

1-1 By: Pitts (Senate Sponsor - Ogden) H.B. No. 3540  
1-2 (In the Senate - Received from the House May 6, 2005;  
1-3 May 12, 2005, read first time and referred to Committee on Finance;  
1-4 May 23, 2005, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 1; May 23, 2005,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3540 By: Ogden

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to certain fiscal matters affecting governmental  
1-11 entities; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 ARTICLE 1. DELAYED ELIGIBILITY FOR MEMBERSHIP IN EMPLOYEES  
1-14 RETIREMENT SYSTEM OF TEXAS

1-15 SECTION 1.01. Section 812.003(e), Government Code, is  
1-16 amended to read as follows:

1-17 (e) Membership [~~For persons whose employment or office~~  
1-18 ~~holding begins before September 1, 2005, membership~~] in the  
1-19 employee class begins on the 91st day after the first day a person  
1-20 is employed or holds office.

1-21 SECTION 1.02. Sections 812.003(d) and (h), Government Code,  
1-22 are repealed.

1-23 ARTICLE 2. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE  
1-24 FOR STATE EMPLOYEES

1-25 SECTION 2.01. Section 1551.104(a), Insurance Code, is  
1-26 amended to read as follows:

1-27 (a) Subject to Sections 1551.101 and 1551.102, each  
1-28 full-time employee is covered automatically by the basic coverage  
1-29 plan for employees and each annuitant is covered by the basic  
1-30 coverage plan for annuitants unless:

1-31 (1) participation is specifically waived as provided  
1-32 by Section 1551.1045;

1-33 (2) the employee or annuitant is expelled from the  
1-34 program under Section 1551.351; or

1-35 (3) eligibility is otherwise limited by this chapter.

1-36 SECTION 2.02. Subchapter C, Chapter 1551, Insurance Code,  
1-37 is amended by adding Section 1551.1045 to read as follows:

1-38 Sec. 1551.1045. WAIVER. (a) Subject to Subsections (b) and  
1-39 (c), an employee or annuitant may waive in writing any coverage  
1-40 provided under this chapter.

1-41 (b) To waive coverage under the basic coverage plan for  
1-42 employees, a full-time employee must demonstrate, in the manner  
1-43 required by the board of trustees, that the employee is covered by  
1-44 another health benefit plan that provides substantially equivalent  
1-45 coverage, as determined by the board of trustees, to the coverage  
1-46 provided to employees by the basic coverage plan.

1-47 (c) To waive coverage under the basic coverage plan for  
1-48 annuitants for the purpose of eligibility for an incentive payment  
1-49 under Section 1551.222, an annuitant must demonstrate, in the  
1-50 manner required by the board of trustees, that the annuitant is  
1-51 covered by another health benefit plan that provides substantially  
1-52 equivalent coverage, as determined by the board of trustees, to the  
1-53 coverage provided to annuitants by the basic coverage plan.

1-54 SECTION 2.03. Subchapter E, Chapter 1551, Insurance Code,  
1-55 is amended by adding Section 1551.222 to read as follows:

1-56 Sec. 1551.222. INCENTIVE PAYMENTS. (a) The board of  
1-57 trustees may allow an incentive payment under this section to an  
1-58 employee or annuitant who elects to waive coverage under the basic  
1-59 coverage plan for employees or annuitants as provided by Section  
1-60 1551.1045(b) or (c).

1-61 (b) The incentive payment authorized by this section is in  
1-62 the amount authorized by the General Appropriations Act and may be  
1-63 used by the employee or annuitant, in the manner prescribed by the

2-1 board of trustees, only to pay for other group coverage plans  
 2-2 provided under the group benefits program.

2-3 (c) The board of trustees, at the time of initial enrollment  
 2-4 in the group benefits program and during subsequent open-enrollment  
 2-5 periods, shall inform employees and annuitants that they may make  
 2-6 an election described by Subsection (a), if eligible, and receive  
 2-7 any authorized incentive payment.

2-8 SECTION 2.04. Subchapter G, Chapter 1551, Insurance Code,  
 2-9 is amended by adding Section 1551.324 to read as follows:

2-10 Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE  
 2-11 EMPLOYEES AND ANNUITANTS; INCENTIVE PAYMENTS. (a) Notwithstanding  
 2-12 any other provision of this subchapter, the state contribution for  
 2-13 an employee's coverage or an annuitant's coverage under this  
 2-14 chapter may be reduced, as provided in the General Appropriations  
 2-15 Act, to reflect the reduced cost of coverage for an employee or  
 2-16 annuitant who elects to waive basic coverage as provided by Section  
 2-17 1551.1045(b) or (c).

2-18 (b) Instead of the full state contribution for an employee  
 2-19 or annuitant who makes an election described by Subsection (a), the  
 2-20 state may contribute, as specified by the General Appropriations  
 2-21 Act, an amount for the incentive payment authorized by Section  
 2-22 1551.222.

2-23 ARTICLE 3. COMPENSATION FOR CERTAIN STATE EMPLOYEES WHO RETURN TO  
 2-24 STATE EMPLOYMENT

2-25 SECTION 3.01. Section 659.042, Government Code, is amended  
 2-26 to read as follows:

2-27 Sec. 659.042. EXCLUSIONS. The following are not entitled  
 2-28 to longevity pay under this subchapter:

- 2-29 (1) a member of the legislature;  
 2-30 (2) an individual who holds a statewide office that is  
 2-31 normally filled by vote of the people;  
 2-32 (3) an independent contractor or an employee of an  
 2-33 independent contractor;  
 2-34 (4) a temporary employee;  
 2-35 (5) an officer or employee of a public junior college;

2-36 [~~or~~]  
 2-37 (6) an academic employee of a state institution of  
 2-38 higher education; or

2-39 (7) a state employee who retired from state employment  
 2-40 on or after June 1, 2005, and who receives an annuity based wholly  
 2-41 or partly on service as a state officer or state employee in a  
 2-42 public retirement system, as defined by Section 802.001, that was  
 2-43 credited to the state employee.

2-44 SECTION 3.02. Section 659.043(a), Government Code, is  
 2-45 amended to read as follows:

2-46 (a) A state employee is entitled to longevity pay to be  
 2-47 included in the employee's monthly compensation if the employee:

- 2-48 (1) is a full-time state employee on the first workday  
 2-49 of the month;  
 2-50 (2) is not on leave without pay on the first workday of  
 2-51 the month; and  
 2-52 (3) has accrued at least two [~~three~~] years of lifetime  
 2-53 service credit not later than the last day of the preceding month.

2-54 SECTION 3.03. Section 659.044, Government Code, as amended  
 2-55 by Section 32, Chapter 1158, Acts of the 77th Legislature, Regular  
 2-56 Session, 2001, and Section 104, Chapter 1158, Acts of the 77th  
 2-57 Legislature, Regular Session, 2001, is reenacted and amended to  
 2-58 read as follows:

2-59 Sec. 659.044. AMOUNT. (a) Except as provided by  
 2-60 Subsections [~~Subsection~~] (e) and (f), the monthly amount of  
 2-61 longevity pay is \$20 for every two [~~three~~] years of lifetime service  
 2-62 credit.

2-63 (b) The amount increases when the 4th, 6th, 8th [~~9th~~], 10th,  
 2-64 12th, 14th [~~15th~~], 16th, 18th, 20th [~~21st~~], 22nd, 24th, 26th  
 2-65 [~~27th~~], 28th, 30th, 32nd [~~33rd~~], 34th, 36th, 38th [~~39th~~], 40th, and  
 2-66 42nd years of lifetime service credit are accrued.

2-67 (c) An increase is effective beginning with the month  
 2-68 following the month in which the 4th, 6th, 8th [~~9th~~], 10th, 12th,  
 2-69 14th [~~15th~~], 16th, 18th, 20th [~~21st~~], 22nd, 24th, 26th [~~27th~~],

3-1 28th, 30th, 32nd [~~33rd~~], 34th, 36th, 38th [~~39th~~], 40th, and 42nd  
3-2 years of lifetime service credit are accrued.

3-3 (d) An employee may not receive from the state as longevity  
3-4 pay more than the amount determined under Subsection (a) or (e), as  
3-5 applicable, regardless of the number of positions the employee  
3-6 holds or the number of hours the employee works each week.

3-7 (e) This subsection applies only to an employee of the Texas  
3-8 Youth Commission who is receiving less than the maximum amount of  
3-9 hazardous duty pay that the commission may pay to the employee under  
3-10 Section 659.303. The employee's monthly amount of longevity pay is  
3-11 the sum of:

3-12 (1) \$4 for each year of lifetime service credit, which  
3-13 may not include any period served in a hazardous duty position; and

3-14 (2) the lesser of:

3-15 (A) \$4 for each year served in a hazardous duty  
3-16 position; or

3-17 (B) the difference between:

3-18 (i) \$7 for each year served in a hazardous  
3-19 duty position; and

3-20 (ii) the amount paid by the commission for  
3-21 each year served in a hazardous duty position.

3-22 (f) A state employee who retired from state employment  
3-23 before June 1, 2005, and who returned to state employment before  
3-24 September 1, 2005, is entitled to receive longevity pay. The  
3-25 monthly amount of longevity pay the employee is entitled to receive  
3-26 equals the amount of longevity pay the employee was entitled to  
3-27 receive immediately before September 1, 2005. A state employee who  
3-28 retired from state employment before June 1, 2005, and who returns  
3-29 to state employment on or after September 1, 2005, is not entitled  
3-30 to receive longevity pay.

3-31 SECTION 3.04. Section 659.126, Government Code, is amended  
3-32 to read as follows:

3-33 Sec. 659.126. LOSS OF ELIGIBILITY TO RECEIVE BENEFIT  
3-34 REPLACEMENT PAY. (a) An eligible state employee who leaves state  
3-35 employment after August 31, 1995, for at least 30 consecutive days  
3-36 [~~12 consecutive months~~], on returning to state employment or on  
3-37 assuming a state office, is ineligible to receive benefit  
3-38 replacement pay.

3-39 (b) An eligible state-paid judge who leaves office after  
3-40 August 31, 1995, for at least 30 consecutive days [~~12 consecutive~~  
3-41 ~~months~~], on return to state office or on accepting a state  
3-42 employment, is ineligible to receive benefit replacement pay.

3-43 (c) For purposes of Subsection (a), a state employee is not  
3-44 considered to have left state employment:

3-45 (1) while the state employee is on an unpaid leave of  
3-46 absence as provided by Section 661.909; or

3-47 (2) during a period of time the employee is not working  
3-48 for the state because the employee's employment with the state  
3-49 customarily does not include that period of time, such as a teacher  
3-50 whose employment does not invariably include the summer months.

3-51 (d) An eligible state employee who retired from state  
3-52 employment on or after June 1, 2005, and who receives an annuity  
3-53 based wholly or partly on service as a state officer or state  
3-54 employee in a public retirement system, as defined by Section  
3-55 802.001, that was credited to the state employee is ineligible to  
3-56 receive benefit replacement pay.

3-57 SECTION 3.05. Section 661.152, Government Code, is amended  
3-58 by adding Subsection (l) to read as follows:

3-59 (l) For purposes of computing vacation leave under  
3-60 Subsection (d) for a state employee who retired from state  
3-61 employment on or after June 1, 2005, and who receives an annuity  
3-62 based wholly or partly on service as a state officer or state  
3-63 employee in a public retirement system, as defined by Section  
3-64 802.001, that was credited to the state employee, years of total  
3-65 state employment includes only the length of state employment after  
3-66 the date the state employee retired.

3-67 SECTION 3.06. Sections 659.305(a), (b), (c), and (g),  
3-68 Government Code, are amended to read as follows:

3-69 (a) Except as provided by Subsection (b), the amount of a

4-1 full-time state employee's hazardous duty pay for a particular  
4-2 month is the lesser of:

4-3 (1) \$10 [~~\$7~~] for each 12-month period of lifetime  
4-4 service credit accrued by the employee; or

4-5 (2) \$300 [~~\$210~~].

4-6 (b) This subsection applies only to a state employee whose  
4-7 compensation for services provided to the state during any month  
4-8 before August 1987 included hazardous duty pay that was based on  
4-9 total state service performed before May 29, 1987. The amount of a  
4-10 full-time state employee's hazardous duty pay for a particular  
4-11 month is the sum of:

4-12 (1) \$10 [~~\$7~~] for each 12-month period of state service  
4-13 credit the employee finished accruing before May 29, 1987; and

4-14 (2) \$10 [~~\$7~~] for each 12-month period of lifetime  
4-15 service credit that the employee accrued after the date, which must  
4-16 be before May 29, 1987, on which the employee finished accruing the  
4-17 last 12-month period of state service credit.

4-18 (c) The amount determined under Subsection (b)(2) may not  
4-19 exceed \$300 [~~\$210~~].

4-20 (g) A state employee may not receive more than \$10 [~~\$7~~] for  
4-21 each 12-month period of lifetime service credit, regardless of:

4-22 (1) the number of positions the employee holds; or

4-23 (2) the number of hours the employee works each week.

4-24 SECTION 3.07. (a) Except as provided by Subsection (b) of  
4-25 this section, the change in law made by this article to Section  
4-26 659.126, Government Code, applies only to a state employee who  
4-27 leaves state employment on or after the effective date of this  
4-28 article. A state employee who leaves state employment before the  
4-29 effective date of this article is governed by the law as it existed  
4-30 on the date the employee left state employment and the former law is  
4-31 continued in effect for that purpose.

4-32 (b) A state employee who leaves state employment before the  
4-33 effective date of this article is ineligible to receive benefit  
4-34 replacement pay unless the employee returns to state employment  
4-35 before September 30, 2005.

4-36 SECTION 3.08. This article takes effect September 1, 2005.

