AN ACT
relating to certain fiscal matters affecting governmental
entities; providing a penalty.

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

ARTICLE 1. REGISTRATION FEE FOR CERTAIN LOBBYISTS

SECTION 1.01. Subsection (c), Section 305.005, Government
Code, is amended to read as follows:

(c) The registration fee and registration renewal fee are:

(1) $100 for a registrant employed by an organization
exempt from federal income tax under Section 501(c)(3) or
501(c)(4), Internal Revenue Code of 1986; or

(2) $500 [$300] for any other registrant.

SECTION 1.02. This article takes effect December 1, 2005.

ARTICLE 2. CERTAIN AUDITS OF STATE AGENCY EXPENDITURES

SECTION 2.01. Subtitle C, Title 10, Government Code, is
amended by adding Chapter 2115 to read as follows:

CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

Sec. 2115.001. DEFINITIONS. In this chapter:

(1) "Overpayment" includes a duplicate payment made to
a vendor for a single invoice and a payment made to a vendor:

(A) when an available discount from the vendor
was not applied;

(B) for a late payment penalty that was
improperly applied by the vendor;
(C) for shipping costs that were computed incorrectly or incorrectly included in an invoice;
(D) for state sales tax; or
(E) for a good or service the vendor did not provide.

(2) "State agency" means a department, commission, board, office, or other agency, including a university system or an institution of higher education other than a public junior college, that:
(A) is in the executive branch of state government;
(B) is created by statute; and
(C) does not have statutory geographical boundaries limited to a part of the state.

Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR CERTAIN OVERPAYMENTS. (a) The comptroller shall contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. The audits must be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations.

(b) A contract under this section:
(1) may provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount recovered because of the consultant's audit activities or recommendations as a fee for services;
(2) may permit or require the consultant to pursue a
judicial action in a court inside or outside this state to recover an overpaid amount; and

(3) to allow time for the performance of existing state payment auditing procedures, may not allow a recovery audit of a payment during the 180-day period after the date the payment was made.

(c) The comptroller or a state agency whose payments are being audited may provide a person acting under a contract authorized by this section with any confidential information in the custody of the comptroller or state agency that is necessary for the performance of the audit or the recovery of an overpayment, to the extent the comptroller and state agency are not prohibited from sharing the information under an agreement with another state or the federal government. A person acting under a contract authorized by this section, and each employee or agent of the person, is subject to all prohibitions against the disclosure of confidential information obtained from the state in connection with the contract that apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency. A person acting under a contract authorized by this section or an employee or agent of the person who discloses confidential information in violation of a prohibition made applicable to the person under this subsection is subject to the same sanctions and penalties that would apply to the comptroller or applicable state agency or an employee of the comptroller or applicable state agency for that disclosure.
AUDITS. (a) The comptroller shall require that recovery audits be performed on the payments to vendors made by each state agency that has total expenditures during a state fiscal biennium in an amount that exceeds $100 million. Each state agency described by this subsection shall provide the recovery audit consultant with all information necessary for the audit.

(b) The comptroller may exempt from the mandatory recovery audit process a state agency that has a low proportion of its expenditures made to vendors, according to criteria the comptroller adopts by rule after consideration of the likely costs and benefits of performing recovery audits for agencies that make relatively few or small payments to vendors.

Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) A state agency shall pay, from recovered money appropriated for the purpose, the recovery audit consultant responsible for obtaining for the agency a reimbursement from a vendor.

(b) A state agency shall expend or return to the federal government any federal money that is recovered through a recovery audit conducted under this chapter. The state agency shall expend or return the federal money in accordance with the rules of the federal program through which the agency received the federal money.

Sec. 2115.005. FORWARDING REPORTS. (a) The comptroller shall provide copies, including electronic form copies, of any reports received from a consultant contracting under Section 2115.002 to:

(1) the governor;
S.B. No. 1863

(2) the state auditor's office; and

(3) the Legislative Budget Board.

(b) The comptroller shall provide the copies required by Subsection (a) not later than the seventh day after the date the comptroller receives the consultant's report.

(c) Not later than January 1 of each odd-numbered year, the comptroller shall issue a report to the legislature summarizing the contents of all reports received under this chapter during the state fiscal biennium ending August 31 of the previous year.

SECTION 2.02. The comptroller of public accounts shall adopt rules under Chapter 2115, Government Code, as added by this article, in a timely manner so that the comptroller may begin contracting with a consultant under that chapter not later than January 1, 2006.

