069. REPORTING REQUIREMENT. Requires the Department of State Health Services (DSHS), rather than the Texas Department of Health, to provide a report to the Legislative Budget Board (LBB) on the permanent funds established under this subchapter from which the department may receive an appropriation of the available earnings.

SECTION 13A.03. (a) Requires all of certain amounts be transferred, in a listed estimated amount, to the accounts established under Sections 403.108, 403.1081, 403.1082, and 403.1083, Government Code, on November 1, 2006, as added by this part, as specified by this section.

(b)-(q) Requires amounts to be transferred from the Permanent Fund for Higher Education, the Permanent Endowment Fund Health Related Institutions, and the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health Related Programs, to certain health related institutions of higher education.

SECTION 13A.04. (a) Prohibits the transfers to accounts in the general revenue made by this part from resulting in a reduction in the amount available for distribution from those accounts, and requires the same amount that would have been distributed from the permanent funds but for the transfers made by this part to be appropriated and distributed from the applicable accounts created by this part. Requires the comptroller, if the earnings from the secondary account are inadequate to make a distribution of the same amount that would have been distributed from the permanent funds, to the extent that the difference is solely the result of an investment policy other than total return, to transfer the difference to the applicable earnings account from the unobligated portion of general revenue.

(b) Requires the comptroller to determine the amount of any loss to the Permanent Health Fund for Higher Education and other funds administered by The University of Texas System as a result of the transfer to general revenue under this part. Requires the comptroller, on August 31, 2007, to transfer from the general revenue to the applicable secondary account created by this part, an amount equal to the amount of the loss. Requires the comptroller, in determining the amount of loss, to consider the difference in the rate of return on investment of that secondary account and the rate of return over the preceding three years on investment of the Permanent University Fund.

(c) Prohibits the total of distributions under Subsections (a) and (b) of this section from the accounts created by this part, plus transfers under Subsection (b) of this section, from exceeding \$65 million for any fiscal year, notwithstanding any other provision of this part.

SECTION 13A.05. Effective date, this part: September 1, 2005.

PART B. TEXAS MOBILITY FUND

SECTION 13B.01. Amends Subchapter M, Chapter 201, Transportation Code, by adding Section 201.9471, as follows:

Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO FUND.

(a) Requires the comptroller, notwithstanding Sections 521.058 (Disposition of Fees), 521.313 (Reinstatement and Reissuance; Fee), 521.3466 (Automatic Revocation for

Offense Involving Certain Fraudulent Governmental Records), 521.427 (Disposition of Fees) 522.029 (Fees), 524.051 (Reinstatement and Reissuance), and 724.046 (Reinstatement of License or Issuance of New License), to the extent that those sections allocate money to the Texas Mobility Fund (fund), in state fiscal year 2006, to deposit that money to the credit of the general revenue fund instead of to the credit of the fund.

(b) Requires the comptroller, notwithstanding Sections 521.313 (Reinstatement and Reissuance; Fee), 521.3466 (Automatic Revocation for Offense Involving Certain Fraudulent Governmental Records), 521.427 (Disposition of Fees) 522.029 (Fees), 524.051 (Reinstatement and Reissuance), and 724.046 (Reinstatement of License or Issuance of New License), to the extent that those sections allocate money to the Texas Mobility Fund (fund), in state fiscal year 2007, to deposit that money to the credit of the general revenue fund instead of to the credit of the fund.

(c) Provides that this section expires January 1, 2008.

SECTION 13B.02. Effective date, this part: September 1, 2005.

PART C. TELECOMMUNICATIONS INFRASTRUCTURE FUND

SECTION 13C.01. Amends Section 57.048, Utilities Code, by adding Subsections (f)-(i), as follows:

(f) Authorizes a certificated telecommunications utility, notwithstanding any other provision of this title, to recover from the utility's customers an assessment imposed on the utility under this subchapter after the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion, as determined by the comptroller. Authorizes a certificated telecommunications utility to recover only the amount of the assessment imposed after the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion, as determined by the comptroller. Authorizes the utility to recover the assessment through a monthly billing process.

(g) Requires the comptroller to publish in the Texas Register the date on which the total amount deposited to the credit of the fund, excluding interest and loan repayments, is equal to \$1.5 billion.

(h) Requires a certificated telecommunications utility that wants to recover the assessment under Subsection (f), not later than February 15 of each year, to file with the Public Utility Commission of Texas (commission) an affidavit or affirmation stating the amount that the utility paid to the comptroller under this section during the previous calendar year and the amount the utility recovered from its customers in cumulative payments during that year.

(i) Requires the commission to maintain the confidentiality of information the commission receives under this section that is claimed to be confidential for competitive purposes. Provides that the confidential information is exempt from disclosure under 552 (Public Information), Government Code.

SECTION 13C.02. Amends Section 57.0485, Utilities Code, as follows:

Sec. 57.0485. New heading: ALLOCATION OF REVENUE. Requires the comptroller to deposit the money, rather than 50 percent of money, collected by the comptroller under Section 57.048 (Assessments and Collections) to the credit of the general revenue fund. Deletes existing Subsection (b) relating to the interest earned on money in an account.