4-37 ARTICLE 4. EXTENDING STATE REIMBURSEMENT PROGRAM: PETROLEUM  
4-38 STORAGE TANKS

4-39 SECTION 4.01. Section 26.351(f), Water Code, is amended to  
4-40 read as follows:

4-41 (f) The person performing corrective action under this  
4-42 section, if the release was reported to the commission on or before  
4-43 December 22, 1998, shall meet the following deadlines:

4-44 (1) a complete site assessment and risk assessment  
4-45 (including, but not limited to, risk-based criteria for  
4-46 establishing target concentrations), as determined by the  
4-47 executive director, must be received by the agency no later than  
4-48 September 1, 2002;

4-49 (2) a complete corrective action plan, as determined  
4-50 by the executive director and including, but not limited to,  
4-51 completion of pilot studies and recommendation of a cost-effective  
4-52 and technically appropriate remediation methodology, must be  
4-53 received by the agency no later than September 1, 2003. The person  
4-54 may, in lieu of this requirement, submit by this same deadline a  
4-55 demonstration that a corrective action plan is not required for the  
4-56 site in question under commission rules. Such demonstration must  
4-57 be to the executive director's satisfaction;

4-58 (3) for those sites found under Subdivision (2) to  
4-59 require a corrective action plan, that plan must be initiated and  
4-60 proceeding according to the requirements and deadlines in the  
4-61 approved plan no later than March 1, 2004;

4-62 (4) for sites which require either a corrective action  
4-63 plan or groundwater monitoring, a comprehensive and accurate annual  
4-64 status report concerning those activities must be submitted to the  
4-65 agency;

4-66 (5) for sites which require either a corrective action  
4-67 plan or groundwater monitoring, all deadlines set by the executive  
4-68 director concerning the corrective action plan or approved  
4-69 groundwater monitoring plan shall be met; and

5-1 (6) for sites that require either a corrective action  
 5-2 plan or groundwater monitoring, have met all other deadlines under  
 5-3 this subsection, and have submitted annual progress reports that  
 5-4 demonstrate progress toward meeting closure requirements, a site  
 5-5 closure request must be submitted to [~~requests for all sites where~~]  
 5-6 the executive director [~~agreed in writing that no corrective action~~  
 5-7 ~~plan was required must be received by the agency~~] no later than  
 5-8 September 1, 2007 [2005]. The request must be complete, as judged  
 5-9 by the executive director.

5-10 SECTION 4.02. Section 26.355(b), Water Code, is amended to  
 5-11 read as follows:

5-12 (b) An owner or operator of an underground or aboveground  
 5-13 storage tank from which a regulated substance is released is liable  
 5-14 to the state unless:

5-15 (1) the release was caused by:

- 5-16 (A) [~~(1)~~] an act of God;
- 5-17 (B) [~~(2)~~] an act of war;
- 5-18 (C) [~~(3)~~] the negligence of the State of  
 5-19 Texas or the United States; or
- 5-20 (D) [~~(4)~~] an act or omission of a third  
 5-21 party; or

5-22 (2) the site at which the release occurred has been  
 5-23 admitted into the petroleum storage tank state-lead program under  
 5-24 Section 26.3573(r-1).

5-25 SECTION 4.03. Section 26.35731(b), Water Code, is amended  
 5-26 to read as follows:

5-27 (b) The commission has discretion whether to postpone  
 5-28 considering, processing, or paying [~~may not consider, process, or~~  
 5-29 ~~pay~~] a claim for reimbursement from the petroleum storage tank  
 5-30 remediation account for corrective action work begun without prior  
 5-31 commission approval after September 1, 1993, and filed with the  
 5-32 commission prior to January 1, 2005 [~~without prior commission~~  
 5-33 ~~approval until all claims for reimbursement for corrective action~~  
 5-34 ~~work preapproved by the commission have been considered, processed,~~  
 5-35 ~~and paid~~].

5-36 SECTION 4.04. Section 26.3573, Water Code, is amended by  
 5-37 amending Subsections (d), (r), and (s) and adding Subsection (r-1)  
 5-38 to read as follows:

5-39 (d) The commission may use the money in the petroleum  
 5-40 storage tank remediation account to pay:

5-41 (1) necessary expenses associated with the  
 5-42 administration of the petroleum storage tank remediation account  
 5-43 and the groundwater protection cleanup program[, ~~not to exceed an~~  
 5-44 ~~amount equal to: 11.8 percent of the gross receipts of that account for~~  
 5-45 ~~FY02/03; 16.40 percent of the gross receipts of that account for~~  
 5-46 ~~FY04/05; and 21.1 percent of the gross receipts of that account for~~  
 5-47 ~~FY06/07];~~

5-48 (2) expenses associated with investigation, cleanup,  
 5-49 or corrective action measures performed in response to a release or  
 5-50 threatened release from a petroleum storage tank, whether those  
 5-51 expenses are incurred by the commission or pursuant to a contract  
 5-52 between a contractor and an eligible owner or operator as  
 5-53 authorized by this subchapter; and

5-54 (3) subject to the conditions of Subsection (e) [~~of~~  
 5-55 ~~this section~~], expenses associated with investigation, cleanup, or  
 5-56 corrective action measures performed in response to a release or  
 5-57 threatened release of hydraulic fluid or spent oil from hydraulic  
 5-58 lift systems or tanks located at a vehicle service and fueling  
 5-59 facility and used as part of the operations of that facility.

5-60 (r) Except as provided by Subsection (r-1), the [~~The~~]  
 5-61 petroleum storage tank remediation account may not be used to  
 5-62 reimburse any person for corrective action performed after  
 5-63 September 1, 2005.

5-64 (r-1) In this subsection, "state-lead program" means the  
 5-65 petroleum storage tank state-lead program administered by the  
 5-66 commission. The executive director shall grant an extension for  
 5-67 corrective action reimbursement to a person who is an eligible  
 5-68 owner or operator under Section 26.3571. The petroleum storage  
 5-69 tank remediation account may be used to reimburse an eligible owner

6-1 or operator for corrective action performed under an extension  
6-2 before August 31, 2007. Not later than July 1, 2007, an eligible  
6-3 owner or operator who is granted an extension under this subsection  
6-4 may apply to the commission in writing using a form provided by the  
6-5 commission to have the site subject to corrective action placed in  
6-6 the state-lead program. The eligible owner or operator must agree  
6-7 in the application to allow site access to state personnel and state  
6-8 contractors as a condition of placement in the state-lead program  
6-9 under this subsection. On receiving the application for placement  
6-10 in the state-lead program under this subsection, the executive  
6-11 director by order shall place the site in the state-lead program  
6-12 until the corrective action is completed to the satisfaction of the  
6-13 commission. An eligible owner or operator of a site that is placed  
6-14 in the state-lead program under this subsection is not liable to the  
6-15 commission for any costs related to the corrective action.

6-16 (s) The petroleum storage tank remediation account may not  
6-17 be used to reimburse any person for corrective action contained in a  
6-18 reimbursement claim filed with the commission after March 1, 2008  
6-19 [2006].

6-20 SECTION 4.05. Section 26.3574(b), Water Code, is amended to  
6-21 read as follows:

6-22 (b) A fee is imposed on the delivery of a petroleum product  
6-23 on withdrawal from bulk of that product as provided by this  
6-24 subsection. Each operator of a bulk facility on withdrawal from  
6-25 bulk of a petroleum product shall collect from the person who orders  
6-26 the withdrawal a fee in an amount determined as follows:

6-27 (1) \$12.50 for each delivery into a cargo tank having a  
6-28 capacity of less than 2,500 gallons for the state fiscal year  
6-29 beginning September 1, 2001, and the state fiscal year beginning  
6-30 September 1, 2002 [~~FY 02 and FY 03~~]; and \$10.00 for each delivery  
6-31 into a cargo tank having a capacity of less than 2,500 gallons for  
6-32 the state fiscal year beginning September 1, 2003, through the  
6-33 state fiscal year ending August 31, 2007 [~~FY 04 and FY 05, \$5.00 for~~  
6-34 ~~each delivery into a cargo tank having a capacity of less than 2,500~~  
6-35 ~~gallons for FY 06, and \$2.00 for each delivery into a cargo tank~~  
6-36 ~~having a capacity of less than 2,500 gallons for FY 07];~~

6-37 (2) \$25.00 for each delivery into a cargo tank having a  
6-38 capacity of 2,500 gallons or more but less than 5,000 gallons for  
6-39 the state fiscal year beginning September 1, 2001, and the state  
6-40 fiscal year beginning September 1, 2002 [~~FY 02 and FY 03~~]; and  
6-41 \$20.00 for each delivery into a cargo tank having a capacity of  
6-42 2,500 gallons or more but less than 5,000 gallons for the state  
6-43 fiscal year beginning September 1, 2003, through the state fiscal  
6-44 year ending August 31, 2007 [~~FY 04 and FY 05, \$10.00 for each~~  
6-45 ~~delivery into a cargo tank having a capacity of 2,500 gallons or~~  
6-46 ~~more but less than 5,000 gallons for FY 06, and \$4.00 for each~~  
6-47 ~~delivery into a cargo tank having a capacity of 2,500 gallons or~~  
6-48 ~~more but less than 5,000 gallons for FY 07];~~

6-49 (3) \$37.50 for each delivery into a cargo tank having a  
6-50 capacity of 5,000 gallons or more but less than 8,000 gallons for  
6-51 the state fiscal year beginning September 1, 2001, and the state  
6-52 fiscal year beginning September 1, 2002 [~~FY 02 and FY 03~~]; and  
6-53 \$30.00 for each delivery into a cargo tank having a capacity of  
6-54 5,000 gallons or more but less than 8,000 gallons for the state  
6-55 fiscal year beginning September 1, 2003, through the state fiscal  
6-56 year ending August 31, 2007 [~~FY 04 and FY 05, \$15.00 for each~~  
6-57 ~~delivery into a cargo tank having a capacity of 5,000 gallons or~~  
6-58 ~~more but less than 8,000 gallons for FY 06, and \$6.00 for each~~  
6-59 ~~delivery into a cargo tank having a capacity of 5,000 gallons or~~  
6-60 ~~more but less than 8,000 gallons for FY 07];~~

6-61 (4) \$50.00 for each delivery into a cargo tank having a  
6-62 capacity of 8,000 gallons or more but less than 10,000 gallons for  
6-63 the state fiscal year beginning September 1, 2001, and the state  
6-64 fiscal year beginning September 1, 2002 [~~FY 02 and FY 03~~]; and  
6-65 \$40.00 for each delivery into a cargo tank having a capacity of  
6-66 8,000 gallons or more but less than 10,000 gallons for the state  
6-67 fiscal year beginning September 1, 2003, through the state fiscal  
6-68 year ending August 31, 2007 [~~FY 04 and FY 05, \$20.00 for each~~  
6-69 ~~delivery into a cargo tank having a capacity of 8,000 gallons or~~

7-1 ~~more but less than 10,000 gallons for FY 06; and \$8.00 for each~~  
7-2 ~~delivery into a cargo tank having a capacity of 8,000 gallons or~~  
7-3 ~~more but less than 10,000 gallons for FY 07]; and~~

7-4 (5) a \$25.00 fee for each increment of 5,000 gallons or  
7-5 any part thereof delivered into a cargo tank having a capacity of  
7-6 10,000 gallons or more for the state fiscal year beginning  
7-7 September 1, 2001, and the state fiscal year beginning September 1,  
7-8 2002 [FY 02 and FY 03]; and \$20.00 for each increment of 5,000  
7-9 gallons or any part thereof delivered into a cargo tank having a  
7-10 capacity of 10,000 gallons or more for the state fiscal year  
7-11 beginning September 1, 2003, through the state fiscal year ending  
7-12 August 31, 2007 [FY 04 and FY 05; \$10.00 for each increment of 5,000  
7-13 gallons or any part thereof delivered into a cargo tank having a  
7-14 capacity of 10,000 gallons or more for FY 06; and \$4.00 for each  
7-15 increment of 5,000 gallons or any part thereof delivered into a  
7-16 cargo tank having a capacity of 10,000 gallons or more for FY 07].

7-17 SECTION 4.06. Section 26.361, Water Code, is amended to  
7-18 read as follows:

7-19 Sec. 26.361. EXPIRATION OF REIMBURSEMENT PROGRAM.  
7-20 Notwithstanding any other provision of this subchapter, the  
7-21 reimbursement program established under this subchapter expires  
7-22 September 1, 2008 [2006]. On or after September 1, 2008 [2006], the  
7-23 commission may not use money from the petroleum storage tank  
7-24 remediation account to reimburse an eligible owner or operator for  
7-25 any expenses of corrective action or to pay the claim of a person  
7-26 who has contracted with an eligible owner or operator to perform  
7-27 corrective action.

7-28 SECTION 4.07. This article takes effect September 1, 2005.

7-29 ARTICLE 5. PUBLIC SCHOOL FACILITIES

7-30 SECTION 5.01. Section 46.033, Education Code, is amended to  
7-31 read as follows:

7-32 Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued  
7-33 under Section 45.006, are eligible to be paid with state and local  
7-34 funds under this subchapter if:

7-35 (1) the district made payments on the bonds during the  
7-36 2004-2005 [2002-2003] school year or taxes levied to pay the  
7-37 principal of and interest on the bonds were included in the  
7-38 district's audited debt service collections for that school year;  
7-39 and

7-40 (2) the district does not receive state assistance  
7-41 under Subchapter A for payment of the principal and interest on the  
7-42 bonds.

7-43 SECTION 5.02. Section 46.034(c), Education Code,  
7-44 is amended to read as follows:

7-45 (c) If the amount required to pay the principal of and  
7-46 interest on eligible bonds in a school year is less than the amount  
7-47 of payments made by the district on the bonds during the 2004-2005  
7-48 [2002-2003] school year or the district's audited debt service  
7-49 collections for that school year, the district may not receive aid  
7-50 in excess of the amount that, when added to the district's local  
7-51 revenue for the school year, equals the amount required to pay the  
7-52 principal of and interest on the bonds.

7-53 ARTICLE 6. SCHOOL EMPLOYEES AND RETIREES

7-54 PART A. COMPENSATION SUPPLEMENTATION FOR CERTAIN SCHOOL EMPLOYEES

7-55 SECTION 6A.01. Sections 22.004(a), (b), (c), (i), and (j),  
7-56 Education Code, are amended to read as follows:

7-57 (a) A district shall participate in the uniform group  
7-58 coverage program established under Chapter 1579 [Article 3.50-7],  
7-59 Insurance Code, as provided by Subchapter D [Section 5] of that  
7-60 chapter [article].