ARTICLE 3. ELIGIBILITY FOR MEDICAL ASSISTANCE AND CHILDREN'S HEALTH INSURANCE PROGRAMS

SECTION 3.01. Section 62.102, Health and Safety Code, is amended to read as follows:

Sec. 62.102. CONTINUOUS COVERAGE. [(a)] The commission shall provide that an individual who is determined to be eligible for coverage under the child health plan remains eligible for those benefits until the earlier of:

(1) the end of the six-month [a] period[, not to exceed 12 months,] following the date of the eligibility determination; or

(2) the individual's 19th birthday.

[(b) The period of continuous eligibility may be established at an interval of 6 months beginning immediately upon]
passage of this Act and ending September 1, 2005, at which time an
interval of 12 months of continuous eligibility will be re-established.)

SECTION 3.02. Section 32.0261, Human Resources Code, is amended to read as follows:

Sec. 32.0261. CONTINUOUS ELIGIBILITY. The department shall adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under this chapter. The rules shall provide that the child remains eligible for medical assistance, without additional review by the department and regardless of changes in the child's resources or income, until the earlier of:

(1) the end of the six-month period following [first anniversary of] the date on which the child's eligibility was determined; or

(2) the child's 19th birthday.

SECTION 3.03. If before implementing any provision of this article a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

ARTICLE 4. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE FOR STATE EMPLOYEES

SECTION 4.01. Subsection (a), Section 1551.104, Insurance Code, is amended to read as follows:
Subject to Sections 1551.101 and 1551.102, each full-time employee is covered automatically by the basic coverage plan for employees and each annuitant is covered by the basic coverage plan for annuitants unless:

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

(2) the employee or annuitant is expelled from the program under Section 1551.351; or

(3) eligibility is otherwise limited by this chapter.

SECTION 4.02. Subchapter C, Chapter 1551, Insurance Code, is amended by adding Section 1551.1045 to read as follows:

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

(b) To waive coverage under the basic coverage plan for employees, a full-time employee must demonstrate, in the manner required by the board of trustees, that the employee is:

(1) covered by another health benefit plan that provides substantially equivalent coverage, as determined by the board of trustees, to the coverage provided to employees by the basic coverage plan; or

(2) eligible for benefits under the TRICARE Military Health System.

(c) To waive coverage under the basic coverage plan for annuitants for the purpose of eligibility for an incentive payment under Section 1551.222, an annuitant must demonstrate, in the manner required by the board of trustees, that the annuitant is:
(1) covered by another health benefit plan that provides substantially equivalent coverage, as determined by the board of trustees, to the coverage provided to annuitants by the basic coverage plan; or

(2) eligible for benefits under the TRICARE Military Health System.

SECTION 4.03. Subchapter E, Chapter 1551, Insurance Code, is amended by adding Sections 1551.221 and 1551.222 to read as follows:

Sec. 1551.221. OPTIONAL SUPPLEMENTAL HEALTH COVERAGE FOR INDIVIDUALS ELIGIBLE UNDER TRICARE MILITARY HEALTH SYSTEM.

(a) The board of trustees shall offer, as an optional coverage under the group benefits program, a supplemental health coverage program.

(b) Under the supplemental health coverage program, an employee or annuitant who is eligible to participate in the group benefits program and who is also eligible for benefits under the TRICARE Military Health System may elect to receive primary coverage under the TRICARE Military Health System. An employee or annuitant participating in the supplemental health coverage program must waive basic coverage through the group benefits program, but receives supplemental health coverage under this section.

(c) The cost of supplemental health coverage provided under this section may be paid in the same manner as the cost of other optional coverage is paid under Subchapter G.

(d) The board of trustees shall contract to purchase the
supplemental health coverage in accordance with Sections 1551.213-1551.216.

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

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

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

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

SECTION 4.04. Subchapter G, Chapter 1551, Insurance Code, is amended by adding Section 1551.324 to read as follows:

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

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

ARTICLE 5. EXTENDING STATE REIMBURSEMENT PROGRAM: PETROLEUM STORAGE TANKS

SECTION 5.01. Subsection (f), Section 26.351, Water Code, is amended to read as follows:

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

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

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

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

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

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

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

SECTION 5.02. Subsection (b), Section 26.355, Water Code, is amended to read as follows:

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

(1) the release was caused by:
   (A) an act of God;
   (B) an act of war;
   (C) the negligence of the State of Texas or the United States; or
   (D) an act or omission of a third party; or

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

SECTION 5.03. Subsection (b), Section 26.35731, Water Code, is amended to read as follows:

(b) The commission has discretion whether to postpone considering, processing, or paying a claim for reimbursement from the petroleum storage tank remediation account for corrective action work begun without prior commission approval after September 1, 1993, and filed with the commission prior to January 1, 2005 until all claims for reimbursement for corrective action work preapproved by the commission have been considered, processed, and paid.