SECTION 13C.03. Amends Section 57.051, Utilities Code, to provide that the Telecommunications Infrastructure Fund, rather than board, is subject to Chapter 325 (Texas Sunset Act), Government Code. Provides that this subchapter expires September 1, 2011, rather than 2005, unless continued in existence as provided by that chapter.

SECTION 13C.04. Repealer: Sections 57.043 (Telecommunications Infrastructure Fund and Accounts) and 57.048(c) and (d) (Assessments and Collections), Utilities Code.

SECTION 13C.05. Requires the comptroller, if, on the day before the effective date of this part, the assessment prescribed by Section 57.048, Utilities Code, is imposed at a rate of less than 1.25 percent, on the effective date of this part, to reset the rate of the assessment to 1.25 percent.

SECTION 13C.06 Effective date, this part: July 1, 2005, or September 1, 2005.

ARTICLE 14. INTEREST ON CERTAIN TAX REFUNDS

SECTION 14.01. Amends Section 111.064, Tax Code, by amending Subsections (a), (c), and (f) and adding Subsection (c-1), as follows:

(a) Provides that for a refund under this chapter, interest is at the rate that is lesser of the annual rate of interest earned on deposits in the state treasury during December of the previous calendar year, as determined by the comptroller, or rate set in Section 111.060, and accrues on the amount found to be erroneously paid for certain periods of time, except as otherwise provided by this section. Deletes existing text relating to the comptroller's final decision on a claim.

(c) Provides that for a refund claimed before September 1, 2005, and granted for a report period due on or after January 1, 2000, the rate of interest is the rate set in Section 111.060. Deletes existing text relating to a report.

(c-1) Provides that a refund, without regard to the date claimed, for a report due before January 1, 2000, does not accrue interest.

(f) Provides that local revenue fund is not subject to Subsections (a)-(c-1), rather than (a)-(c).

SECTION 14.02. Effective date, this article, September 1, 2005.

ARTICLE 15. AUTHORIZATION OF CERTAIN NONPROFIT ORGANIZATIONS TO CONDUCT BINGO

SECTION 15.01. Amends Section 2001.002(11), Occupations Code, to define "fraternal organization."

SECTION 15.02. Amends Subchapter C, Chapter 2001, Occupations Code, by adding Section 2001.1015, as follows:

Sec. 2001.1015. CERTAIN TRIBAL ORGANIZATIONS EXEMPT FROM REGULATORY JURISDICTION AND LICENSE REQUIREMENTS. (a) Authorizes a nonprofit organization in existence for at least 180 days that qualifies as a fraternal organization under Section 2001.002(11)(C) (Definitions) to conduct bingo on the reservation of the Indian tribe under whose tribal law the organization is organized on adoption by the tribe of rules governing the conduct of bingo by the organization that conform to the substantive provisions of this chapter and of Sections 47(b) and (c), Article III, Texas Constitution.

(b) Authorizes an organization described by Subsection (a), in accordance with Section 107(b), Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (25 U.S.C. Section 1300g-6), to conduct bingo activities in accordance with the tribe's rules adopted under Subsection (a) without submitting to the regulatory jurisdiction, including licensing requirements, of this state.

(c) Prohibits a nonprofit organization described by Subsection (b) from conducting bingo under this section unless the organization transfers to the state

on a monthly basis an amount equal to five percent of the gross receipts from bingo in a manner determined by the comptroller.

ARTICLE 16. REIMBURSEMENT OF EXCESSIVE OR
UNFAIRLY DISCRIMINATORY RATES CHARGED BY CERTAIN INSURERS

SECTION 16.01. Amends Article 5.144, Insurance Code, by amending Subsection (b) and adding Subsections (b-1) and (b-2), as follows:

(b) Provides that, except as provided by Subsection (d) of this article, if the commissioner of insurance (commissioner) determines that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory, as described by Article 5.13-2 (Rates and Forms for Certain Property Insurance), but not 5.101, of this code, the commissioner may order the insurer to take certain actions.

(b-1) Provides that the rate for interest assessed under Subsection (b) of this article is the prime rate for the calendar year in which the order is issued plus six percent. Provides that, for purposes of this subsection, the prime rate is the prime rate as published in The Wall Street Journal for the first day of the calendar year that is not a Saturday, Sunday, or legal holiday. Provides that the interest accrues beginning on the date on which the commissioner enters the order and continues to accrue until the refund is paid. Prohibits an insurer from being required to pay any interest penalty if the insurer prevails in an appeal of the commissioner's order under Subchapter D (Judicial Review), Chapter 36, of this code.

(b-2) Prohibits an insurer from claiming a premium tax credit to which the insurer is otherwise entitled unless the insurer has complied with this article.

ARTICLE 17. EFFECTIVE DATE

SECTION 17.01. Effective date: upon passage or the 91st day after adjournment.