7-61 (b) A district that does not participate in the program  
7-62 described by Subsection (a) shall make available to its employees  
7-63 group health coverage provided by a risk pool established by one or  
7-64 more school districts under Chapter 172, Local Government Code, or  
7-65 under a policy of insurance or group contract issued by an insurer,  
7-66 a company subject to Chapter 842, Insurance Code, or a health  
7-67 maintenance organization under Chapter 843, Insurance Code. The  
7-68 coverage must meet the substantive coverage requirements of Chapter  
7-69 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366

8-1 ~~[Article 3.51-6]~~, Insurance Code, and any other law applicable to  
 8-2 group health insurance policies or contracts issued in this state.  
 8-3 The coverage must include major medical treatment but may exclude  
 8-4 experimental procedures. In this subsection, "major medical  
 8-5 treatment" means a medical, surgical, or diagnostic procedure for  
 8-6 illness or injury. The coverage may include managed care or  
 8-7 preventive care and must be comparable to the basic health coverage  
 8-8 provided under Chapter 1551, Insurance Code. The board of trustees  
 8-9 of the Teacher Retirement System of Texas shall adopt rules to  
 8-10 determine whether a school district's group health coverage is  
 8-11 comparable to the basic health coverage specified by this  
 8-12 subsection. The rules must provide for consideration of the  
 8-13 following factors concerning the district's coverage in  
 8-14 determining whether the district's coverage is comparable to the  
 8-15 basic health coverage specified by this subsection:

- 8-16 (1) the deductible amount for service provided inside  
 8-17 and outside of the network;
- 8-18 (2) the coinsurance percentages for service provided  
 8-19 inside and outside of the network;
- 8-20 (3) the maximum amount of coinsurance payments a  
 8-21 covered person is required to pay;
- 8-22 (4) the amount of the copayment for an office visit;
- 8-23 (5) the schedule of benefits and the scope of  
 8-24 coverage;
- 8-25 (6) the lifetime maximum benefit amount; and
- 8-26 (7) verification that the coverage is issued by a  
 8-27 provider licensed to do business in this state by the Texas  
 8-28 Department of Insurance or is provided by a risk pool authorized  
 8-29 under Chapter 172, Local Government Code, or that a district is  
 8-30 capable of covering the assumed liabilities in the case of coverage  
 8-31 provided through district self-insurance.

8-32 (c) The cost of the coverage provided under the program  
 8-33 described by Subsection (a) shall be paid by the state, the  
 8-34 district, and the employees in the manner provided by Subchapter F,  
 8-35 Chapter 1579 ~~[Article 3.50-7]~~, Insurance Code. The cost of  
 8-36 coverage provided under a plan adopted under Subsection (b) shall  
 8-37 be shared by the employees and the district using the contributions  
 8-38 by the state described by Subchapter F, Chapter 1579 ~~[Section 9,~~  
 8-39 ~~Article 3.50-7]~~, Insurance Code, or Subchapter D ~~[by Article~~  
 8-40 ~~3.50-8, Insurance Code]~~.

8-41 (i) Notwithstanding any other provision of this section, a  
 8-42 district participating in the uniform group coverage program  
 8-43 established under Chapter 1579 ~~[Article 3.50-7]~~, Insurance Code,  
 8-44 may not make group health coverage available to its employees under  
 8-45 this section after the date on which the program of coverages  
 8-46 provided under Chapter 1579 ~~[Article 3.50-7]~~, Insurance Code, is  
 8-47 implemented.

8-48 (j) This section does not preclude a district that is  
 8-49 participating in the uniform group coverage program established  
 8-50 under Chapter 1579 ~~[Article 3.50-7]~~, Insurance Code, from entering  
 8-51 into contracts to provide optional insurance coverages for the  
 8-52 employees of the district.

8-53 SECTION 6A.02. Chapter 22, Education Code, is amended by  
 8-54 adding Subchapter D to read as follows:

8-55 SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

8-56 Sec. 22.101. DEFINITIONS. In this subchapter:

8-57 (1) "Cafeteria plan" means a plan as defined and  
 8-58 authorized by Section 125, Internal Revenue Code of 1986.

8-59 (2) "Employee" means an active, contributing member of  
 8-60 the Teacher Retirement System of Texas who:

8-61 (A) is employed by a district, other educational  
 8-62 district whose employees are members of the Teacher Retirement  
 8-63 System of Texas, participating charter school, or regional  
 8-64 education service center;

8-65 (B) is not a retiree eligible for coverage under  
 8-66 the program established under Chapter 1575, Insurance Code;

8-67 (C) is not eligible for coverage by a group  
 8-68 insurance program under Chapter 1551 or 1601, Insurance Code; and

8-69 (D) is not an individual performing personal



9-1 services for a district, other educational district that is a  
9-2 member of the Teacher Retirement System of Texas, participating  
9-3 charter school, or regional education service center as an  
9-4 independent contractor.

9-5 (3) "Participating charter school" means an  
9-6 open-enrollment charter school established under Subchapter D,  
9-7 Chapter 12, that participates in the program established under  
9-8 Chapter 1579, Insurance Code.

9-9 (4) "Regional education service center" means a  
9-10 regional education service center established under Chapter 8.

9-11 Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

9-12 (a) The agency may adopt rules to implement this subchapter.

9-13 (b) The agency may enter into interagency contracts with any  
9-14 other agency of this state for the purpose of assistance in  
9-15 implementing this subchapter.

9-16 Sec. 22.103. ELIGIBILITY; WAITING PERIOD. A person is not  
9-17 eligible for a monthly distribution under this subchapter before  
9-18 the 91st day after the first day the person becomes an employee.

9-19 Sec. 22.104. DISTRIBUTION BY AGENCY. Subject to the  
9-20 availability of funds, each month the agency shall deliver to each  
9-21 district, including a district that is ineligible for state aid  
9-22 under Chapter 42, each other educational district that is a member  
9-23 of the Teacher Retirement System of Texas, each participating  
9-24 charter school, and each regional education service center state  
9-25 funds in an amount, as determined by the agency, equal to the  
9-26 product of the number of eligible employees employed by the  
9-27 district, school, or service center multiplied by the amount  
9-28 specified in the General Appropriations Act for purposes of this  
9-29 subchapter and divided by 12. The agency shall distribute funding  
9-30 to only one entity for employees who are employed by more than one  
9-31 entity listed in this section.

9-32 Sec. 22.105. FUNDS HELD IN TRUST. All funds received by a  
9-33 district, other educational district, participating charter  
9-34 school, or regional education service center under this subchapter  
9-35 are held in trust for the benefit of the employees on whose behalf  
9-36 the district, school, or service center received the funds.

9-37 Sec. 22.106. RECOVERY OF DISTRIBUTIONS. The agency is  
9-38 entitled to recover from a district, other educational district,  
9-39 participating charter school, or regional education service center  
9-40 any amount distributed under this subchapter to which the district,  
9-41 school, or service center was not entitled.

9-42 Sec. 22.107. DETERMINATION BY AGENCY FINAL. A  
9-43 determination by the agency under this subchapter is final and may  
9-44 not be appealed.

9-45 Sec. 22.108. DISTRIBUTION BY SCHOOL. Each month, each  
9-46 district, other educational district that is a member of the  
9-47 Teacher Retirement System of Texas, participating charter school,  
9-48 and regional education service center must distribute to its  
9-49 eligible employees the funding received under this subchapter. To  
9-50 receive the monthly distribution, an individual must meet the  
9-51 definition of an employee under Section 22.101 for that month.

9-52 Sec. 22.109. USE OF SUPPLEMENTAL COMPENSATION. An employee  
9-53 may use a monthly distribution received under this subchapter for  
9-54 any employee benefit, including depositing the amount of the  
9-55 distribution into a cafeteria plan, if the employee is enrolled in a  
9-56 cafeteria plan, or using the amount of the distribution for health  
9-57 care premiums through a premium conversion plan. The employee may  
9-58 take the amount of the distribution as supplemental compensation.

9-59 Sec. 22.110. SUPPLEMENTAL COMPENSATION. An amount  
9-60 distributed to an employee under this subchapter must be in  
9-61 addition to the rate of compensation that:

9-62 (1) the district, other educational district,  
9-63 participating charter school, or regional education service center  
9-64 paid the employee in the preceding school year; or

9-65 (2) the district, school, or service center would have  
9-66 paid the employee in the preceding school year if the employee had  
9-67 been employed by the district, school, or service center in the same  
9-68 capacity in the preceding school year.

9-69 SECTION 6A.03. Section 822.201(c), Government Code, is

10-1 amended to read as follows:

10-2 (c) Excluded from salary and wages are:

- 10-3 (1) expense payments;
- 10-4 (2) allowances;
- 10-5 (3) payments for unused vacation or sick leave;
- 10-6 (4) maintenance or other nonmonetary compensation;
- 10-7 (5) fringe benefits;
- 10-8 (6) deferred compensation other than as provided by
- 10-9 Subsection (b)(3);
- 10-10 (7) compensation that is not made pursuant to a valid
- 10-11 employment agreement;
- 10-12 (8) payments received by an employee in a school year
- 10-13 that exceed \$5,000 for teaching a driver education and traffic
- 10-14 safety course that is conducted outside regular classroom hours;
- 10-15 (9) the benefit replacement pay a person earns as a
- 10-16 result of a payment made under Subchapter B or C, Chapter 661;
- 10-17 (10) any amount [contributions to a health
- 10-18 reimbursement arrangement account] received by an employee under
- 10-19 Subchapter D, Chapter 22, Education Code, former Article 3.50-8,
- 10-20 Insurance Code, former Chapter 1580, Insurance Code, or Rider 9,
- 10-21 page III-39, Chapter 1330, Acts of the 78th Legislature, Regular
- 10-22 Session, 2003 (the General Appropriations Act); and
- 10-23 (11) any compensation not described by Subsection (b).

10-24 SECTION 6A.04. Section 1579.253(b), Insurance Code, is

10-25 amended to read as follows:

10-26 (b) The employee may pay the employee's contribution under

10-27 this subsection from the amount distributed to the employee under

10-28 Subchapter D, Chapter 22, Education Code [1580].

10-29 SECTION 6A.05. Section 1581.702, Insurance Code, is amended

10-30 to read as follows:

10-31 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide

10-32 additional support for a school district to which this section

10-33 applies in an amount computed by multiplying the total amount of

10-34 supplemental compensation received by district employees under

10-35 Subchapter D, Chapter 22, Education Code, [1580] by 0.062.

10-36 SECTION 6A.06. The following laws are repealed:

- 10-37 (1) Chapter 1580, Insurance Code;
- 10-38 (2) Section 57, Chapter 201, Acts of the 78th
- 10-39 Legislature, Regular Session, 2003;
- 10-40 (3) Chapter 313, Acts of the 78th Legislature, Regular
- 10-41 Session, 2003; and
- 10-42 (4) Section 1.01, Chapter 366, Acts of the 78th
- 10-43 Legislature, Regular Session, 2003.

10-44 SECTION 6A.07. The functions and duties of the Teacher

10-45 Retirement System of Texas with respect to the compensation

10-46 supplementation program established under Chapter 1580, Insurance

10-47 Code, and other applicable law, and any appropriation relating to

10-48 that program are transferred to the Texas Education Agency. A

10-49 reference in law to the Teacher Retirement System of Texas with

10-50 respect to the compensation supplementation program means the Texas

10-51 Education Agency.

10-52 SECTION 6A.08. This part takes effect September 1, 2005.

10-53 PART B. CERTAIN PROVISIONS RELATING TO BENEFITS FOR RETIRED

10-54 SCHOOL EMPLOYEES

10-55 SECTION 6B.01. Section 822.001(f), Government Code, is

10-56 repealed.

10-57 SECTION 6B.02. Section 1575.203(a), Insurance Code, is

10-58 amended to read as follows:

10-59 (a) Each state fiscal year, each active employee shall, as a

10-60 condition of employment, contribute to the fund an amount equal to

10-61 0.65 [0.5] percent of the employee's salary.

10-62 SECTION 6B.03. The change in law made by this part to

10-63 Section 1575.203, Insurance Code, takes effect September 1, 2005.

10-64 ARTICLE 7. DRUG PURCHASING FOR STATE AGENCIES

10-65 SECTION 7.01. Subchapter B, Chapter 531, Government Code,

10-66 is amended by adding Section 531.080 to read as follows:

10-67 Sec. 531.080. JOINT PURCHASING OF PRESCRIPTION DRUGS AND

10-68 OTHER MEDICATIONS. (a) Subject to Subsection (b), the commission

10-69 and each health and human services agency authorized by the

11-1 executive commissioner may enter into an agreement with one or more  
11-2 other states for the joint bulk purchasing of prescription drugs  
11-3 and other medications to be used in the Medicaid program, the state  
11-4 child health plan, or another program under the authority of the  
11-5 commission.

11-6 (b) An agreement under this section may not be entered into  
11-7 until:

11-8 (1) the commission determines that entering into the  
11-9 agreement would be feasible and cost-effective; and

11-10 (2) if appropriated money would be spent under the  
11-11 proposed agreement, the governor and the Legislative Budget Board  
11-12 grant prior approval to expend appropriated money under the  
11-13 proposed agreement.

11-14 (c) If an agreement is entered into, the commission shall  
11-15 adopt procedures applicable to an agreement and joint purchase  
11-16 required by this section. The procedures must ensure that this  
11-17 state receives:

11-18 (1) all prescription drugs and other medications  
11-19 purchased with money provided by this state; and

11-20 (2) an equitable share of any price benefits resulting  
11-21 from the joint bulk purchase.

11-22 (d) In determining the feasibility and cost-effectiveness  
11-23 of entering into an agreement under this section, the commission  
11-24 shall identify:

11-25 (1) the most cost-effective existing joint bulk  
11-26 purchasing agreement; and

11-27 (2) any potential groups of states with which this  
11-28 state could enter into a new cost-effective joint bulk purchasing  
11-29 agreement.

11-30 SECTION 7.02. Not later than January 15, 2006, the Health  
11-31 and Human Services Commission shall determine the feasibility and  
11-32 cost-effectiveness of entering into an agreement under Section  
11-33 531.080, Government Code, as added by this article. If the  
11-34 commission determines that such action is feasible and  
11-35 cost-effective, the commission shall take action to enter into an  
11-36 agreement that takes effect March 1, 2006.

11-37 SECTION 7.03. If before implementing any provision of this  
11-38 article a state agency determines that a waiver or authorization  
11-39 from a federal agency is necessary for implementation of that  
11-40 provision, the agency affected by the provision shall request the  
11-41 waiver or authorization and may delay implementing that provision  
11-42 until the waiver or authorization is granted.