SECTION 5.04. Section 26.3573, Water Code, is amended by amending Subsections (d), (r), and (s) and adding Subsection (r-1) to read as follows:

(d) The commission may use the money in the petroleum storage tank remediation account to pay:
A necessary expenses associated with the administration of the petroleum storage tank remediation account and the groundwater protection cleanup program[, not to exceed an amount equal to: 11.8 percent of the gross receipts of that account for FY02/03; 16.40 percent of the gross receipts of that account for FY04/05; and 21.1 percent of the gross receipts of that account for FY06/07];

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

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

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

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

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

SECTION 5.05. Subsection (b), Section 26.3574, Water Code,
is amended to read as follows:

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

(1) $12.50 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 [FY 02 and FY 03]; and $10.00 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007 [FY 04 and FY 05]; $5.00 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for FY 06; and $2.00 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for FY 07];

(2) $25.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 [FY 02 and FY 03]; and $20.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007 [FY 04 and FY 05]; $10.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for FY 06; and $4.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for FY 07];

(3) $37.50 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 [FY 02 and FY 03]; and
$30.00 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007 [FY 04 and FY 05]; $15.00 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for FY 06; and $6.00 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for FY 07;

(4) $50.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 [FY 02 and FY 03]; and $40.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007 [FY 04 and FY 05]; $20.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for FY 06; and $8.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for FY 07; and

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

SECTION 5.06. Section 26.361, Water Code, is amended to read as follows:

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

SECTION 5.07. This article takes effect September 1, 2005.

ARTICLE 6. DRUG PURCHASING FOR STATE AGENCIES

SECTION 6.01. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.080 to read as follows:

Sec. 531.080. JOINT PURCHASING OF PRESCRIPTION DRUGS AND OTHER MEDICATIONS. (a) Subject to Subsection (b), the commission and each health and human services agency authorized by the executive commissioner may enter into an agreement with one or more other states for the joint bulk purchasing of prescription drugs and other medications to be used in the Medicaid program, the state
(b) An agreement under this section may not be entered into until:

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

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

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

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

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

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

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

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

SECTION 6.02. Not later than January 15, 2006, the Health
and Human Services Commission shall determine the feasibility and
cost-effectiveness of entering into an agreement under Section
531.080, Government Code, as added by this article. If the
commission determines that such action is feasible and
cost-effective, the commission shall take action to enter into an
agreement that takes effect March 1, 2006.

SECTION 6.03. If before implementing any provision of this
article a state agency determines that a waiver or authorization
from a federal agency is necessary for implementation of that
provision, the agency affected by the provision shall request the
waiver or authorization and may delay implementing that provision
until the waiver or authorization is granted.

ARTICLE 7. CONTINUATION OF QUALITY ASSURANCE FEES
SECTION 7.01. Section 252.209, Health and Safety Code, is
repealed.

ARTICLE 8. TEXAS MOBILITY FUND
SECTION 8.01. Subchapter M, Chapter 201, Transportation
Code, is amended by adding Section 201.9471 to read as follows:
Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO
FUND. (a) Notwithstanding Sections 521.058, 521.313, 521.3466,
521.427, 522.029, 524.051, and 724.046, to the extent that those
sections allocate money to the Texas mobility fund, in state fiscal
year 2006 the comptroller shall deposit that money to the credit of
the general revenue fund instead of to the credit of the Texas
mobility fund.
(b) Notwithstanding Sections 521.313, 521.3466, 521.427,
522.029, 524.051, and 724.046, to the extent that those sections
S.B. No. 1863

allocate money to the Texas mobility fund, in state fiscal year 2007
the comptroller shall deposit that money to the credit of the
general revenue fund instead of to the credit of the Texas mobility
fund.

(c) This section expires January 1, 2008.

SECTION 8.02. This article takes effect September 1, 2005.

ARTICLE 9. TELECOMMUNICATIONS INFRASTRUCTURE FUND

SECTION 9.01. Section 57.048, Utilities Code, is amended by
adding Subsections (f) through (i) to read as follows:

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

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

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

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

SECTION 9.02. Section 57.0485, Utilities Code, is amended
to read as follows:

Sec. 57.0485. ALLOCATION OF REVENUE [ACCOUNTS]. [(a)] The
comptroller shall deposit 50 percent of the money collected by
the comptroller under Section 57.048 to the credit of the general
revenue fund [public schools account in the fund. The comptroller
shall deposit the remainder of the money collected by the
comptroller under Section 57.048 to the credit of the qualifying
entities account in the fund.

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

SECTION 9.03. Section 57.051, Utilities Code, is amended to
read as follows:

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

SECTION 9.04. Section 57.043 and Subsections (c) and (d),
Section 57.048, Utilities Code, are repealed.

SECTION 9.05. If, on the day before the effective date of this article, the assessment prescribed by Section 57.048, Utilities Code, is imposed at a rate of less than 1.25 percent, the comptroller of public accounts shall, on the effective date of this article, reset the rate of the assessment to 1.25 percent.

SECTION 9.06. This article 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 article takes effect September 1, 2005.

ARTICLE 10. COLLECTION OF CERTAIN COSTS, FEES, AND FINES IN CRIMINAL CASES

SECTION 10.01. Chapter 103, Code of Criminal Procedure, is amended by adding Article 103.0033 to read as follows:

Art. 103.0033. COLLECTION IMPROVEMENT PROGRAM. (a) In this article:

(1) "Office" means the Office of Court Administration of the Texas Judicial System.

(2) "Program" means the program to improve the collection of court costs, fees, and fines imposed in criminal cases, as developed and implemented under this article.

(b) This article applies only to:

(1) a county with a population of 50,000 or greater; and

(2) a municipality with a population of 100,000 or greater.
(c) Unless granted a waiver under Subsection (h), each county and municipality shall develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county program must include district, county, and justice courts.

(d) The program must consist of:

(1) a component that conforms with a model developed by the office and designed to improve in-house collections through application of best practices; and

(2) a component designed to improve collection of balances more than 60 days past due, which may be implemented by entering into a contract with a private attorney or public or private vendor in accordance with Article 103.0031.

(e) Not later than June 1 of each year, the office shall identify those counties and municipalities that:

(1) have not implemented a program; and

(2) are able to implement a program before April 1 of the following year.

(f) The comptroller, in cooperation with the office, shall develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. The comptroller shall determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(g) The office shall:

(1) make available on the office's Internet website...
requirements for a program; and

(2) assist counties and municipalities in implementing a program by providing training and consultation, except that the office may not provide employees for implementation of a program.

(h) The office, in consultation with the comptroller, may:

(1) use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs; and

(2) determine whether it is not cost-effective to implement a program in a county or municipality and grant a waiver to the county or municipality.

(i) Each county and municipality shall at least annually submit to the office and the comptroller a written report that includes updated information regarding the program, as determined by the office in cooperation with the comptroller. The report must be in a form approved by the office in cooperation with the comptroller.

(j) The comptroller shall periodically audit counties and municipalities to verify information reported under Subsection (i) and confirm that the county or municipality is conforming with requirements relating to the program. The comptroller shall consult with the office in determining how frequently to conduct audits under this section.

SECTION 10.02. Section 133.058, Local Government Code, is amended by adding Subsection (e) to read as follows:

(e) A municipality or county may not retain a service fee
if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality or county may continue to retain a service fee under this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 10.03. Section 133.103, Local Government Code, is amended by amending Subsections (b) and (c) and adding Subsection (c-1) to read as follows:

(b) Except as provided by Subsection (c-1), the treasurer shall send 50 percent of the fees collected under this section to the comptroller. The comptroller shall deposit the fees received to the credit of the general revenue fund.

(c) Except as provided by Subsection (c-1), the treasurer shall deposit 10 percent of the fees collected under this section in the general fund of the county or municipality for the purpose of improving the efficiency of the administration of justice in the county or municipality. The county or municipality shall prioritize the needs of the judicial officer who collected the fees when making expenditures under this subsection and use the money deposited to provide for those needs.

(c-1) The treasurer shall send 100 percent of the fees collected under this section to the comptroller if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the
municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality or county shall continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 10.04. (a) Notwithstanding Subsection (e), Article 103.0033, Code of Criminal Procedure, as added by this article, not later than September 1, 2005, the Office of Court Administration of the Texas Judicial System shall identify those counties and municipalities that are able to implement a collection improvement program under Article 103.0033, Code of Criminal Procedure, as added by this article, before April 1, 2006. Beginning June 1, 2006, the Office of Court Administration of the Texas Judicial System shall comply with Subsection (e), Article 103.0033, Code of Criminal Procedure, as added by this article.