11-43 ARTICLE 8. QUALITY ASSURANCE FEES

11-44 SECTION 8.01. Section 252.209, Health and Safety Code, is  
11-45 repealed.

11-46 ARTICLE 9. FAITH- AND COMMUNITY-BASED INITIATIVES TO PROVIDE  
11-47 HEALTH AND HUMAN SERVICES

11-48 SECTION 9.01. Chapter 401, Government Code, is amended by  
11-49 adding Subchapter G to read as follows:

11-50 SUBCHAPTER G. TEXAS MENTORING INITIATIVE

11-51 Sec. 401.151. ESTABLISHMENT AND PURPOSE OF TEXAS MENTORING  
11-52 INITIATIVE. (a) The office of the governor shall establish the  
11-53 Texas mentoring initiative to fund activities that:

11-54 (1) create or expand mentoring opportunities in this  
11-55 state;

11-56 (2) promote responsible fatherhood and healthy  
11-57 marriages; and

11-58 (3) increase the capacity of faith- and  
11-59 community-based organizations, as defined by Section 535.001, to  
11-60 provide mentoring and other charitable services to persons in this  
11-61 state.

11-62 (b) The office of the governor shall administer the Texas  
11-63 mentoring initiative subject to the availability of funds  
11-64 appropriated for that purpose.

11-65 Sec. 401.152. GRANTS. The office of the governor shall  
11-66 provide grants through the Texas mentoring initiative to support:

11-67 (1) activities described by Section 401.151; and

11-68 (2) the renewing our communities account under Chapter

11-69 535.

SECTION 9.02. Subtitle I, Title 4, Government Code, is amended by adding Chapter 535 to read as follows:

CHAPTER 535. RENEWING OUR COMMUNITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 535.001. DEFINITIONS. In this chapter:

(1) "Account" means the renewing our communities account.

(2) "Community-based organization" means a nonprofit corporation or association that is located in close proximity to the population the organization serves.

(3) "Faith-based organization" means a nonprofit corporation or association that:

(A) is operated through a religious or denominational organization, including an organization that is operated for religious, educational, or charitable purposes and that is operated, supervised, or controlled, wholly or partly, by or in connection with a religious organization; or

(B) clearly demonstrates through the organization's mission statement, policies, or practices that the organization is guided or motivated by religion.

Sec. 535.002. CONSTRUCTION. This chapter may not be construed to:

(1) exempt a faith- or community-based organization from any applicable state or federal law; or

(2) be 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. A power authorized or duty imposed under this chapter must be performed in a manner that is consistent with 42 U.S.C. Section 604a.

[Sections 535.004-535.050 reserved for expansion]

SUBCHAPTER B. RENEWING OUR COMMUNITIES ACCOUNT

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

(b) The account consists of:

(1) all money appropriated for the purposes of this chapter;

(2) any gifts, grants, or donations received for the purposes of this chapter; and

(3) interest earned on money in the account.

(c) The account is exempt from the application of Section 403.095.

(d) The purposes of the account are to:

(1) increase the capacity of and strengthen faith- and community-based organizations to provide charitable services to persons in this state who are in need of those services;

(2) assist local governmental entities in establishing local offices for faith- and community-based initiatives;

(3) foster better partnerships between state government and faith- and community-based organizations to provide charitable services to persons in this state; and

(4) leverage state and local resources to acquire federal or private grant funds to provide charitable services in this state.

Sec. 535.052. POWERS AND DUTIES REGARDING ACCOUNT. (a) The commission shall:

(1) develop and implement a competitive process for awarding grants from the account that is consistent with state law and includes objective selection criteria;

(2) oversee the delivery of training and other assistance activities under this chapter;

(3) develop criteria limiting awards of grants under Subsection (b)(1) to small and medium-sized faith- and community-based organizations that provide charitable services to

13-1 persons in this state;  
13-2 (4) establish general state priorities for the  
13-3 account; and

13-4 (5) establish and monitor performance and outcome  
13-5 measures for persons to whom grants are awarded under this chapter.

13-6 (b) The commission may:

13-7 (1) award grants from the account to faith- and  
13-8 community-based organizations that provide charitable services to  
13-9 persons in this state for capacity-building purposes;

13-10 (2) directly, or through agreements with one or more  
13-11 entities that serve faith- and community-based organizations that  
13-12 provide charitable services to persons in this state:

13-13 (A) assist faith- and community-based  
13-14 organizations with:

13-15 (i) writing or managing grants through  
13-16 workshops or other forms of guidance;

13-17 (ii) obtaining legal assistance related to  
13-18 forming a corporation or obtaining an exemption from taxation under  
13-19 the Internal Revenue Code; and

13-20 (iii) obtaining information about or  
13-21 referrals to entities that provide expertise in accounting, legal,  
13-22 or tax issues, program development matters, or other organizational  
13-23 topics;

13-24 (B) provide information or assistance to faith-  
13-25 and community-based organizations related to building the  
13-26 organizations' capacity for providing services;

13-27 (C) facilitate the formation of networks, the  
13-28 coordination of services, and the sharing of resources among faith-  
13-29 and community-based organizations;

13-30 (D) in cooperation with existing efforts, if  
13-31 possible, conduct needs assessments to identify gaps in services in  
13-32 a community that present a need for developing or expanding  
13-33 services;

13-34 (E) work with faith- and community-based  
13-35 organizations to identify the organizations' needs for  
13-36 improvements in their internal capacity for providing services; and

13-37 (F) provide faith- and community-based  
13-38 organizations with information on and assistance in identifying or  
13-39 using best practices for delivering charitable services to persons,  
13-40 families, and communities and in replicating charitable services  
13-41 programs that have demonstrated effectiveness;

13-42 (3) award grants from the account to local  
13-43 governmental entities to provide seed money for local offices for  
13-44 faith- and community-based initiatives;

13-45 (4) assist a local governmental entity in creating a  
13-46 better partnership between government and faith- and  
13-47 community-based organizations to provide charitable services to  
13-48 persons in this state;

13-49 (5) use the account to provide matching money for  
13-50 federal or private grant programs that further the purposes of the  
13-51 account as described by Section 535.051(d); and

13-52 (6) contract with the governor's office of faith-based  
13-53 and community initiatives to administer programs or perform duties  
13-54 or activities under this chapter.

13-55 Sec. 535.053. FAITH- AND COMMUNITY-BASED INITIATIVES  
13-56 ADVISORY COMMITTEE. (a) The executive commissioner shall appoint  
13-57 faith and community leaders in this state to serve on the faith- and  
13-58 community-based initiatives advisory committee. The advisory  
13-59 committee members must be representative of the religious and  
13-60 cultural diversity of this state.

13-61 (b) The advisory committee shall make recommendations to  
13-62 the executive commissioner regarding the executive commissioner's  
13-63 powers and duties with respect to the account as described by  
13-64 Section 535.052.

13-65 (c) Except as otherwise provided by this subsection, the  
13-66 advisory committee shall meet at least twice each calendar year.  
13-67 The advisory committee is not required to meet if the remaining  
13-68 amount appropriated from the account to the commission for the  
13-69 state fiscal biennium is insufficient for the performance of any

14-1 duties or activities under this chapter.

14-2 (d) Chapter 2110 does not apply to the advisory committee.

14-3 (e) The advisory committee is subject to Chapter 551.

14-4 SECTION 9.03. This article takes effect September 1, 2005.

14-5 ARTICLE 10. TRANSPORTATION FEES AND FISCAL MATTERS

14-6 SECTION 10.01. Subchapter A, Chapter 222, Transportation  
 14-7 Code, is amended by adding Section 222.0021 to read as follows:

14-8 Sec. 222.0021. TRANSFERS TO GENERAL REVENUE FUND. Each  
 14-9 month, out of money in the state highway fund that is not dedicated  
 14-10 by the Texas Constitution, the comptroller shall transfer the  
 14-11 amount of \$5,666,667 from the state highway fund to the general  
 14-12 revenue fund.

14-13 SECTION 10.02. Section 502.161(a), Transportation Code, is  
 14-14 amended to read as follows:

14-15 (a) The fee for a registration year for registration of a  
 14-16 passenger car, a municipal bus, or a private bus that weighs 6,000  
 14-17 pounds or less is:

14-18 (1) \$42.20 [~~\$40.50~~] for a vehicle the model year of  
 14-19 which is more than six years before the year in which the  
 14-20 registration year begins; or

14-21 (2) [~~\$50.50 for a vehicle the model year of which is~~  
 14-22 ~~more than three years but is six years or less before the year in~~  
 14-23 ~~which the registration year begins; or~~

14-24 [~~3~~] \$58.50 for a vehicle the model year of which is  
 14-25 six [~~three~~] years or less before the year in which the registration  
 14-26 year begins.

14-27 SECTION 10.03. Section 502.162(a), Transportation Code, is  
 14-28 amended to read as follows:

14-29 (a) The fee for a registration year for registration of a  
 14-30 commercial motor vehicle or truck-tractor that weighs 6,000 pounds  
 14-31 or less is \$58.50. The fee for a registration year for registration  
 14-32 of all other commercial motor vehicles or truck-tractors is \$25  
 14-33 plus an amount determined according to the vehicle's total gross  
 14-34 weight and tire equipment, as follows:

Gross weight in pounds	Fee for each 100 pounds or fraction of 100 pounds	Equipped with pneumatic tires	Equipped with solid tires
<del>[1-6,000]</del>		<del>[\$0.44]</del>	<del>[\$0.55]</del>
6,001-8,000	<u>\$0.56</u> [ <del>0.495</del> ]	\$0.605	\$0.66
8,001-10,000	0.605	0.77	0.77
10,001-17,000	0.715	0.88	0.88
17,001-24,000	0.77	0.99	0.99
24,001-31,000	0.88	1.10	1.10
31,001 and over	0.99	1.32	1.32

14-46 SECTION 10.04. Section 502.168, Transportation Code, is  
 14-47 amended to read as follows:

14-48 Sec. 502.168. FEE: MOTOR BUS. The fee for a registration  
 14-49 year for registration of a motor bus that weighs 6,000 pounds or  
 14-50 less is \$58.50. The fee for a registration year for registration of  
 14-51 all other motor buses is \$25 plus an amount determined according to  
 14-52 the vehicle's total gross weight, as follows:

Gross weight in pounds	Fee for each 100 pounds or fraction of 100 pounds
<del>[1-6,000]</del>	<del>[\$0.44]</del>
6,001-8,000	<u>\$0.56</u> [ <del>0.495</del> ]
8,001-10,000	0.605
10,001-17,000	0.715
17,001-24,000	0.77
24,001-31,000	0.88
31,001 and over	0.99

14-62 SECTION 10.05. Section 522.021, Transportation Code, is  
 14-63 amended by adding Subsection (a-1) to read as follows:

14-64 (a-1) If the application is for a nonresident commercial  
 14-65 driver's license and the applicant is a resident of a foreign  
 14-66 jurisdiction, the applicant must present:

14-67 (1) a social security card issued to the applicant; or  
 14-68 (2) a passport issued to the applicant by the country  
 14-69 of which the applicant is a resident and a visa, each containing an

15-1 identification number and an expiration date.

15-2 SECTION 10.06. Section 522.029, Transportation Code, is  
 15-3 amended by amending Subsection (a) and adding Subsection (j) to  
 15-4 read as follows:

15-5 (a) The fee for a commercial driver's license or commercial  
 15-6 driver learner's permit issued by the department is \$60, except as  
 15-7 provided by Subsections (f), ~~and~~ (h), and (j).

15-8 (j) The fee for a nonresident commercial driver's license is  
 15-9 \$100.

15-10 SECTION 10.07. Section 522.051, Transportation Code, is  
 15-11 amended by amending Subsection (a) and adding Subsection (f) to  
 15-12 read as follows:

15-13 (a) Except as provided by Subsection (f) and Section  
 15-14 522.033, an original commercial driver's license or commercial  
 15-15 driver learner's permit expires six years after the applicant's  
 15-16 next birthday.

15-17 (f) A nonresident commercial driver's license issued to an  
 15-18 applicant described by Section 522.021(a-1) who submitted a visa  
 15-19 expires on the date the person's visa expires.

15-20 ARTICLE 11. COLLECTION OF CERTAIN STATE TAXES

15-21 PART A. SALES TAX

15-22 SECTION 11A.01. Section 151.419(b), Tax Code, is amended to  
 15-23 read as follows:

15-24 (b) The application must be accompanied with:

15-25 (1) an agreement that is signed by the applicant or a  
 15-26 responsible officer of an applicant corporation, that is in a form  
 15-27 prescribed by the comptroller, and that provides that the applicant  
 15-28 agrees to:

15-29 (A) accrue and pay all taxes imposed by  
 15-30 Subchapter D ~~[of this chapter]~~ on the storage and use of all taxable  
 15-31 items sold to or leased or rented by the permit holder unless the  
 15-32 items are exempted from the taxes imposed by this chapter; and

15-33 (B) pay the imposed taxes monthly on or before  
 15-34 the 20th day of the month following the end of each calendar month;  
 15-35 ~~[and~~

15-36 ~~[(C) waive the discount permitted by Section~~  
 15-37 ~~151.423 of this code on the payment of all taxes under the direct~~  
 15-38 ~~payment permit only;]~~

15-39 (2) a description, in the amount of detail that the  
 15-40 comptroller requires, of the accounting method by which the  
 15-41 applicant proposes to differentiate between taxable and exempt  
 15-42 transactions; and

15-43 (3) records establishing that the applicant is a  
 15-44 responsible person who annually purchases taxable items that have a  
 15-45 value when purchased of \$800,000 or more excluding the value of  
 15-46 taxable items for which resale certificates were or could have been  
 15-47 given.

15-48 SECTION 11A.02. Sections 151.424(a) and (c), Tax Code, are  
 15-49 amended to read as follows:

15-50 (a) A taxpayer who prepays the taxpayer's tax liability on  
 15-51 the basis of a reasonable estimate of the tax liability for a  
 15-52 quarter in which a prepayment is made or for a month in which a  
 15-53 prepayment is made may deduct and withhold 1.25 percent of the  
 15-54 amount of the prepayment ~~[in addition to the amount permitted to be~~  
 15-55 ~~deducted and withheld under Section 151.423 of this code].~~ A  
 15-56 reasonable estimate of the tax liability must be at least 90 percent  
 15-57 of the tax ultimately due or the amount of tax paid in the same  
 15-58 quarter, or month, if a monthly prepayer, in the last preceding  
 15-59 year. Failure to prepay a reasonable estimate of the tax will  
 15-60 result in the loss of the entire prepayment discount.