(b) Not later than September 1, 2005, the Office of Court Administration of the Texas Judicial System shall make available on the office's Internet website requirements for a program under Article 103.0033, Code of Criminal Procedure, as added by this article, in accordance with Subsection (g) of Article 103.0033.

ARTICLE 11. INTEREST ON CERTAIN TAX REFUNDS

SECTION 11.01. Section 111.064, Tax Code, is amended by amending Subsections (a), (c), and (f) and adding Subsection (c-1) to read as follows:

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

(1) beginning on the later of 60 days after the date of
payment or the due date of the tax report; and
(2) ending on, as determined by the comptroller,
either the date of allowance of credit on account of the
comptroller's final decision or audit or a date not more than 10
days before the date of the refund warrant.

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

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

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

SECTION 11.02. This article takes effect September 1, 2005.

ARTICLE 12. PUBLIC SCHOOL FACILITIES

SECTION 12.01. Section 46.033, Education Code, is amended
to read as follows:

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

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

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

SECTION 12.02. Subsection (c), Section 46.034, Education Code, is amended to read as follows:

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

ARTICLE 13. COMPENSATION FOR CERTAIN STATE EMPLOYEES WHO RETURN TO STATE EMPLOYMENT

SECTION 13.01. Section 659.042, Government Code, is amended to read as follows:

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

(1) a member of the legislature;
(2) an individual who holds a statewide office that is normally filled by vote of the people;
(3) an independent contractor or an employee of an independent contractor;
(4) a temporary employee;
(5) an officer or employee of a public junior college;
[or]
(6) an academic employee of a state institution of higher education; or
(7) a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee.

SECTION 13.02. Subsection (a), Section 659.043, Government Code, is amended to read as follows:
(a) A state employee is entitled to longevity pay to be included in the employee's monthly compensation if the employee:
(1) is a full-time state employee on the first workday of the month;
(2) is not on leave without pay on the first workday of the month; and
(3) has accrued at least two [three] years of lifetime service credit not later than the last day of the preceding month.

SECTION 13.03. Section 659.044, Government Code, as amended
by Section 32, Chapter 1158, Acts of the 77th Legislature, Regular
Session, 2001, and Section 104, Chapter 1158, Acts of the 77th
Legislature, Regular Session, 2001, is reenacted and amended to
read as follows:

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

(b) The amount increases when the 4th, 6th, 8th, 10th, 12th, 14th, 16th, 18th, 20th, 22nd, 24th, 26th, 28th, 30th, 32nd, 34th, 36th, 38th, 40th, and 42nd years of lifetime service credit are accrued.

(c) An increase is effective beginning with the month following the month in which the 4th, 6th, 8th, 10th, 12th, 14th, 16th, 18th, 20th, 22nd, 24th, 26th, 28th, 30th, 32nd, 34th, 36th, 38th, 40th, and 42nd years of lifetime service credit are accrued.

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

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

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

(2) the lesser of:

(A) $4 for each year served in a hazardous duty position; or

(B) the difference between:

(i) $7 for each year served in a hazardous duty position; and

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

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

SECTION 13.04. Section 659.126, Government Code, is amended to read as follows:

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

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

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

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

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

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

SECTION 13.05. Section 661.152, Government Code, is amended by adding Subsection (l) to read as follows:

(l) For purposes of computing vacation leave under Subsection (d) for a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee, years of total state employment includes only the length of state employment after the date the state employee retired.
SECTION 13.06. Subsections (a), (b), (c), and (g), Section 659.305, Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b), the amount of a full-time state employee's hazardous duty pay for a particular month is the lesser of:

1. $10 [$7] for each 12-month period of lifetime service credit accrued by the employee; or
2. $300 [$210].

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

1. $10 [$7] for each 12-month period of state service credit the employee finished accruing before May 29, 1987; and
2. $10 [$7] for each 12-month period of lifetime service credit that the employee accrued after the date, which must be before May 29, 1987, on which the employee finished accruing the last 12-month period of state service credit.

(c) The amount determined under Subsection (b)(2) may not exceed $300 [$210].

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

1. the number of positions the employee holds; or
2. the number of hours the employee works each week.