15-61 (c) A taxpayer who prepays the tax liability as permitted by  
 15-62 this section must file a report when due as provided by this  
 15-63 chapter. The amount of a prepayment made by a taxpayer under this  
 15-64 section shall be credited against the amount of actual tax  
 15-65 liability of the taxpayer as shown on the tax report of the  
 15-66 taxpayer. If there is a tax liability owed by the taxpayer in  
 15-67 excess of the prepayment credit, the taxpayer shall send to the  
 15-68 comptroller the remaining tax liability at the time of filing the  
 15-69 quarterly or monthly report. ~~[The taxpayer is entitled to the~~

16-1 ~~deduction permitted under Section 151.423 of this code on the~~  
16-2 ~~amount of the remaining tax liability.]~~

16-3 SECTION 11A.03. Section 151.425, Tax Code, is amended to  
16-4 read as follows:

16-5 Sec. 151.425. FORFEITURE OF DISCOUNT OR REIMBURSEMENT. If  
16-6 a taxpayer fails to file a report required by this chapter when due  
16-7 or to pay the tax when due, the taxpayer forfeits any claim to a  
16-8 [~~deduction or~~] discount allowed under [~~Section 151.423 or~~] Section  
16-9 151.424 [~~of this code~~].

16-10 SECTION 11A.04. Section 151.428(c), Tax Code, is amended to  
16-11 read as follows:

16-12 (c) The reporting, collection, refund, and penalty  
16-13 provisions of this chapter and Subtitle B [~~of this title~~] apply to  
16-14 the payments required by this section, except that Section  
16-15 [~~Sections 151.423 and~~] 151.424 does [~~of this code do~~] not apply to  
16-16 this section.

16-17 SECTION 11A.05. Section 152.047(a), Tax Code, is amended to  
16-18 read as follows:

16-19 (a) Except as inconsistent with this chapter and rules  
16-20 adopted under this chapter, the seller of a motor vehicle shall  
16-21 report and pay the tax imposed on a seller-financed sale to the  
16-22 comptroller on the seller's receipts from seller-financed sales in  
16-23 the same manner as the sales tax is reported and paid by a retailer  
16-24 under Sections 151.401, 151.402, 151.405, 151.406, 151.409,  
16-25 [~~151.423,~~] 151.424, and 151.425.

16-26 SECTION 11A.06. Section 151.423, Tax Code, is repealed.

16-27 SECTION 11A.07. This part takes effect October 1, 2005.

16-28 PART B. MOTOR VEHICLE SALES AND USE TAX

16-29 SECTION 11B.01. Section 152.002, Tax Code, is amended by  
16-30 adding Subsection (f) to read as follows:

16-31 (f) Notwithstanding Subsection (a), the total consideration  
16-32 of a used motor vehicle is the amount on which the tax is computed as  
16-33 provided by Section 152.0412.

16-34 SECTION 11B.02. Section 152.041(a), Tax Code, is amended to  
16-35 read as follows:

16-36 (a) The tax assessor-collector of the county in which an  
16-37 application for registration or for a Texas certificate of title is  
16-38 made shall collect taxes imposed by this chapter, subject to  
16-39 Section 152.0412, unless another person is required by this chapter  
16-40 to collect the taxes.

16-41 SECTION 11B.03. Subchapter C, Chapter 152, Tax Code, is  
16-42 amended by adding Section 152.0412 to read as follows:

16-43 Sec. 152.0412. STANDARD PRESUMPTIVE VALUE; USE BY TAX  
16-44 ASSESSOR-COLLECTOR. (a) In this section, "standard presumptive  
16-45 value" means the average retail value of a motor vehicle as  
16-46 determined by the Texas Department of Transportation, based on a  
16-47 nationally recognized motor vehicle industry reporting service.

16-48 (b) If the amount paid for a motor vehicle subject to the tax  
16-49 imposed by this chapter is equal to or greater than the standard  
16-50 presumptive value of the vehicle, a county tax assessor-collector  
16-51 shall compute the tax on the amount paid.

16-52 (c) If the amount paid for a motor vehicle subject to the tax  
16-53 imposed by this chapter is less than the standard presumptive value  
16-54 of the vehicle, a county tax assessor-collector shall compute the  
16-55 tax on the standard presumptive value unless the purchaser  
16-56 establishes the retail value of the vehicle as provided by  
16-57 Subsection (d).

16-58 (d) A county tax assessor-collector shall compute the tax  
16-59 imposed by this chapter on the retail value of a motor vehicle if:

16-60 (1) the retail value is shown on an appraisal  
16-61 certified by an adjuster licensed under Chapter 4101, Insurance  
16-62 Code, or by a motor vehicle dealer operating under Subchapter B,  
16-63 Chapter 503, Transportation Code;

16-64 (2) the appraisal is on a form prescribed by the  
16-65 comptroller for that purpose; and

16-66 (3) the purchaser of the vehicle obtains the appraisal  
16-67 not later than the 20th day after the date of purchase.

16-68 (e) On request, a motor vehicle dealer operating under  
16-69 Subchapter B, Chapter 503, Transportation Code, shall provide a



certified appraisal of the retail value of a motor vehicle. The comptroller by rule shall establish a fee that a dealer may charge for providing the certified appraisal. The county tax assessor-collector shall retain a copy of a certified appraisal received under this section for a period prescribed by the comptroller.

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

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

SECTION 11B.04. Not later than October 1, 2005, the Texas Department of Transportation shall:

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

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

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

SECTION 11B.05. (a) Except as provided by this part and Subsection (b) of this section, this part takes effect July 1, 2005, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this part takes effect September 1, 2005.

(b) Section 152.0412, Tax Code, as added by this part, takes effect October 1, 2005.

PART C. HOTEL OCCUPANCY TAXES

SECTION 11C.01. Section 156.001, Tax Code, is amended to read as follows:

Sec. 156.001. DEFINITION. In this chapter, "hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not include:

(1) a hospital, sanitarium, or nursing home; ~~or~~

(2) a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution; or

(3) that part of an apartment or condominium building that consists of dwelling units that are leased to tenants, as defined by Section 92.001, Property Code.

SECTION 11C.02. Section 351.002(c), Tax Code, is amended to read as follows:

(c) 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 ~~[is a permanent resident under Section 156.101 of this code]~~.

SECTION 11C.03. Section 352.001(1), Tax Code, is amended to read as follows:

(1) "Hotel" has the meaning assigned by Section 156.001 ~~[156.001(1)]~~.

SECTION 11C.04. Section 352.002(c), Tax Code, is amended to read as follows:

(c) 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 ~~[is a permanent resident under Section 156.101 of this code]~~.

SECTION 11C.05. Section 156.101, Tax Code, is repealed.

SECTION 11C.06. This part takes effect July 1, 2005, if this

18-1 Act receives a vote of two-thirds of all the members elected to each  
18-2 house, as provided by Section 39, Article III, Texas Constitution.  
18-3 If this Act does not receive the vote necessary for effect on that  
18-4 date, this part takes effect October 1, 2005.

18-5 PART D. MOTOR FUELS TAX

18-6 SECTION 11D.01. Section 162.503, Tax Code, is amended to  
18-7 read as follows:

18-8 Sec. 162.503. ALLOCATION OF GASOLINE TAX. (a) Except as  
18-9 provided by Subsection (b), on [On] or before the fifth workday  
18-10 after the end of each month, the comptroller, after making all  
18-11 deductions for refund purposes and for the amounts allocated under  
18-12 Sections 162.502 and 162.5025, shall allocate the net remainder of  
18-13 the taxes collected under Subchapter B as follows:

18-14 (1) one-fourth of the tax shall be deposited to the  
18-15 credit of the available school fund;

18-16 (2) one-half of the tax shall be deposited to the  
18-17 credit of the state highway fund for the construction and  
18-18 maintenance of the state road system under existing law; and

18-19 (3) from the remaining one-fourth of the tax the  
18-20 comptroller shall:

18-21 (A) deposit to the credit of the county and road  
18-22 district highway fund all the remaining tax receipts until a total  
18-23 of \$7,300,000 has been credited to the fund each fiscal year; and

18-24 (B) after the amount required to be deposited to  
18-25 the county and road district highway fund has been deposited,  
18-26 deposit to the credit of the state highway fund the remainder of the  
18-27 one-fourth of the tax, the amount to be provided on the basis of  
18-28 allocations made each month of the fiscal year, which sum shall be  
18-29 used by the Texas Department of Transportation for the  
18-30 construction, improvement, and maintenance of farm-to-market  
18-31 roads.

18-32 (b) During the months of June, July, and August of each  
18-33 odd-numbered year, the comptroller may not make the allocations to  
18-34 the state highway fund and county and road district highway fund  
18-35 otherwise required by Subsections (a)(2) and (3). After September  
18-36 5 and before September 11 of that year, the comptroller shall  
18-37 allocate and deposit to the state highway fund the total amount of  
18-38 revenue that would have been otherwise allocated and deposited to  
18-39 that fund during those months.

18-40 SECTION 11D.02. Section 162.504, Tax Code, is amended to  
18-41 read as follows:

18-42 Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. (a) Except as  
18-43 provided by Subsection (b), on [On] or before the fifth workday  
18-44 after the end of each month, the comptroller, after making  
18-45 deductions for refund purposes, for the administration and  
18-46 enforcement of this chapter, and for the amounts allocated under  
18-47 Section 162.5025, shall allocate the remainder of the taxes  
18-48 collected under Subchapter C as follows:

18-49 (1) one-fourth of the taxes shall be deposited to the  
18-50 credit of the available school fund; and

18-51 (2) three-fourths of the taxes shall be deposited to  
18-52 the credit of the state highway fund.

18-53 (b) During the months of June, July, and August of each  
18-54 odd-numbered year, the comptroller may not make the allocation to  
18-55 the state highway fund otherwise required by Subsection (a)(2).  
18-56 After September 5 and before September 11 of that year, the  
18-57 comptroller shall allocate and deposit to the state highway fund  
18-58 the total amount of revenue that would have been otherwise  
18-59 allocated to that fund during those months.

18-60 SECTION 11D.03. Section 162.505, Tax Code, is amended to  
18-61 read as follows:

18-62 Sec. 162.505. ALLOCATION OF LIQUEFIED GAS TAX. (a) Except  
18-63 as provided by Subsection (b), on [On] or before the fifth workday  
18-64 after the end of each month, the comptroller, after making  
18-65 deductions for refund purposes and for the administration and  
18-66 enforcement of this chapter, shall allocate the remainder of the  
18-67 taxes collected under Subchapter D as follows:

18-68 (1) one-fourth of the taxes shall be deposited to the  
18-69 credit of the available school fund; and

19-1 (2) three-fourths of the taxes shall be deposited to  
19-2 the credit of the state highway fund.

19-3 (b) During the months of June, July, and August of each  
19-4 odd-numbered year, the comptroller may not make the allocation to  
19-5 the state highway fund otherwise required by Subsection (a)(2).  
19-6 After September 5 and before September 11 of that year, the  
19-7 comptroller shall allocate and deposit to the state highway fund  
19-8 the total amount of revenue that would have been otherwise  
19-9 allocated to that fund during those months.

19-10 SECTION 11D.04. This part takes effect June 1, 2007.

19-11 PART E. FRANCHISE TAX

19-12 SECTION 11E.01. Section 171.001, Tax Code, is amended by  
19-13 adding Subsection (d) to read as follows:

19-14 (d) For purposes of Subsection (a), a corporation does  
19-15 business in this state if the corporation is a foreign corporation  
19-16 and is:

19-17 (1) holding a partnership interest, including an  
19-18 interest as an assignee, as a general partner in a general  
19-19 partnership that is doing business in this state;

19-20 (2) holding a partnership interest, including an  
19-21 interest as an assignee, as a general partner in a limited  
19-22 partnership that is doing business in this state; or

19-23 (3) holding a partnership interest, including an  
19-24 interest as an assignee, as a limited partner in a limited  
19-25 partnership that is doing business in this state.

19-26 SECTION 11E.02. Subchapter C, Chapter 171, Tax Code, is  
19-27 amended by adding Section 171.1001 to read as follows:

19-28 Sec. 171.1001. DEFINITIONS. In this subchapter:

19-29 (1) "Arm's length" means the standard of conduct under  
19-30 which unrelated parties having substantially equal bargaining  
19-31 power, each acting in its own interest, would negotiate or carry out  
19-32 a particular transaction.

19-33 (2) "Controlling interest" means:

19-34 (A) for a corporation, either 50 percent or more,  
19-35 owned directly or indirectly, of the total combined voting power of  
19-36 all classes of stock of the corporation, or 50 percent or more,  
19-37 owned directly or indirectly, of the beneficial ownership interest  
19-38 in the voting stock of the corporation; and

19-39 (B) for a partnership, association, trust, or  
19-40 other entity, 50 percent or more, owned directly or indirectly, of  
19-41 the capital, profits, or beneficial interest in the partnership,  
19-42 association, trust, or other entity.

19-43 (3) "Interest payment" means an amount allowable as an  
19-44 interest deduction under Section 163, Internal Revenue Code.

19-45 (4) "Management fee" means a fee for services of a  
19-46 managerial or administrative nature, including services pertaining  
19-47 to management, accounts receivable and payable, employee benefit  
19-48 plans, insurance, legal matters, payroll, data processing,  
19-49 purchasing, taxes, financial matters, securities, accounting,  
19-50 reporting, and compliance.

19-51 (5) "Related party" means a person, corporation, or  
19-52 other entity, including an entity that is treated as a pass-through  
19-53 or disregarded entity for purposes of federal taxation, whether the  
19-54 person, corporation, or entity is subject to the tax under this  
19-55 chapter or not, in which one person, corporation, or entity, or set  
19-56 of related persons, corporations, or entities, directly or  
19-57 indirectly owns or controls a controlling interest in another  
19-58 entity.