SECTION 13.07. (a) Except as provided by Subsection (b) of
this section, the change in law made by this article to Section 659.126, Government Code, applies only to a state employee who leaves state employment on or after the effective date of this article. A state employee who leaves state employment before the effective date of this article is governed by the law as it existed on the date the employee left state employment and the former law is continued in effect for that purpose.

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

SECTION 13.08. This article takes effect September 1, 2005.

ARTICLE 14. SYSTEM BENEFIT FUND

SECTION 14.01. Subsection (h), Section 39.903, Utilities Code, is amended to read as follows:

(h) The commission shall adopt rules for a retail electric provider to determine a reduced rate for eligible customers to be discounted off the standard retail service package as approved by the commission under Section 39.106, or the price to beat established by Section 39.202, whichever is lower. Municipally owned utilities and electric cooperatives shall establish a reduced rate for eligible customers to be discounted off the standard retail service package established under Section 40.053 or 41.053, as appropriate. The reduced rate for a retail electric provider shall result in a total charge that is at least 10 percent and, if sufficient money in the system benefit fund is available, up to 20 percent, lower than the amount the customer would otherwise be
charged. To the extent the system benefit fund is insufficient to
fund the initial 10 percent rate reduction, the commission may
increase the fee to an amount not more than 65 cents per megawatt
hour, as provided by Subsection (b). If the fee is set at 65 cents
per megawatt hour or if the commission determines that
appropriations are insufficient to fund the 10 percent rate
reduction, the commission may reduce the rate reduction to less
than 10 percent. For a municipally owned utility or electric
cooperative, the reduced rate shall be equal to an amount that can
be fully funded by that portion of the nonbypassable fee proceeds
paid by the municipally owned utility or electric cooperative that
is allocated to the utility or cooperative by the commission under
Subsection (e) for programs for low-income customers of the utility
or cooperative. The reduced rate for municipally owned utilities
and electric cooperatives under this section is in addition to any
rate reduction that may result from local programs for low-income
customers of the municipally owned utilities or electric
cooperatives.

ARTICLE 15. FUNDING OF THE COASTAL PROTECTION FUND AND THE USE OF
MONEY IN THE FUND

SECTION 15.01. Section 40.152, Natural Resources Code, is
amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a)(9) and the other
provisions of this subchapter, the legislature may appropriate to
the General Land Office for implementation of the coastal
management program under Subchapter F, Chapter 33, and for erosion
response projects under Subchapter H, Chapter 33, money from the
fund in an amount that exceeds the amount of interest accruing to the fund annually. This subsection expires September 1, 2007.

SECTION 15.02. Subsections (a) through (d), Section 40.155, Natural Resources Code, are amended to read as follows:

(a) Except as otherwise provided in this section, the rate of the fee shall be 1-1/3 cents [two cents] per barrel of crude oil until the commissioner certifies that the unencumbered balance in the fund has reached $20 [$25] million. The commissioner shall certify to the comptroller the date on which the unencumbered balance in the fund exceeds $20 [$25] million. The fee shall not be collected or required to be paid on or after the first day of the second month following the commissioner's certification to the comptroller that the unencumbered balance in the fund exceeds $20 [$25] million.

(b) If the unencumbered balance in the fund falls below $10 [$14] million, the commissioner shall certify such fact to the comptroller. On receiving the commissioner's certification, the comptroller shall resume collecting the fee until suspended in the manner provided in Subsection (a) of this section.

(c) Notwithstanding the provisions of Subsection (a) or (b) of this section, the fee shall be levied at the rate of four cents per barrel if the commissioner certifies to the comptroller a written finding of the following facts:

(1) the unencumbered balance in the fund is less than $20 [$25] million;

(2) an unauthorized discharge of oil in excess of 100,000 gallons has occurred within the previous 30 days; and
(3) expenditures from the fund for response costs and damages are expected to deplete the fund substantially.

(d) In the event of a certification to the comptroller under Subsection (c) of this section, the comptroller shall collect the fee at the rate of four cents per barrel until the unencumbered balance in the fund reaches $20 [$25] million or any lesser amount that the commissioner determines is necessary to pay response costs and damages without substantially depleting the fund. The commissioner shall certify to the comptroller the date on which the unencumbered balance in the fund exceeds $20 [$25] million or such other lesser amount. The fee shall not be collected or required to be paid on or after the first day of the second month following the commissioner's certification to 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 excessive or unfairly discriminatory portion of the premium, plus interest on that amount; and

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

(b-1) The rate for interest assessed under Subsection (b) of this article is the prime rate for the calendar year in which the order is issued plus six percent. For purposes of this subsection, the prime rate is the prime rate as published in The Wall Street Journal for the first day of the calendar year that is not a Saturday, Sunday, or legal holiday. The interest accrues beginning on the date on which the department first provides the insurer with formal written notice that the insurer's filed rate is excessive or unfairly discriminatory, as determined by the commissioner, and continues to accrue until the refund is paid. An insurer may not be required to pay any interest penalty or refund if the insurer prevails in a final appeal of the commissioner's order under Subchapter D, Chapter 36 of this code.

(b-2) An insurer may not claim a premium tax credit to which the insurer is otherwise entitled unless the insurer has complied with this article.
ARTICLE 17. CERTAIN PROVISIONS RELATING TO RETIREMENT SYSTEM CONTRIBUTIONS AND BENEFITS FOR RETIRED SCHOOL EMPLOYEES

SECTION 17.01. Subsection (a), Section 825.404, Government Code, is amended to read as follows:

(a) During each fiscal year, the state shall contribute to the retirement system an amount equal to at least six and not more than 10 [eight] percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

SECTION 17.02. Subsection (a), Section 1575.203, Insurance Code, is amended to read as follows:

(a) Each state fiscal year, each active employee shall, as a condition of employment, contribute to the fund an amount equal to 0.65 [0.5] percent of the employee's salary.

SECTION 17.03. The change in law made by this article to Section 1575.203, Insurance Code, takes effect September 1, 2005.

ARTICLE 18. COMPENSATION SUPPLEMENTATION FOR CERTAIN SCHOOL EMPLOYEES

SECTION 18.01. Subsections (a), (b), (c), (i), and (j), Section 22.004, Education Code, are amended to read as follows:

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

(b) A district that does not participate in the program described by Subsection (a) shall make available to its employees group health coverage provided by a risk pool established by one or more school districts under Chapter 172, Local Government Code, or
under a policy of insurance or group contract issued by an insurer,  
a company subject to Chapter 842, Insurance Code, or a health  
maintenance organization under Chapter 843, Insurance Code. The  
coverage must meet the substantive coverage requirements of Chapter  
1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366  
[Article 3.51-6], Insurance Code, and any other law applicable to  
group health insurance policies or contracts issued in this state.  
The coverage must include major medical treatment but may exclude  
experimental procedures. In this subsection, "major medical  
treatment" means a medical, surgical, or diagnostic procedure for  
illness or injury. The coverage may include managed care or  
preventive care and must be comparable to the basic health coverage  
provided under Chapter 1551, Insurance Code. The board of trustees  
of the Teacher Retirement System of Texas shall adopt rules to  
determine whether a school district's group health coverage is  
comparable to the basic health coverage specified by this  
subsection. The rules must provide for consideration of the  
following factors concerning the district's coverage in  
determining whether the district's coverage is comparable to the  
basic health coverage specified by this subsection:  
(1) the deductible amount for service provided inside  
and outside of the network;  
(2) the coinsurance percentages for service provided  
inside and outside of the network;  
(3) the maximum amount of coinsurance payments a  
covered person is required to pay;  
(4) the amount of the copayment for an office visit;
(5) the schedule of benefits and the scope of coverage;

(6) the lifetime maximum benefit amount; and

(7) verification that the coverage is issued by a provider licensed to do business in this state by the Texas Department of Insurance or is provided by a risk pool authorized under Chapter 172, Local Government Code, or that a district is capable of covering the assumed liabilities in the case of coverage provided through district self-insurance.

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

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

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

SECTION 18.02. Chapter 22, Education Code, is amended by
adding Subchapter D to read as follows:

SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

Sec. 22.101. DEFINITIONS. In this subchapter:

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

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

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

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

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

(D) is not an individual performing personal
services for a district, other educational district that is a
member of the Teacher Retirement System of Texas, participating
charter school, or regional education service center as an
independent contractor.

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

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

Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.
(a) The agency may adopt rules to implement this subchapter.
(b) The agency may enter into interagency contracts with any other agency of this state for the purpose of assistance in implementing this subchapter.

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

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

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

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

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

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

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

Sec. 22.110. SUPPLEMENTAL COMPENSATION. An amount
distributed to an employee under this subchapter must be in
addition to the rate of compensation that:
SECTION 18.03. Subsection (c), Section 822.201, Government Code, is amended to read as follows:

(c) Excluded from salary and wages are:

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

(11) any compensation not described by Subsection (b).