19-59 (6) "Royalty payment" means a payment directly  
19-60 connected to the acquisition, use, maintenance or management,  
19-61 ownership, sale, exchange, or any other disposition of licenses,  
19-62 trademarks, copyrights, trade names, trade dress, service marks,  
19-63 mask works, trade secrets, patents, or any other similar types of  
19-64 intangible assets as determined by the comptroller.

19-65 (7) "Valid business purpose" means one or more  
19-66 business purposes, other than the avoidance or reduction of taxes,  
19-67 that alone or in combination constitute the primary motivation for  
19-68 a business activity or transaction that changes in a meaningful  
19-69 way, apart from tax effects, the economic position of the entity. A

20-1 valid business purpose includes compliance with a regulatory  
 20-2 requirement of:

- 20-3 (A) the federal government;  
 20-4 (B) a state or local government;  
 20-5 (C) a foreign nation; or  
 20-6 (D) an agency or political subdivision of any  
 20-7 entity listed in Paragraphs (A)-(C).

20-8 SECTION 11E.03. Subchapter C, Chapter 171, Tax Code, is  
 20-9 amended by adding Sections 171.1101-171.1103 to read as follows:

20-10 Sec. 171.1101. ADD-BACK OF PAYMENTS TO RELATED PARTY.  
 20-11 Except as provided by Section 171.1102, a corporation shall add  
 20-12 back to reportable federal taxable income any royalty payments,  
 20-13 interest payments, and management fees made to a related party  
 20-14 during the period on which earned surplus is based to the extent  
 20-15 deducted in computing reportable federal taxable income.

20-16 Sec. 171.1102. SAFE HARBORS FOR CERTAIN PAYMENTS AND FEES.

20-17 (a) A corporation is not required to add back royalty payments to a  
 20-18 related party to the extent:

20-19 (1) the related party during the period on which  
 20-20 earned surplus is based directly or indirectly paid or incurred the  
 20-21 amount to a person or entity that is not a related party, the  
 20-22 transaction was done for a valid business purpose, and the payments  
 20-23 were made at arm's length; or

20-24 (2) the royalty payments are paid or incurred to a  
 20-25 related party organized under the laws of a foreign nation, are  
 20-26 subject to a comprehensive income tax treaty between the foreign  
 20-27 nation and the United States, and are taxed in the foreign nation at  
 20-28 a tax rate equal to or greater than 4.5 percent.

20-29 (b) A corporation is not required to add back interest  
 20-30 payments to a related party to the extent:

20-31 (1) the interest is at or below the applicable federal  
 20-32 rate compounded annually for debt instruments under Section  
 20-33 1274(d), Internal Revenue Code, that was in effect at the time of  
 20-34 the agreement; or

20-35 (2) the related party during the period on which  
 20-36 earned surplus is based directly or indirectly paid or incurred the  
 20-37 amount to a person or entity that is not a related party, the  
 20-38 transaction was done for a valid business purpose, and the payments  
 20-39 were made at arm's length.

20-40 (c) A corporation is not required to add back a royalty  
 20-41 payment or an interest payment made to a related party, or a  
 20-42 management fee paid to a related party, if the combined tax paid to  
 20-43 this state, or to this state and one or more other states each of  
 20-44 which has a tax rate equal to or greater than the rate under Section  
 20-45 171.002(a)(2), by the corporation and the related party exceeds the  
 20-46 tax that would have been paid by the corporation if the royalty  
 20-47 payment or interest payment had not been made.

20-48 (d) A corporation is not required to add back a management  
 20-49 fee paid to a related party to the extent that the transaction was  
 20-50 done for a valid business purpose and the fee was paid at arm's  
 20-51 length.

20-52 Sec. 171.1103. ADJUSTMENT TO INCOME AND EXPENSES BY  
 20-53 COMPTROLLER. (a) The comptroller may distribute, apportion, or  
 20-54 allocate gross income, deductions, credits, or allowances between  
 20-55 or among two or more organizations, trades, or businesses, whether  
 20-56 or not incorporated, whether or not organized in the United States,  
 20-57 and whether or not affiliated, if:

20-58 (1) the organizations, trades, or businesses are owned  
 20-59 or controlled directly or indirectly by the same interests; and

20-60 (2) the comptroller determines that the distribution,  
 20-61 apportionment, or allocation is necessary to reflect an arm's  
 20-62 length standard, within the meaning of 26 C.F.R. Section 1.482-1,  
 20-63 and to clearly reflect the income of those organizations, trades,  
 20-64 or businesses.

20-65 (b) The comptroller shall apply the administrative and  
 20-66 judicial interpretations of Section 482, Internal Revenue Code, in  
 20-67 administering this section.

20-68 SECTION 11E.04. (a) Subject to other provisions of this  
 20-69 section, this part applies to reports originally due on or after the

21-1 effective date of this part.

21-2 (b) For a corporation becoming subject to the franchise tax  
21-3 under this part:

21-4 (1) income or losses, and related gross receipts,  
21-5 occurring before January 1, 2005, may not be considered for  
21-6 purposes of the earned surplus component, or for apportionment  
21-7 purposes for the taxable capital component;

21-8 (2) a corporation subject to the franchise tax on  
21-9 January 1, 2006, for which January 1, 2006, is not the beginning  
21-10 date, shall file an annual report due May 15, 2006, based on the  
21-11 period:

21-12 (A) beginning on the later of:

21-13 (i) January 1, 2005; or

21-14 (ii) the date the corporation was organized  
21-15 in this state or, if a foreign corporation, the date it began doing  
21-16 business in this state; and

21-17 (B) ending on the date the corporation's last  
21-18 accounting period ends in 2005 or, if none, on December 31, 2005;  
21-19 and

21-20 (3) a corporation subject to the earned surplus  
21-21 component of the franchise tax at any time after August 31, 2005,  
21-22 and before January 1, 2006, but not subject to the earned surplus  
21-23 component on January 1, 2006, shall file a final report computed on  
21-24 net taxable earned surplus, for the privilege of doing business at  
21-25 any time after August 31, 2005, and before January 1, 2006, based on  
21-26 the period:

21-27 (A) beginning on the later of:

21-28 (i) January 1, 2005; or

21-29 (ii) the date the corporation was organized  
21-30 in this state or, if a foreign corporation, the date it began doing  
21-31 business in this state; and

21-32 (B) ending on the date the corporation became no  
21-33 longer subject to the earned surplus component of the tax.

21-34 SECTION 11E.05. This part takes effect September 1, 2005,  
21-35 and applies to reports originally due on or after that date.

21-36 ARTICLE 12. RESTRICTIONS ON PROPERTY

21-37 VALUATION AND STATE AID TO

21-38 SCHOOL DISTRICTS

21-39 SECTION 12.01. Section 11.431(a), Tax Code, is amended to  
21-40 read as follows:

21-41 (a) The chief appraiser shall accept and approve or deny an  
21-42 application for a residence homestead exemption after the deadline  
21-43 for filing the application ~~[+]~~ has passed if the application ~~[+]~~  
21-44 is filed not later than ~~[one year after]~~ the delinquency date for  
21-45 the taxes on the homestead.

21-46 SECTION 12.02. Section 25.25(c), Tax Code, is amended to  
21-47 read as follows:

21-48 (c) The appraisal review board, on motion of the chief  
21-49 appraiser or of a property owner, may direct by written order  
21-50 changes in the appraisal roll for any of the five preceding years if  
21-51 the property is real property and may direct by written order  
21-52 changes in the appraisal roll for either or both of the two  
21-53 preceding years if the property is personal property to correct:

21-54 (1) clerical errors that affect a property owner's  
21-55 liability for a tax imposed in that tax year;

21-56 (2) multiple appraisals of a property in that tax  
21-57 year; or

21-58 (3) the inclusion of property that does not exist in  
21-59 the form or at the location described in the appraisal roll.

21-60 SECTION 12.03. Section 42.253(i), Education Code, is  
21-61 amended to read as follows:

21-62 (i) Not later than March 1 each year, the commissioner shall  
21-63 determine the actual amount of state funds to which each school  
21-64 district is entitled under the allocation formulas in this chapter  
21-65 for the current school year and shall compare that amount with the  
21-66 amount of the warrants issued to each district for that year.  
21-67 Except as provided by Section 42.257(b), if ~~[+]~~ the amount of the  
21-68 warrants differs from the amount to which a district is entitled  
21-69 because of variations in the district's tax rate, student

22-1 enrollment, or taxable value of property, the commissioner shall  
 22-2 adjust the district's entitlement for the next fiscal year  
 22-3 accordingly.

22-4 SECTION 12.04. Section 42.257(b), Education Code, is  
 22-5 amended to read as follows:

22-6 (b) If the district would have received a greater amount  
 22-7 from the foundation school fund for the applicable school year  
 22-8 using the adjusted value, the commissioner shall add the difference  
 22-9 to subsequent distributions to the district from the foundation  
 22-10 school fund. If the final determination is made after the last day  
 22-11 of the state fiscal year corresponding to the tax year for which the  
 22-12 determination is made, the commissioner shall add one-fifth of the  
 22-13 difference to the September payment to the district of the current  
 22-14 year entitlement from the foundation school fund for each of the  
 22-15 next five years. An adjustment does not affect the local fund  
 22-16 assignment of any other district.

22-17 SECTION 12.05. Section 42.259(f), Education Code, is  
 22-18 amended to read as follows:

22-19 (f) Except as provided by Section 42.257(b) or by Subsection  
 22-20 (c)(8) or (d)(3) of this section, any previously unpaid additional  
 22-21 funds from prior years owed to a district shall be paid to the  
 22-22 district together with the September payment of the current year  
 22-23 entitlement.

22-24 SECTION 12.06. Section 403.302(h), Government Code, is  
 22-25 amended to read as follows:

22-26 (h) On request of the commissioner of education or a school  
 22-27 district, the comptroller may audit the total taxable value of  
 22-28 property in a school district and may revise the annual study  
 22-29 findings. The request for audit is limited to corrections and  
 22-30 changes in a school district's appraisal roll that occurred after  
 22-31 preliminary certification of the annual study findings by the  
 22-32 comptroller. ~~The [Except as otherwise provided by this subsection,~~  
 22-33 ~~the] request for audit must be filed with the comptroller not later~~  
 22-34 ~~than the first [third] anniversary of the date of the final~~  
 22-35 ~~certification of the annual study findings. [The request for audit~~  
 22-36 ~~may be filed not later than the first anniversary of the date the~~  
 22-37 ~~chief appraiser certifies a change to the appraisal roll if the~~  
 22-38 ~~chief appraiser corrects the appraisal roll under Section 25.25 or~~  
 22-39 ~~42.41, Tax Code, and the change results in a material reduction in~~  
 22-40 ~~the total taxable value of property in the school district.]~~ The  
 22-41 comptroller shall certify the findings of the audit to the  
 22-42 commissioner of education.

22-43 SECTION 12.07. (a) The change in law made by this article  
 22-44 to Section 11.431, Tax Code, applies only to an application for a  
 22-45 residence homestead exemption for the 2005 and subsequent tax  
 22-46 years. Section 11.431, Tax Code, as that section existed  
 22-47 immediately before the effective date of this article, applies to  
 22-48 an application for a residence homestead exemption for the 2004 tax  
 22-49 year and is continued in effect for that purpose.

22-50 (b) The change in law made by this article to Section 25.25,  
 22-51 Tax Code, does not affect a motion filed under that section before  
 22-52 the effective date of this article.

22-53 SECTION 12.08. This article takes effect July 1, 2005, if  
 22-54 this Act receives a vote of two-thirds of all the members elected to  
 22-55 each house, as provided by Section 39, Article III, Texas  
 22-56 Constitution. If this Act does not receive the vote necessary for  
 22-57 effect on that date, this article takes effect September 1, 2005.

22-58 ARTICLE 13. MISCELLANEOUS FEES AND FUNDS

22-59 PART A. TRANSFERRING CERTAIN TOBACCO SETTLEMENT PROCEEDS INTO  
 22-60 DEDICATED GENERAL REVENUE ACCOUNTS

22-61 SECTION 13A.01. Subchapter G, Chapter 403, Government Code,  
 22-62 is amended by adding Sections 403.108 and 403.1081-403.1083 to read  
 22-63 as follows:

22-64 Sec. 403.108. SECONDARY HEALTH ACCOUNT FOR HIGHER  
 22-65 EDUCATION. (a) In this section:

22-66 (1) "Earnings account" means the account described by  
 22-67 Subsection (d).

22-68 (2) "Secondary account" means the secondary health  
 22-69 account for higher education.

23-1 (b) The secondary account and the earnings account are  
 23-2 dedicated accounts in the general revenue fund.

23-3 (c) The secondary account consists of:

23-4 (1) money transferred to the account at the direction  
 23-5 of the legislature; and

23-6 (2) donations to the account.

23-7 (d) The earnings account consists of the earnings received  
 23-8 from investment of the assets in the secondary account. The  
 23-9 comptroller shall periodically transfer those earnings from the  
 23-10 secondary account to the earnings account.

23-11 (e) Money in the secondary account may be used only for a  
 23-12 purpose described by Subsection (d) or (f).

23-13 (f) The comptroller shall manage and invest assets in the  
 23-14 secondary account in authorized investments under Section 404.024.  
 23-15 Any expenses incurred by the comptroller in managing and investing  
 23-16 assets in the secondary account shall be paid from the account.

23-17 (g) Money in the earnings account may be appropriated only  
 23-18 for a purpose specified in and subject to any conditions and  
 23-19 reporting requirements prescribed by Subchapter A, Chapter 63,  
 23-20 Education Code, for the use of money from the permanent health fund  
 23-21 for higher education.

23-22 (h) An institution of higher education that has accepted a  
 23-23 gift under former Subchapter I, Chapter 51, Education Code, that  
 23-24 was conditioned on the institution's receipt of state matching  
 23-25 funds from the eminent scholars fund may use money the institution  
 23-26 receives under this section to provide the state matching funds and  
 23-27 treat the money as if it were a distribution to the institution from  
 23-28 the eminent scholars fund for purposes of the former Subchapter I.

23-29 (i) An institution of higher education that receives a  
 23-30 distribution from the earnings account shall include in the report  
 23-31 required by Section 63.004, Education Code:

23-32 (1) the total amount of money the institution received  
 23-33 from the account;

23-34 (2) the purpose for which the money was used; and

23-35 (3) any other information required by the Legislative  
 23-36 Budget Board.

23-37 (j) Section 404.071 does not apply to the secondary account  
 23-38 or the earnings account.

23-39 Sec. 403.1081. SECONDARY ACCOUNTS FOR EACH INSTITUTION OF  
 23-40 HIGHER EDUCATION. (a) In this section:

23-41 (1) "Earnings account" means an account described by  
 23-42 Subsection (e).

23-43 (2) "Secondary account" means the secondary accounts  
 23-44 described by Subsection (b).

23-45 (b) In addition to the permanent endowment funds created by  
 23-46 Section 63.101, Education Code, there is a secondary account for  
 23-47 the benefit of each institution of higher education or group of  
 23-48 related components of an institution of higher education listed in  
 23-49 Section 63.101(a), Education Code.

23-50 (c) Each secondary account and earnings account is a  
 23-51 dedicated account in the general revenue fund.

23-52 (d) A secondary account consists of:

23-53 (1) money transferred to the account at the direction  
 23-54 of the legislature; and

23-55 (2) donations to the account.

23-56 (e) An earnings account for an institution or group of  
 23-57 related components of an institution consists of the earnings  
 23-58 received from investment of the assets in the corresponding  
 23-59 secondary account for the institution or group of components. The  
 23-60 comptroller shall periodically transfer those earnings from the  
 23-61 secondary account to the earnings account.

23-62 (f) Money in a secondary account may be used only for a  
 23-63 purpose described by Subsection (e) or (g).

23-64 (g) The comptroller shall manage and invest assets in a  
 23-65 secondary account in authorized investments under Section 404.024.  
 23-66 Any expenses incurred by the comptroller in managing and investing  
 23-67 assets in a secondary account shall be paid from the account.

23-68 (h) Money in an earnings account may be appropriated only  
 23-69 for a purpose specified in and subject to any conditions and

24-1 reporting requirements prescribed by Subchapter B, Chapter 63,  
 24-2 Education Code, for the use of money from the corresponding  
 24-3 permanent endowment fund established by that subchapter.

24-4 (i) An institution of higher education that has accepted a  
 24-5 gift under former Subchapter I, Chapter 51, Education Code, that  
 24-6 was conditioned on the institution's receipt of state matching  
 24-7 funds from the eminent scholars fund may use money the institution  
 24-8 receives under this section to provide the state matching funds and  
 24-9 treat the money as if it were a distribution to the institution from  
 24-10 the eminent scholars fund for purposes of the former Subchapter I.

24-11 (j) An institution of higher education that receives an  
 24-12 appropriation from an earnings account shall include in the report  
 24-13 required by Section 63.103, Education Code:

24-14 (1) the total amount of money the institution received  
 24-15 from the account;

24-16 (2) the purpose for which the money was used; and

24-17 (3) any other information required by the Legislative  
 24-18 Budget Board.

24-19 (k) Section 404.071 does not apply to a secondary account or  
 24-20 an earnings account.

24-21 Sec. 403.1082. SECONDARY ACCOUNT FOR HIGHER EDUCATION  
 24-22 NURSING, ALLIED HEALTH, AND OTHER HEALTH-RELATED PROGRAMS. (a) In  
 24-23 this section:

24-24 (1) "Earnings account" means the account described by  
 24-25 Subsection (d).

24-26 (2) "Secondary account" means the secondary account  
 24-27 for higher education nursing, allied health, and other  
 24-28 health-related programs.

24-29 (b) The secondary account and the earnings account are  
 24-30 dedicated accounts in the general revenue fund.

24-31 (c) The secondary account consists of:

24-32 (1) money transferred to the account at the direction  
 24-33 of the legislature; and

24-34 (2) donations to the account.

24-35 (d) The earnings account consists of the earnings received  
 24-36 from investment of the assets in the secondary account. The  
 24-37 comptroller shall periodically transfer those earnings from the  
 24-38 secondary account to the earnings account.

24-39 (e) Money in the secondary account may be used only for a  
 24-40 purpose described by Subsection (d) or (f).

24-41 (f) The comptroller shall manage and invest assets in the  
 24-42 secondary account in authorized investments under Section 404.024.  
 24-43 Any expenses incurred by the comptroller in managing and investing  
 24-44 assets in the secondary account shall be paid from the account.

24-45 (g) Money in the earnings account may be appropriated only  
 24-46 for a purpose specified in and subject to any conditions and  
 24-47 reporting requirements prescribed by Subchapter C, Chapter 63,  
 24-48 Education Code, for the use of money from the permanent fund for  
 24-49 higher education nursing, allied health, and other health-related  
 24-50 programs.

24-51 (h) The Texas Higher Education Coordinating Board shall  
 24-52 include in the report required by Section 63.203, Education Code:

24-53 (1) the name of each institution that received a grant  
 24-54 from the earnings account;

24-55 (2) the purpose for which the grant was used; and

24-56 (3) any additional information required by the  
 24-57 Legislative Budget Board.

24-58 (i) Section 404.071 does not apply to the secondary account  
 24-59 or the earnings account.

24-60 Sec. 403.1083. SECONDARY ACCOUNT FOR MINORITY HEALTH  
 24-61 RESEARCH AND EDUCATION. (a) In this section:

24-62 (1) "Earnings account" means the account described by  
 24-63 Subsection (d).

24-64 (2) "Secondary account" means the secondary account  
 24-65 for minority health research and education.

24-66 (b) The secondary account and the earnings account are  
 24-67 dedicated accounts in the general revenue fund.

24-68 (c) The secondary account consists of:

24-69 (1) money transferred to the account at the direction



25-1 of the legislature; and

25-2 (2) donations to the account.

25-3 (d) The earnings account consists of the earnings received  
 25-4 from investment of the assets in the secondary account. The  
 25-5 comptroller shall periodically transfer those earnings from the  
 25-6 secondary account to the earnings account.

25-7 (e) Money in the secondary account may be used only for a  
 25-8 purpose described by Subsection (d) or (f).

25-9 (f) The comptroller shall manage and invest assets in the  
 25-10 secondary account in authorized investments under Section 404.024.  
 25-11 Any expenses incurred by the comptroller in managing and investing  
 25-12 assets in the secondary account shall be paid from the account.

25-13 (g) Money in the earnings account may be appropriated only  
 25-14 to the Texas Higher Education Coordinating Board for the purpose of  
 25-15 providing grants as specified by Section 63.302(c), Education Code,  
 25-16 for money from the permanent fund for minority health research and  
 25-17 education.

25-18 (h) The Texas Higher Education Coordinating Board shall  
 25-19 report regarding the money received under this section in the  
 25-20 manner required by Section 63.302(f), Education Code, and shall  
 25-21 include in the report:

25-22 (1) the total amount distributed under this section;  
 25-23 (2) the name of each institution that received a  
 25-24 grant;

25-25 (3) the purpose of each grant, including a description  
 25-26 of any partnership formed; and

25-27 (4) any additional information required by the  
 25-28 Legislative Budget Board.

25-29 (i) Section 404.071 does not apply to the secondary account  
 25-30 or the earnings account.

25-31 SECTION 13A.02. Section 403.1069, Government Code, is  
 25-32 amended to read as follows:

25-33 Sec. 403.1069. REPORTING REQUIREMENT. The Department of  
 25-34 State Health Services [~~department~~] shall provide a report to the  
 25-35 Legislative Budget Board on the permanent funds established under  
 25-36 this subchapter from which the department may receive an  
 25-37 appropriation of the available earnings [~~to the Legislative Budget~~  
 25-38 ~~Board~~] no later than November 1 of each year. The report shall  
 25-39 include the total amount of money distributed from each fund, the  
 25-40 purpose for which the money was used, and any additional  
 25-41 information that may be requested by the Legislative Budget Board.

25-42 SECTION 13A.03. (a) On November 1, 2006, all amounts held  
 25-43 in the following funds shall be transferred, in the estimated  
 25-44 amount listed, to the accounts established under Sections 403.108,  
 25-45 403.1081, 403.1082, and 403.1083, Government Code, as added by this  
 25-46 part, as specified by this section:

Fund Number	Fund Name	Amount
0810	Permanent Health Fund for Higher Education	\$376,600,000
0811	Permanent Endowment Fund for Health Related Institutions - University of Texas Health Science Center at San Antonio	\$215,200,000
0812	Permanent Endowment Fund for Health Related Institutions - University of Texas M.D. Anderson Cancer Center	\$107,600,000
0813	Permanent Endowment Fund for Health Related Institutions - University of Texas Southwestern Medical Center at Dallas	\$53,800,000
0814	Permanent Endowment Fund for Health Related Institutions - University of Texas Medical Branch at Galveston	\$26,900,000
0815	Permanent Endowment Fund for Health Related Institutions - University of Texas Health	

26-1		Science Center at Houston	\$26,900,000
26-2	0816	Permanent Endowment Fund for	
26-3		Health Related Institutions -	
26-4		University of Texas Health	
26-5		Science Center at Tyler	\$26,900,000
26-6	0817	Permanent Endowment Fund for	
26-7		Health Related Institutions -	
26-8		University of Texas at El Paso	\$26,900,000
26-9	0818	Permanent Endowment Fund for	
26-10		Health Related Institutions -	
26-11		Texas A&M University Health	
26-12		Science Center	\$25,600,000
26-13	0819	Permanent Endowment Fund for	
26-14		Health Related Institutions -	
26-15		University of North Texas	
26-16		Health Science Center at	
26-17		Fort Worth	\$25,400,000
26-18	0820	Permanent Endowment Fund for	
26-19		Health Related Institutions -	
26-20		Components of Texas Tech	
26-21		University Health Science	
26-22		Center in El Paso	\$26,500,000
26-23	0821	Permanent Endowment Fund for	
26-24		Health Related Institutions -	
26-25		Components of Texas Tech	
26-26		University Health Science	
26-27		Center other than El Paso	\$26,500,000
26-28	0822	Permanent Endowment Fund for	
26-29		Health Related Institutions -	
26-30		University of Texas Regional	
26-31		Academic Health Center	\$21,500,000
26-32	0823	Permanent Endowment Fund for	
26-33		Health Related Institutions -	
26-34		Baylor College of Medicine	\$24,400,000
26-35	0824	Permanent Fund for Higher	
26-36		Education Nursing, Allied	
26-37		Health and Other Health	
26-38		Related Programs	\$44,000,000
26-39	0825	Permanent Fund for Minority	
26-40		Health Research and Education	\$24,400,000
26-41		Informational Total:	\$1,079,100,000

(b) Amounts transferred from the Permanent Health Fund for Higher Education shall be deposited to the credit of the secondary health account for higher education established under Section 403.108, Government Code, as added by this part.

(c) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Health Science Center at San Antonio shall be deposited to the credit of the secondary account established for the benefit of The University of Texas Health Science Center at San Antonio under Section 403.1081, Government Code, as added by this part.

(d) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas M. D. Anderson Cancer Center shall be deposited to the credit of the secondary account established for the benefit of The University of Texas M. D. Anderson Cancer Center under Section 403.1081, Government Code, as added by this part.

(e) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Southwestern Medical Center at Dallas shall be deposited to the credit of the secondary account established for the benefit of The University of Texas Southwestern Medical Center at Dallas under Section 403.1081, Government Code, as added by this part.

(f) Amounts transferred from the Permanent Endowment Fund for Health Related Institutions - University of Texas Medical Branch at Galveston shall be deposited to the credit of the secondary account established for the benefit of The University of Texas Medical Branch at Galveston under Section 403.1081, Government Code, as added by this part.

27-1 (g) Amounts transferred from the Permanent Endowment Fund  
 27-2 for Health Related Institutions - University of Texas Health  
 27-3 Science Center at Houston shall be deposited to the credit of the  
 27-4 secondary account established for the benefit of The University of  
 27-5 Texas Health Science Center at Houston under Section 403.1081,  
 27-6 Government Code, as added by this part.

27-7 (h) Amounts transferred from the Permanent Endowment Fund  
 27-8 for Health Related Institutions - University of Texas Health  
 27-9 Science Center at Tyler shall be deposited to the credit of the  
 27-10 secondary account established for the benefit of The University of  
 27-11 Texas Health Science Center at Tyler under Section 403.1081,  
 27-12 Government Code, as added by this part.

27-13 (i) Amounts transferred from the Permanent Endowment Fund  
 27-14 for Health Related Institutions - University of Texas at El Paso  
 27-15 shall be deposited to the credit of the secondary account  
 27-16 established for the benefit of The University of Texas at El Paso  
 27-17 under Section 403.1081, Government Code, as added by this part.

27-18 (j) Amounts transferred from the Permanent Endowment Fund  
 27-19 for Health Related Institutions - Texas A&M University Health  
 27-20 Science Center shall be deposited to the credit of the secondary  
 27-21 account established for the benefit of The Texas A&M University  
 27-22 Health Science Center under Section 403.1081, Government Code, as  
 27-23 added by this part.

27-24 (k) Amounts transferred from the Permanent Endowment Fund  
 27-25 for Health Related Institutions - University of North Texas Health  
 27-26 Science Center at Fort Worth shall be deposited to the credit of the  
 27-27 secondary account established for the benefit of the University of  
 27-28 North Texas Health Science Center at Fort Worth under Section  
 27-29 403.1081, Government Code, as added by this part.

27-30 (l) Amounts transferred from the Permanent Endowment Fund  
 27-31 for Health Related Institutions - Components of Texas Tech  
 27-32 University Health Sciences Center in El Paso shall be deposited to  
 27-33 the credit of the secondary account established for the benefit of  
 27-34 the components of Texas Tech University Health Sciences Center in  
 27-35 El Paso under Section 403.1081, Government Code, as added by this  
 27-36 part.

27-37 (m) Amounts transferred from the Permanent Endowment Fund  
 27-38 for Health Related Institutions - Components of Texas Tech  
 27-39 University Health Sciences Center other than El Paso shall be  
 27-40 deposited to the credit of the secondary account established for  
 27-41 the benefit of the components of Texas Tech University Health  
 27-42 Sciences Center other than El Paso under Section 403.1081,  
 27-43 Government Code, as added by this part.

27-44 (n) Amounts transferred from the Permanent Endowment Fund  
 27-45 for Health Related Institutions - University of Texas Regional  
 27-46 Academic Health Center shall be deposited to the credit of the  
 27-47 secondary account established for the benefit of The University of  
 27-48 Texas Regional Academic Health Center under Section 403.1081,  
 27-49 Government Code, as added by this part.

27-50 (o) Amounts transferred from the Permanent Endowment Fund  
 27-51 for Health Related Institutions - Baylor College of Medicine shall  
 27-52 be deposited to the credit of the secondary account established for  
 27-53 the benefit of Baylor College of Medicine under Section 403.1081,  
 27-54 Government Code, as added by this part.

27-55 (p) Amounts transferred from the Permanent Fund for Higher  
 27-56 Education Nursing, Allied Health, and Other Health Related Programs  
 27-57 shall be deposited to the credit of the secondary account for higher  
 27-58 education nursing, allied health, and other health-related  
 27-59 programs established under Section 403.1082, Government Code, as  
 27-60 added by this part.

27-61 (q) Amounts transferred from the Permanent Fund for  
 27-62 Minority Health Research and Education shall be deposited to the  
 27-63 credit of the secondary account for minority health research and  
 27-64 education established under Section 403.1083, Government Code, as  
 27-65 added by this part.

27-66 SECTION 13A.04. (a) The transfers to accounts in the  
 27-67 general revenue fund made by this part may not result in a reduction  
 27-68 in the amount available for distribution from those accounts, and  
 27-69 the same amount that would have been distributed from the permanent

28-1 funds but for the transfers made by this part shall be appropriated  
 28-2 and distributed from the applicable accounts created by this part.  
 28-3 If the earnings from the secondary account that are transferred to  
 28-4 the earnings account are inadequate to make a distribution of the  
 28-5 same amount that would have been distributed from the permanent  
 28-6 funds, to the extent that the difference is solely the result of an  
 28-7 investment policy other than total return, the comptroller shall  
 28-8 transfer the difference to the applicable earnings account from the  
 28-9 unobligated portion of general revenue.

28-10 (b) The comptroller of public accounts shall determine the  
 28-11 amount of any loss to the Permanent Health Fund for Higher Education  
 28-12 and other funds administered by The University of Texas System as a  
 28-13 result of the transfer to general revenue under this part. On  
 28-14 August 31, 2007, the comptroller shall transfer from general  
 28-15 revenue to the applicable secondary account created by this part,  
 28-16 an amount equal to the amount of the loss. In determining the  
 28-17 amount of the loss, the comptroller shall consider the difference  
 28-18 in the rate of return on investment of that secondary account and  
 28-19 the rate of return over the preceding three years on investment of  
 28-20 the Permanent University Fund.

28-21 (c) Notwithstanding any other provision of this part, the  
 28-22 total of distributions under Subsections (a) and (b) of this  
 28-23 section from the accounts created by this part, plus transfers  
 28-24 under Subsection (b) of this section, may not exceed \$65 million for  
 28-25 any fiscal year.

28-26 SECTION 13A.05. This part takes effect September 1, 2005.

28-27 PART B. TEXAS MOBILITY FUND

28-28 SECTION 13B.01. Subchapter M, Chapter 201, Transportation  
 28-29 Code, is amended by adding Section 201.9471 to read as follows:

28-30 Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO  
 28-31 FUND. (a) Notwithstanding Sections 521.058, 521.313, 521.3466,  
 28-32 521.427, 522.029, 524.051, and 724.046, to the extent that those  
 28-33 sections allocate money to the Texas mobility fund, in state fiscal  
 28-34 year 2006 the comptroller shall deposit that money to the credit of  
 28-35 the general revenue fund instead of to the credit of the Texas  
 28-36 mobility fund.

28-37 (b) Notwithstanding Sections 521.313, 521.3466, 521.427,  
 28-38 522.029, 524.051, and 724.046, to the extent that those sections  
 28-39 allocate money to the Texas mobility fund, in state fiscal year 2007  
 28-40 the comptroller shall deposit that money to the credit of the  
 28-41 general revenue fund instead of to the credit of the Texas mobility  
 28-42 fund.

28-43 (c) This section expires January 1, 2008.

28-44 SECTION 13B.02. This part takes effect September 1, 2005.

28-45 PART C. TELECOMMUNICATIONS INFRASTRUCTURE FUND

28-46 SECTION 13C.01. Section 57.048, Utilities Code, is amended  
 28-47 by adding Subsections (f)-(i) to read as follows:

28-48 (f) Notwithstanding any other provision of this title, a  
 28-49 certificated telecommunications utility may recover from the  
 28-50 utility's customers an assessment imposed on the utility under this  
 28-51 subchapter after the total amount deposited to the credit of the  
 28-52 fund, excluding interest and loan repayments, is equal to \$1.5  
 28-53 billion, as determined by the comptroller. A certificated  
 28-54 telecommunications utility may recover only the amount of the  
 28-55 assessment imposed after the total amount deposited to the credit  
 28-56 of the fund, excluding interest and loan repayments, is equal to  
 28-57 \$1.5 billion, as determined by the comptroller. The utility may  
 28-58 recover the assessment through a monthly billing process.

28-59 (g) The comptroller shall publish in the Texas Register the  
 28-60 date on which the total amount deposited to the credit of the fund,  
 28-61 excluding interest and loan repayments, is equal to \$1.5 billion.

28-62 (h) Not later than February 15 of each year, a certificated  
 28-63 telecommunications utility that wants to recover the assessment  
 28-64 under Subsection (f) shall file with the commission an affidavit or  
 28-65 affirmation stating the amount that the utility paid to the  
 28-66 comptroller under this section during the previous calendar year  
 28-67 and the amount the utility recovered from its customers in  
 28-68 cumulative payments during that year.

28-69 (i) The commission shall maintain the confidentiality of

29-1 information the commission receives under this section that is  
 29-2 claimed to be confidential for competitive purposes. The  
 29-3 confidential information is exempt from disclosure under Chapter  
 29-4 552, Government Code.

29-5 SECTION 13C.02. Section 57.0485, Utilities Code, is amended  
 29-6 to read as follows:

29-7 Sec. 57.0485. ALLOCATION OF REVENUE [ACCOUNTS]. ~~[(a)]~~ The  
 29-8 comptroller shall deposit ~~[50 percent of]~~ the money collected by  
 29-9 the comptroller under Section 57.048 to the credit of the general  
 29-10 revenue fund ~~[public schools account in the fund. The comptroller~~  
 29-11 ~~shall deposit the remainder of the money collected by the~~  
 29-12 ~~comptroller under Section 57.048 to the credit of the qualifying~~  
 29-13 ~~entities account in the fund.~~

29-14 ~~[(b) Interest earned on money in an account shall be~~  
 29-15 ~~deposited to the credit of that account].~~

29-16 SECTION 13C.03. Section 57.051, Utilities Code, is amended  
 29-17 to read as follows:

29-18 Sec. 57.051. SUNSET PROVISION. The Telecommunications  
 29-19 Infrastructure Fund ~~[Board]~~ is subject to Chapter 325, Government  
 29-20 Code (Texas Sunset Act). Unless continued in existence as provided  
 29-21 by that chapter, ~~[the board is abolished and]~~ this subchapter  
 29-22 expires September 1, 2011 ~~[2005]~~.

29-23 SECTION 13C.04. Sections 57.043 and 57.048(c) and (d),  
 29-24 Utilities Code, are repealed.

29-25 SECTION 13C.05. If, on the day before the effective date of  
 29-26 this part, the assessment prescribed by Section 57.048, Utilities  
 29-27 Code, is imposed at a rate of less than 1.25 percent, the  
 29-28 comptroller shall, on the effective date of this part, reset the  
 29-29 rate of the assessment to 1.25 percent.

29-30 SECTION 13C.06. This part takes effect July 1, 2005, if this  
 29-31 Act receives a vote of two-thirds of all the members elected to each  
 29-32 house, as provided by Section 39, Article III, Texas Constitution.  
 29-33 If this Act does not receive the vote necessary for effect on that  
 29-34 date, this part takes effect September 1, 2005.

#### 29-35 ARTICLE 14. INTEREST ON CERTAIN TAX REFUNDS

29-36 SECTION 14.01. Section 111.064, Tax Code, is amended by  
 29-37 amending Subsections (a), (c), and (f) and adding Subsection (c-1)  
 29-38 to read as follows:

29-39 (a) Except as otherwise provided by this section, for a  
 29-40 refund under this chapter ~~[Subsections (b) and (c) in a~~  
 29-41 ~~comptroller's final decision on a claim for refund or in an audit],~~  
 29-42 interest is at the rate that is the lesser of the annual rate of  
 29-43 interest earned on deposits in the state treasury during December  
 29-44 of the previous calendar year, as determined by the comptroller, or  
 29-45 the rate set in Section 111.060, and accrues on the amount found to  
 29-46 be erroneously paid for a period:

29-47 (1) beginning on the later of 60 days after the date of  
 29-48 payment or the due date of the tax report; and

29-49 (2) ending on, as determined by the comptroller,  
 29-50 either the date of allowance of credit on account of the  
 29-51 comptroller's final decision or audit or a date not more than 10  
 29-52 days before the date of the refund warrant.

29-53 (c) For a refund claimed before September 1, 2005, and  
 29-54 granted for a report period due on or after January 1, 2000, the  
 29-55 rate of interest is the rate set in Section 111.060 ~~[granted for a~~  
 29-56 ~~report period due on or after January 1, 2000, the rate of interest~~  
 29-57 ~~is the rate set in Section 111.060].~~

29-58 (c-1) A refund, without regard to the date claimed, for a  
 29-59 report period due before January 1, 2000, does not accrue interest.

29-60 (f) A local revenue fund is not subject to Subsections  
 29-61 (a)-(c-1) ~~[(a)-(c)]~~. In this subsection, "local revenue fund"  
 29-62 includes a court cost, a fee, a fine, or a similar charge collected  
 29-63 by a municipality, a county, or a court of this state and remitted  
 29-64 to the comptroller.

29-65 SECTION 14.02. This article takes effect September 1, 2005.

#### 29-66 ARTICLE 15. AUTHORIZATION OF CERTAIN NONPROFIT ORGANIZATIONS TO 29-67 CONDUCT BINGO

29-68 SECTION 15.01. Section 2001.002(11), Occupations Code, is  
 29-69 amended to read as follows:

(11) "Fraternal organization" means:

(A) a nonprofit organization organized to perform and engaged primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions that meet the other requirements of this chapter; ~~or~~

(B) a nonprofit National Historical District Association representing the owners and lessees of a majority of the real property located in a National Historical District designated for not less than five years by the National Register of Historic Places, Heritage Conservation and Recreation Service of the United States Department of the Interior, if the association's net proceeds are used for restoration, construction, maintenance, and security in the district. The term "fraternal organization" does not include an organization whose members are predominantly veterans or dependents of veterans of the armed services of the United States; or

(C) a nonprofit organization that:

(i) is organized under tribal law by a federally recognized Indian tribe that is not subject to the Indian Gaming Regulatory Act (18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section 2701 et seq.) and that exercises tribal authority over a reservation, as defined by 25 U.S.C. Section 1300g, that is located in a county on the international border with Mexico; and

(ii) is organized to perform and is engaged primarily in performing charitable, benevolent, patriotic, or educational functions.

SECTION 15.02. Subchapter C, Chapter 2001, Occupations Code, is amended by adding Section 2001.1015 to read as follows:

Sec. 2001.1015. CERTAIN TRIBAL ORGANIZATIONS EXEMPT FROM REGULATORY JURISDICTION AND LICENSE REQUIREMENTS. (a) A nonprofit organization in existence for at least 180 days that qualifies as a fraternal organization under Section 2001.002(11)(C) may 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) In accordance with Section 107(b), Ysleta del Sur Pueblo and Alabama and Coshatta Indian Tribes of Texas Restoration Act (25 U.S.C. Section 1300g-6), an organization described by Subsection (a) may 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) A nonprofit organization described by Subsection (b) may not conduct 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. Article 5.144, Insurance Code, is amended by amending Subsection (b) and adding Subsections (b-1) and (b-2) to read as follows:

(b) Except as provided by Subsection (d) of this article, if the 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 ~~or 5.101~~ of this code, the commissioner may order the insurer to:

(1) issue a refund of the excessive or unfairly discriminatory portion of the premium, plus interest on that amount, directly to each affected policyholder if the amount of that portion of the premium is at least 7.5 percent of the total premium charged for the coverage; or

(2) if the amount of that portion of the premium is less than 7.5 percent:

(A) provide each affected policyholder who renews the policy a future premium discount in the amount of the

31-1 excessive or unfairly discriminatory portion of the premium, plus  
31-2 interest on that amount; and

31-3 (B) provide each affected policyholder who does  
31-4 not renew or whose coverage is otherwise terminated a refund in the  
31-5 amount described by Subdivision (1) of this subsection.

31-6 (b-1) The rate for interest assessed under Subsection (b) of  
31-7 this article is the prime rate for the calendar year in which the  
31-8 order is issued plus six percent. For purposes of this subsection,  
31-9 the prime rate is the prime rate as published in The Wall Street  
31-10 Journal for the first day of the calendar year that is not a  
31-11 Saturday, Sunday, or legal holiday. The interest accrues beginning  
31-12 on the date on which the insurer first charged the excessive or  
31-13 unfairly discriminatory rate, as determined by the commissioner,  
31-14 and continues to accrue until the refund is paid. An insurer may  
31-15 not be required to pay any interest penalty if the insurer prevails  
31-16 in a final appeal of the commissioner's order under Subchapter D,  
31-17 Chapter 36, of this code.

31-18 (b-2) An insurer may not claim a premium tax credit to which  
31-19 the insurer is otherwise entitled unless the insurer has complied  
31-20 with this article.

31-21 ARTICLE 17. EFFECTIVE DATE

31-22 SECTION 17.01. Except as otherwise provided by this Act,  
31-23 this Act takes effect immediately if it receives a vote of  
31-24 two-thirds of all the members elected to each house, as provided by  
31-25 Section 39, Article III, Texas Constitution. If this Act does not  
31-26 receive the vote necessary for immediate effect, except as  
31-27 otherwise provided by this Act, this Act takes effect on the 91st  
31-28 day after the last day of the legislative session.

31-29 \* \* \* \* \*