SECTION 18.04. Subsection (b), Section 1579.253, Insurance Code, is amended to read as follows:

(b) The employee may pay the employee's contribution under this subsection from the amount distributed to the employee under Subchapter D, Chapter 22, Education Code. [1580]

SECTION 18.05. Section 1581.702, Insurance Code, is amended to read as follows:

Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide additional support for a school district to which this section applies in an amount computed by multiplying the total amount of supplemental compensation received by district employees under Subchapter D, Chapter 22, Education Code, [1580] by 0.062.

SECTION 18.06. The following laws are repealed:

(1) Chapter 1580, Insurance Code;

(2) Section 57, Chapter 201, Acts of the 78th Legislature, Regular Session, 2003;

(3) Chapter 313, Acts of the 78th Legislature, Regular Session, 2003; and


SECTION 18.07. The functions and duties of the Teacher Retirement System of Texas with respect to the compensation supplementation program established under Chapter 1580, Insurance
Code, and other applicable law, and any appropriation relating to
that program are transferred to the Texas Education Agency. A
reference in law to the Teacher Retirement System of Texas with
respect to the compensation supplementation program means the Texas
Education Agency.

SECTION 18.08. This article takes effect September 1, 2005.

ARTICLE 19. RETIREMENT SYSTEM CONTRIBUTIONS FOR CERTAIN MEMBERS OF
THE TEACHER RETIREMENT SYSTEM OF TEXAS

SECTION 19.01. Subchapter E, Chapter 825, Government Code,
is amended by adding Section 825.4041 to read as follows:

Sec. 825.4041. EMPLOYER PAYMENTS. (a) For purposes of
this section, a new member is a person first employed on or after
September 1, 2005, including a former member who withdrew
retirement contributions under Section 822.003 and is reemployed on
or after September 1, 2005.

(b) During each fiscal year, an employer shall pay an amount
equal to the state contribution rate, as established by the General
Appropriations Act for the fiscal year, applied to the aggregate
compensation of new members of the retirement system, as described
by Subsection (a), during their first 90 days of employment.

(c) On a monthly basis an employer shall:

(1) report to the retirement system, in a form
prescribed by the system, a certification of the total amount of
salary paid during the first 90 days of employment of a new member
and the total amount of employer payments due under this section for
the payroll periods; and

(2) retain information, as determined by the
retirement system, sufficient to allow administration of this
section, including information for each employee showing the
applicable salary as well as aggregate compensation for the first
90 days of employment for new employees.

(d) A person who was hired before September 1, 2005, and was
subject to a 90-day waiting period for membership in the retirement
system becomes eligible to participate in the retirement system as
a member starting September 1, 2005. For the purpose of this
section, the member shall be treated as a new member for the
remainder of the waiting period.

(e) The employer must remit the amount required under this
section to the retirement system at the same time the employer
remits the member's contribution. In computing the amount required
to be remitted, the employer shall include compensation paid to an
employee for the entire pay period that contains the 90th calendar
day of new employment.

(f) At the end of each school year, the retirement system
shall certify to the commissioner of education and to the state
auditor:

(1) the name of each employer that has failed to remit,
within the period required by Section 825.408, all payments
required under this section for the school year; and

(2) the amounts of the unpaid required payments.

(g) If the commissioner of education or the state auditor
receives a certification under Subsection (f), the commissioner or
the state auditor shall direct the comptroller to withhold the
amount certified, plus interest computed at the rate and in the
manner provided by Section 825.408, from the first state money payable to the employer. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

(h) The board of trustees shall take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to the retirement system.

SECTION 19.02. This article takes effect September 1, 2005.

ARTICLE 20. EFFECTIVE DATE

SECTION 20.01. Except as otherwise provided by this Act, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, except as otherwise provided by this Act, this Act takes effect on the 91st day after the last day of the legislative session.
S.B. No. 1863

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1863 passed the Senate on May 18, 2005, by the following vote: Yeas 24, Nays 6; May 26, 2005, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2005, House granted request of the Senate; May 29, 2005, Senate adopted Conference Committee Report by the following vote: Yeas 21, Nays 10.

Secretary of the Senate

I hereby certify that S.B. No. 1863 passed the House, with amendments, on May 25, 2005, by the following vote: Yeas 79, Nays 61, one present not voting; May 26, 2005, House granted request of the Senate for appointment of Conference Committee; May 29, 2005, House adopted Conference Committee Report by the following vote: Yeas 89, Nays 53, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor