

FOURTH DAY

(CONTINUED)

SUNDAY, JULY 10, 2005

PROCEEDINGS

AFTER RECESS

The Senate met at 2:00 p.m. and was called to order by the President.

SENATOR ANNOUNCED PRESENT

Senator Ellis, who had previously been recorded as "Absent-excused," was announced "Present."

CO-AUTHOR OF SENATE BILL 11

On motion of Senator Duncan, Senator Ogden will be shown as Co-author of **SB 11**.

CO-AUTHOR OF SENATE BILL 62

On motion of Senator Janek, Senator Deuell will be shown as Co-author of **SB 62**.

CO-AUTHOR OF SENATE BILL 66

On motion of Senator Lucio, Senator Madla will be shown as Co-author of **SB 66**.

AT EASE

The President at 2:39 p.m. announced the Senate would stand At Ease until 4:00 p.m. today.

IN LEGISLATIVE SESSION

Senator Whitmire at 4:21 p.m. called the Senate to order as In Legislative Session.

AT EASE

The Presiding Officer at 4:22 p.m. announced the Senate would stand At Ease until 6:00 p.m. today.

IN LEGISLATIVE SESSION

The President at 8:07 p.m. called the Senate to order as In Legislative Session.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3 ON SECOND READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSHB 3** at this time on its second reading:

CSHB 3, Relating to financing public schools in this state and reducing property taxes.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Deuell, Duncan, Eltife, Estes, Fraser, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Wentworth, Williams.

Nays: Barrientos, Ellis, Gallegos, Harris, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Absent-excused: Carona, Staples.

The bill was read second time.

Senator Brimer offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3** as follows:

(1) Strike SECTION 1.01 of the bill and substitute the following:

SECTION 1.01. Section 45.003, Education Code, is amended by amending Subsection (d) and adding Subsections (d-1), (d-2), and (e) to read as follows:

(d) A proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate stated in the proposition, which may be not more than the sum of:

(1) \$1.10 [~~\$1.50~~] on the \$100 valuation of taxable property in the district;
and

(2) \$0.15 on the \$100 valuation of taxable property in the district for enrichment, as authorized by an election as provided by Chapter 42[~~, stated in the proposition~~].

(d-1) Notwithstanding Subsection (d), for the following tax years, a proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate stated in the proposition, which may be not more than the sum of:

(1) for the 2005 tax year:

(A) \$1.30 on the \$100 valuation of taxable property in the district; and

(B) \$0.15 on the \$100 valuation of taxable property in the district for

enrichment, as authorized by an election as provided by Chapter 42; and

(2) for the 2006 tax year:

(A) \$1.25 on the \$100 valuation of taxable property in the district; and

(B) \$0.15 on the \$100 valuation of taxable property in the district for enrichment, as authorized by an election as provided by Chapter 42.

(d-2) Subsection (d-1) and this subsection expire January 1, 2007.

(e) An election held before January 1, 2005, authorizing a maintenance tax at a rate of at least \$1.30 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.30 or less for the 2005 tax year. An election held before January 1, 2006, authorizing a maintenance tax at a rate of at least \$1.25 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.25 or less for the 2006 tax year. An election held before January 1, 2007, authorizing a maintenance tax at a rate of at least \$1.10 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.10 or less for the 2007 and subsequent tax years.

(2) Strike PART E of ARTICLE 2 of the bill (committee printing page 8, line 45, through page 27, line 47) and substitute the following:

PART E. REPEAL OF THE FRANCHISE TAX

SECTION 2E.01. Chapter 171, Tax Code, is repealed effective January 1, 2008.

(3) On page 32, line 4 of the bill, strike "2007" and substitute "2006".

(4) Strike ARTICLE 5 of the bill (committee printing page 33, lines 30 through 58) and substitute the following:

ARTICLE 5. BUSINESS TAX REVIEW COMMISSION

SECTION 5.01. (a) The business tax review commission is composed of:

(1) five public members appointed by the governor;

(2) two public members and three members of the senate appointed by the lieutenant governor; and

(3) two public members and three members of the house of representatives appointed by the speaker of the house of representatives.

(b) The governor, lieutenant governor, and speaker of the house of representatives shall jointly select the chairman from among the members.

(c) The commission shall examine all aspects of the taxation of business in this state and shall recommend to the 80th Legislature a business tax structure that provides equity among businesses and among industries, promotes economic competitiveness with other states, and is fairly related to the benefits, opportunities, and protections provided to businesses by the state.

(d) The commission shall report its findings and recommendations to the 80th Legislature on or before January 9, 2007.

(e) On request of the commission, the legislative budget board, the legislative council, the governor's office, the senate, and the house of representatives shall provide staff and other resources necessary to carry out the duties of the commission.

(f) On request of the commission, the comptroller of public accounts shall provide information and assistance to the commission.

(g) The commission may issue a subpoena or other process to a witnesses at any place in this state, compel the attendance of the witness, and compel the production of a book, record, document or instrument that the commission requires. If necessary to obtain compliance with a subpoena or other process, the commission may issue a writ of attachment. A subpoena or other process issued by the commission may be addressed to and served by any peace officer of this state or any of its political

subdivisions. The chairman shall issue, in the name of the commission, a subpoena or other process as the commission directs. If the chairman is absent, the vice-chairman or any designee of the chairman may issue a subpoena or process in the same manner as the chairman. A witness attending proceedings of the commission under process is entitled to the same mileage and per diem as a witness before a grand jury in this state. The testimony given at any hearing conducted under this article shall be given under oath subject to the penalties of perjury. If a person disobeys a lawfully issued subpoena or other process, the commission may cite the person for contempt and cause the person to be prosecuted for contempt according to the procedure prescribed by Chapter 301, Government Code, or by other law.

(h) This section expires September 1, 2007.

(5) Add the following new ARTICLE, appropriately numbered, to read as follows:

ARTICLE __. PROFESSIONAL FEES

PART A. TEMPORARY INCREASE IN PROFESSIONAL FEES

SECTION __A.01. Section 153.053, Occupations Code, is amended to read as follows:

Sec. 153.053. SURCHARGE FOR CERTAIN FEES. (a) The board shall collect a fee surcharge as follows:

- (1) \$400 [~~\$200~~] for the license fee;
- (2) \$800 [~~\$400~~] for the first registration permit;
- (3) \$800 [~~\$400~~] for renewal of a registration permit; and
- (4) \$400 [~~\$200~~] for reinstatement of a license after cancellation for cause.

(b) Of each surcharge collected under Subsections (a)(1) and (4), the board shall deposit \$100 [~~\$50~~] to the credit of the foundation school fund and \$300 [~~\$150~~] to the credit of the general revenue fund.

(c) Of each surcharge collected under Subsections (a)(2) and (3), the board shall deposit \$200 [~~\$100~~] to the credit of the foundation school fund and \$600 [~~\$300~~] to the credit of the general revenue fund.

SECTION __A.02. Sections 201.153(b) and (c), Occupations Code, are amended to read as follows:

(b) Each of the following fees imposed under Subsection (a) is increased by \$400 [~~\$200~~]:

- (1) the fee for an annual renewal of a license;
- (2) the fee for issuance of a license to an out-of-state applicant;
- (3) the fee for an examination; and
- (4) the fee for a reexamination.

(c) For each \$400 [~~\$200~~] fee increase collected under Subsection (b), \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.03. Section 254.004(b), Occupations Code, is amended to read as follows:

(b) The amount of the dental application fee and dentist annual renewal fee is the amount set by the board under Subsection (a) and an additional charge of \$400 [~~\$200~~]. Of each fee increase collected under this subsection, \$100 [~~\$50~~] shall be deposited to the credit of the foundation school fund and \$300 [~~\$150~~] shall be deposited to the credit of the general revenue fund.

SECTION __A.04. Sections 351.153(a) and (b), Occupations Code, are amended to read as follows:

(a) The fee for the issuance of a license under this chapter and the fee for the renewal of a license under this chapter are the amounts of those fees set by the board under Section 351.152 and an additional fee of \$400 [~~\$200~~].

(b) Of each additional fee collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.05. Sections 501.153(a) and (b), Occupations Code, are amended to read as follows:

(a) The amount of the following fees is the amount set by the board under Section 501.152 and an additional charge of \$400 [~~\$200~~]:

- (1) the fee for renewing a license;
- (2) the fee for applying to take the provisional license examination; and
- (3) the fee for renewing a provisional license.

(b) Of each additional \$400 [~~\$200~~] collected, \$100 [~~\$50~~] shall be deposited to the credit of the foundation school fund and \$300 [~~\$150~~] shall be deposited to the credit of the general revenue fund.

SECTION __A.06. Sections 801.154(b) and (c), Occupations Code, are amended to read as follows:

(b) The license renewal fee set by the board under this chapter is the amount set by the board under Subsection (a) and an additional fee of \$400 [~~\$200~~].

(c) Of each additional fee collected under Subsection (b), \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.07. Section 901.406, Occupations Code, is amended to read as follows:

Sec. 901.406. FEE INCREASE. (a) The fee for the issuance of a certificate under this chapter and the fee for the issuance or renewal of a license under this chapter is the amount of the fee set by the board under Section 901.154 and a fee increase of \$400 [~~\$200~~].

(b) For each fee increase collected under this section, \$100 [~~\$50~~] shall be deposited to the credit of the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.08. Sections 1001.206(a) and (b), Occupations Code, are amended to read as follows:

(a) The fee for a license under this chapter, for the annual renewal of that license, and for a reciprocal license under this chapter is increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.09. Section 1051.652, Occupations Code, is amended to read as follows:

Sec. 1051.652. FEE INCREASE. (a) The fee for the issuance of a certificate to an applicant possessing a license or certificate to practice architecture in another state and the fee for the renewal of a certificate under this chapter are increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.10. Section 1052.0541, Occupations Code, is amended to read as follows:

Sec. 1052.0541. FEE INCREASE. (a) The fee for the issuance of a certificate of registration under this chapter and the fee for the renewal of a certificate of registration under this chapter is increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.11. Section 1053.0521, Occupations Code, is amended to read as follows:

Sec. 1053.0521. FEE INCREASE. (a) The fee for the issuance of a certificate of registration under this chapter and the fee for the renewal of a certificate of registration under this chapter is increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.12. Sections 1071.1521(a) and (b), Occupations Code, are amended to read as follows:

(a) The fee for the issuance of a certificate of registration to a registered professional land surveyor under this chapter and the fee for the renewal of a certificate of registration for a registered professional land surveyor under this chapter is increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.13. Section 1101.153, Occupations Code, is amended to read as follows:

Sec. 1101.153. FEE INCREASE. (a) The fee for filing an original application for an individual broker license and the fee for annual renewal of an individual broker license is the amount of the fee set by the commission under Section 1101.152 and a fee increase of \$400 [~~\$200~~].

(b) Of each fee increase collected under Subsection (a), \$100 [~~\$50~~] shall be deposited to the credit of the foundation school fund and \$300 [~~\$150~~] shall be deposited to the credit of the general revenue fund.

SECTION __A.14. Section 1152.053, Occupations Code, is amended to read as follows:

Sec. 1152.053. FEE INCREASE. (a) The fee for the registration of a person under this chapter and the fee for the renewal of a registration under this chapter is increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.15. Section 191.142(b), Tax Code, is amended to read as follows:

(b) The tax rate is \$400 [~~\$200~~] per year to be paid in advance.

SECTION __A.16. Section 41, The Securities Act (Article 581-41, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 41. INCREASE IN FEES. (a) Each of the following fees imposed by or under another section of this Act is increased by \$400 [~~\$200~~]:

(1) fee for filing any original application of a dealer or investment adviser or for submitting a notice filing for a federal covered investment adviser;

(2) fee for filing any renewal application of a dealer or investment adviser or for submitting a renewal notice filing for a federal covered investment adviser;

(3) fee for filing any original application for agent, officer, or investment adviser representative or for submitting a notice filing for an investment adviser representative of a federal covered investment adviser; and

(4) fee for filing any renewal application for agent, officer, or investment adviser representative or for submitting a renewal notice filing for an investment adviser representative of a federal covered investment adviser.

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited to the credit of the foundation school fund and \$300 [~~\$150~~] shall be deposited to the credit of the general revenue fund. This subsection applies to the disposition of each fee increase regardless of any other provision of law providing for a different disposition of funds.

SECTION __A.17. This part applies only to a fee imposed on or after the effective date of this part. A fee imposed before that date is governed by the law in effect on the date the fee is imposed, and that law is continued in effect for that purpose.

SECTION __A.18. This part takes effect September 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 November 1, 2005.

PART B. REPEAL OF TEMPORARY PROFESSIONAL FEES INCREASE

SECTION __B.01. Section 153.053, Occupations Code, is amended to read as follows:

Sec. 153.053. SURCHARGE FOR CERTAIN FEES. (a) The board shall collect a fee surcharge as follows:

(1) \$200 for the license fee;

(2) \$400 for the first registration permit;

(3) \$400 for renewal of a registration permit; and

(4) \$200 for reinstatement of a license after cancellation for cause.

(b) Of each surcharge collected under Subsections (a)(1) and (4), the board shall deposit \$50 to the credit of the foundation school fund and \$150 to the credit of the general revenue fund.

(c) Of each surcharge collected under Subsections (a)(2) and (3), the board shall deposit \$100 to the credit of the foundation school fund and \$300 to the credit of the general revenue fund.

SECTION __B.02. Sections 201.153(b) and (c), Occupations Code, are amended to read as follows:

(b) Each of the following fees imposed under Subsection (a) is increased by \$200:

- (1) the fee for an annual renewal of a license;
- (2) the fee for issuance of a license to an out-of-state applicant;
- (3) the fee for an examination; and
- (4) the fee for a reexamination.

(c) For each \$200 fee increase collected under Subsection (b), \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

SECTION __B.03. Section 254.004(b), Occupations Code, is amended to read as follows:

(b) The amount of the dental application fee and dentist annual renewal fee is the amount set by the board under Subsection (a) and an additional charge of \$200. Of each fee increase collected under this subsection, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund.

SECTION __B.04. Sections 351.153(a) and (b), Occupations Code, are amended to read as follows:

(a) The fee for the issuance of a license under this chapter and the fee for the renewal of a license under this chapter are the amounts of those fees set by the board under Section 351.152 and an additional fee of \$200.

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

SECTION __B.05. Sections 501.153(a) and (b), Occupations Code, are amended to read as follows:

(a) The amount of the following fees is the amount set by the board under Section 501.152 and an additional charge of \$200:

- (1) the fee for renewing a license;
- (2) the fee for applying to take the provisional license examination; and
- (3) the fee for renewing a provisional license.

(b) Of each additional \$200 collected, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund.

SECTION __B.06. Sections 801.154(b) and (c), Occupations Code, are amended to read as follows:

(b) The license renewal fee set by the board under this chapter is the amount set by the board under Subsection (a) and an additional fee of \$200.

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

SECTION __B.07. Section 901.406, Occupations Code, is amended to read as follows:

Sec. 901.406. FEE INCREASE. (a) The fee for the issuance of a certificate under this chapter and the fee for the issuance or renewal of a license under this chapter is the amount of the fee set by the board under Section 901.154 and a fee increase of \$200.

(b) For each fee increase collected under this section, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited in the general revenue fund.

SECTION __B.08. Sections 1001.206(a) and (b), Occupations Code, are amended to read as follows:

(a) The fee for a license under this chapter, for the annual renewal of that license, and for a reciprocal license under this chapter is increased by \$200.

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

SECTION __B.09. Section 1051.652, Occupations Code, is amended to read as follows:

Sec. 1051.652. FEE INCREASE. (a) The fee for the issuance of a certificate to an applicant possessing a license or certificate to practice architecture in another state and the fee for the renewal of a certificate under this chapter are increased by \$200.

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

SECTION __B.10. Section 1052.0541, Occupations Code, is amended to read as follows:

Sec. 1052.0541. FEE INCREASE. (a) The fee for the issuance of a certificate of registration under this chapter and the fee for the renewal of a certificate of registration under this chapter is increased by \$200.

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

SECTION __B.11. Section 1053.0521, Occupations Code, is amended to read as follows:

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

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

SECTION __B.12. Sections 1071.1521(a) and (b), Occupations Code, are amended to read as follows:

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

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

SECTION __B.13. Section 1101.153, Occupations Code, is amended to read as follows:

Sec. 1101.153. FEE INCREASE. (a) The fee for filing an original application for an individual broker license and the fee for annual renewal of an individual broker license is the amount of the fee set by the commission under Section 1101.152 and a fee increase of \$200.

(b) Of each fee increase collected under Subsection (a), \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund.

SECTION __B.14. Section 1152.053, Occupations Code, is amended to read as follows:

Sec. 1152.053. FEE INCREASE. (a) The fee for the registration of a person under this chapter and the fee for the renewal of a registration under this chapter is increased by \$200.

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

SECTION __B.15. Section 191.142(b), Tax Code, is amended to read as follows:

(b) The tax rate is \$200 per year to be paid in advance.

SECTION __B.16. Section 41, The Securities Act (Article 581-41, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 41. INCREASE IN FEES. (a) Each of the following fees imposed by or under another section of this Act is increased by \$200:

(1) fee for filing any original application of a dealer or investment adviser or for submitting a notice filing for a federal covered investment adviser;

(2) fee for filing any renewal application of a dealer or investment adviser or for submitting a renewal notice filing for a federal covered investment adviser;

(3) fee for filing any original application for agent, officer, or investment adviser representative or for submitting a notice filing for an investment adviser representative of a federal covered investment adviser; and

(4) fee for filing any renewal application for agent, officer, or investment adviser representative or for submitting a renewal notice filing for an investment adviser representative of a federal covered investment adviser.

(b) Of each fee increase collected, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund. This subsection applies to the disposition of each fee increase regardless of any other provision of law providing for a different disposition of funds.

SECTION __B.17. This part applies only to a fee imposed on or after the effective date of this part. A fee imposed before that date is governed by the law in effect on the date the fee is imposed, and that law is continued in effect for that purpose.

SECTION __B.18. This part takes effect September 1, 2007.

BRIMER
JANEK

The amendment was read.

Senator Janek moved to postpone further consideration of Floor Amendment No. 1 to a time certain of 10:30 p.m. today.

The motion prevailed.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3** as follows:

(1) In SECTION 1.01 of the bill, proposed Subdivision (1), Subsection (d), Section 45.003, Education Code (committee printing, page 1, line 23), strike "\$1.05" and substitute "\$1.14".

(2) In SECTION 1.01 of the bill, proposed Paragraph (A), Subdivision (2), Subsection (d-1), Section 45.003, Education Code (committee printing, page 1, line 42), strike "\$1.11" and substitute "\$1.20".

(3) In SECTION 1.01 of the bill, proposed Subsection (e), Section 45.003, Education Code (committee printing, page 1, line 54), strike "\$1.11" and substitute "\$1.20".

(4) In SECTION 1.01 of the bill, proposed Subsection (e), Section 45.003, Education Code (committee printing, page 1, line 55), strike "\$1.11" and substitute "\$1.20".

(5) In SECTION 1.01 of the bill, proposed Subsection (e), Section 45.003, Education Code (committee printing, page 1, line 57), strike "\$1.05" and substitute "\$1.14".

(6) In SECTION 1.01 of the bill, proposed Subsection (e), Section 45.003, Education Code (committee printing, page 1, line 59), strike "\$1.05" and substitute "\$1.14".

(7) Add the following appropriately numbered article to the bill and renumber existing articles accordingly:

ARTICLE __. INCREASE IN RESIDENCE HOMESTEAD EXEMPTION FROM SCHOOL DISTRICT TAXATION

SECTION __.01. Section 11.13(b), Tax Code, is amended to read as follows:

(b) An adult is entitled to exemption from taxation by a school district of \$30,000 [~~\$15,000~~] of the appraised value of the adult's residence homestead, except that \$25,000 [~~\$10,000~~] of the exemption does not apply to an entity operating under former Chapter 17, 18, 25, 26, 27, or 28, Education Code, as those chapters existed on May 1, 1995, as permitted by Section 11.301, Education Code.

SECTION __.02. Section 11.26(a), Tax Code, is amended to read as follows:

(a) The tax officials shall appraise the property to which this section applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the amount of the tax as limited by this section, except as otherwise provided by this section. A school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older or on the residence homestead of an individual who is disabled, as defined by Section 11.13, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for the applicable exemption provided by Section 11.13(c) for an individual who is 65 years of age or older or is disabled. If the individual qualified

that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the same exemption for the next year, and if the school district taxes imposed on the residence homestead in the next year are less than the amount of taxes imposed in that first year, a school district may not subsequently increase the total annual amount of ad valorem taxes it imposes on the residence homestead above the amount it imposed in the year immediately following the first year for which the individual qualified that residence homestead for the same exemption, except as provided by Subsection (b). If the first tax year the individual qualified the residence homestead for the exemption provided by Section 11.13(c) for individuals 65 years of age or older or disabled was a tax year before the 2006 [~~1997~~] tax year, the amount of the limitation provided by this section is the amount of tax the school district imposed for the 2005 [~~1996~~] tax year less an amount equal to the amount determined by multiplying \$15,000 [~~\$10,000~~] times the tax rate of the school district for the 2006 [~~1997~~] tax year, plus any 2006 [~~1997~~] tax attributable to improvements made in 2005 [~~1996~~], other than improvements made to comply with governmental regulations or repairs.

SECTION __.03. Section 42.2511(a), Education Code, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, a school district is entitled to additional state aid to the extent that state aid under this chapter based on the determination of the school district's taxable value of property as provided under Subchapter M, Chapter 403, Government Code, does not fully compensate the district for ad valorem tax revenue lost due to:

(1) the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, or as proposed by the joint resolution to amend that section adopted by the 79th Legislature, 1st Called Session, 2005; and

(2) the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, or as proposed by the joint resolution to amend that section adopted by the 79th Legislature, 1st Called Session, 2005.

SECTION __.04. Section 403.302(j), Government Code, is amended to read as follows:

(j) For purposes of Section 42.2511, Education Code, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed on a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$5,000; ~~and~~

(2) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$15,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997; and

(3) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$30,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by the joint resolution to amend that section adopted by the 79th Legislature, 1st Called Session, 2005.

SECTION __.05. This article takes effect January 1, 2006, but only if the constitutional amendment proposed by the 79th Legislature, 1st Called Session, 2005, increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes from \$15,000 to \$30,000 and providing for a corresponding adjustment of the limitation on the amount of ad valorem taxes that may be imposed for those purposes on the homesteads of certain persons is approved by the voters. If that amendment is not approved by the voters, this article has no effect.

The amendment was read.

(Senator Armbrister in Chair)

Senator Wentworth offered the following amendment to Floor Amendment No. 2:

Floor Amendment No. 3

Amend Floor Amendment No. 2 to **CSHB 3** by striking the article on page 1, line 23 to page 4, line 27, and inserting the following appropriately numbered article:

ARTICLE __. INCREASE IN RESIDENCE HOMESTEAD EXEMPTION FROM
SCHOOL DISTRICT TAXATION

SECTION __. Section 11.13(b), Tax Code, is amended to read as follows:

(b) An adult is entitled to exemption from taxation by a school district of \$22,500 [~~\$15,000~~] of the appraised value of the adult's residence homestead, except that \$17,500 [~~\$10,000~~] of the exemption does not apply to an entity operating under former Chapter 17, 18, 25, 26, 27, or 28, Education Code, as those chapters existed on May 1, 1995, as permitted by Section 11.301, Education Code.

SECTION __. Section 11.26(a), Tax Code, is amended to read as follows:

(a) The tax officials shall appraise the property to which this section applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the amount of the tax as limited by this section, except as otherwise provided by this section. A school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older or on the residence homestead of an individual who is disabled, as defined by Section 11.13, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for the applicable exemption provided by Section 11.13(c) for an individual who is 65 years of age or older or is disabled. If the individual qualified that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the same exemption for the next year, and if the school district taxes imposed on the residence homestead in the next year are less than the amount of taxes imposed in that first year, a school district may not subsequently increase the total annual amount of ad valorem taxes it imposes on the residence homestead above the amount it imposed in the year immediately following the first year for which the individual qualified that residence homestead for the same

exemption, except as provided by Subsection (b). If the first tax year the individual qualified the residence homestead for the exemption provided by Section 11.13(c) for individuals 65 years of age or older or disabled was a tax year before the 2006 [~~1997~~] tax year, the amount of the limitation provided by this section is the amount of tax the school district imposed for the 2005 [~~1996~~] tax year less an amount equal to the amount determined by multiplying \$7,500 [~~\$10,000~~] times the tax rate of the school district for the 2006 [~~1997~~] tax year, plus any 2006 [~~1997~~] tax attributable to improvements made in 2005 [~~1996~~], other than improvements made to comply with governmental regulations or repairs.

SECTION __. Section 42.2511(a), Education Code, is amended to read as follows: (a) Notwithstanding any other provision of this chapter, a school district is entitled to additional state aid to the extent that state aid under this chapter based on the determination of the school district's taxable value of property as provided under Subchapter M, Chapter 403, Government Code, does not fully compensate the district for ad valorem tax revenue lost due to:

(1) the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, or as proposed by the joint resolution to amend that section adopted by the 79th Legislature, 1st Called Session, 2005; and (2) the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, or as proposed by the joint resolution to amend that section adopted by the 79th Legislature, 1st Called Session, 2005.

SECTION __. Section 403.302(j), Government Code, is amended to read as follows:

(j) For purposes of Section 42.2511, Education Code, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed on a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$5,000; ~~and~~

(2) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$15,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997; and

(3) a final value for each school district computed on: (A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$22,500; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by the joint resolution to amend that section adopted by the 79th Legislature, 1st Called Session, 2005.

SECTION __. This article takes effect January 1, 2006, but only if the constitutional amendment proposed by the 79th Legislature, 1st Called Session, 2005, increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes and providing for a corresponding adjustment of

the limitation on the amount of ad valorem taxes that may be imposed for those purposes on the homesteads of certain persons is approved by the voters. If that amendment is not approved by the voters, this Act has no effect.

The amendment was read.

On motion of Senator Barrientos, Floor Amendment No. 3 to Floor Amendment No. 2 to **CSHB 3** was tabled by the following vote: Yeas 17, Nays 12.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Ellis, Gallegos, Hinojosa, Janek, Lucio, Madla, Ogden, Shapleigh, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Lindsay, Nelson, Seliger, Shapiro, Wentworth.

Absent-excused: Carona, Staples.

Question — Shall Floor Amendment No. 2 to **CSHB 3** be adopted?

Senator Ogden moved to table Floor Amendment No. 2 to **CSHB 3**.

The motion was lost by the following vote: Yeas 12, Nays 17.

Yeas: Armbrister, Brimer, Estes, Fraser, Harris, Janek, Nelson, Ogden, Seliger, Shapiro, Wentworth, Williams.

Nays: Averitt, Barrientos, Deuell, Duncan, Ellis, Eltife, Gallegos, Hinojosa, Jackson, Lindsay, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Absent-excused: Carona, Staples.

Question recurring on the adoption of Floor Amendment No. 2 to **CSHB 3**, the amendment was adopted by the following vote: Yeas 21, Nays 8.

Yeas: Averitt, Barrientos, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lindsay, Lucio, Madla, Seliger, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Nays: Armbrister, Brimer, Janek, Nelson, Ogden, Shapiro, Wentworth, Williams.

Absent-excused: Carona, Staples.

The Presiding Officer, Senator Armbrister in Chair, laid out as postponed business Floor Amendment No. 1 to **CSHB 3**:

Floor Amendment No. 1

Amend **CSHB 3** as follows:

(1) Strike SECTION 1.01 of the bill and substitute the following:

SECTION 1.01. Section 45.003, Education Code, is amended by amending Subsection (d) and adding Subsections (d-1), (d-2), and (e) to read as follows:

(d) A proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate stated in the proposition, which may be not more than the sum of:

(1) \$1.10 [~~\$1.50~~] on the \$100 valuation of taxable property in the district; and

(2) \$0.15 on the \$100 valuation of taxable property in the district for enrichment, as authorized by an election as provided by Chapter 42[~~, stated in the proposition~~].

(d-1) Notwithstanding Subsection (d), for the following tax years, a proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate stated in the proposition, which may be not more than the sum of:

(1) for the 2005 tax year:

(A) \$1.30 on the \$100 valuation of taxable property in the district; and

(B) \$0.15 on the \$100 valuation of taxable property in the district for enrichment, as authorized by an election as provided by Chapter 42; and

(2) for the 2006 tax year:

(A) \$1.25 on the \$100 valuation of taxable property in the district; and

(B) \$0.15 on the \$100 valuation of taxable property in the district for enrichment, as authorized by an election as provided by Chapter 42.

(d-2) Subsection (d-1) and this subsection expire January 1, 2007.

(e) An election held before January 1, 2005, authorizing a maintenance tax at a rate of at least \$1.30 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.30 or less for the 2005 tax year. An election held before January 1, 2006, authorizing a maintenance tax at a rate of at least \$1.25 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.25 or less for the 2006 tax year. An election held before January 1, 2007, authorizing a maintenance tax at a rate of at least \$1.10 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.10 or less for the 2007 and subsequent tax years.

(2) Strike PART E of ARTICLE 2 of the bill (committee printing page 8, line 45, through page 27, line 47) and substitute the following:

PART E. REPEAL OF THE FRANCHISE TAX

SECTION 2E.01. Chapter 171, Tax Code, is repealed effective January 1, 2008.

(3) On page 32, line 4 of the bill, strike "2007" and substitute "2006".

(4) Strike ARTICLE 5 of the bill (committee printing page 33, lines 30 through 58) and substitute the following:

ARTICLE 5. BUSINESS TAX REVIEW COMMISSION

SECTION 5.01. (a) The business tax review commission is composed of:

(1) five public members appointed by the governor;

(2) two public members and three members of the senate appointed by the lieutenant governor; and

(3) two public members and three members of the house of representatives appointed by the speaker of the house of representatives.

(b) The governor, lieutenant governor, and speaker of the house of representatives shall jointly select the chairman from among the members.

(c) The commission shall examine all aspects of the taxation of business in this state and shall recommend to the 80th Legislature a business tax structure that provides equity among businesses and among industries, promotes economic competitiveness with other states, and is fairly related to the benefits, opportunities, and protections provided to businesses by the state.

(d) The commission shall report its findings and recommendations to the 80th Legislature on or before January 9, 2007.

(e) On request of the commission, the legislative budget board, the legislative council, the governor's office, the senate, and the house of representatives shall provide staff and other resources necessary to carry out the duties of the commission.

(f) On request of the commission, the comptroller of public accounts shall provide information and assistance to the commission.

(g) The commission may issue a subpoena or other process to a witnesses at any place in this state, compel the attendance of the witness, and compel the production of a book, record, document or instrument that the commission requires. If necessary to obtain compliance with a subpoena or other process, the commission may issue a writ of attachment. A subpoena or other process issued by the commission may be addressed to and served by any peace officer of this state or any of its political subdivisions. The chairman shall issue, in the name of the commission, a subpoena or other process as the commission directs. If the chairman is absent, the vice-chairman or any designee of the chairman may issue a subpoena or process in the same manner as the chairman. A witness attending proceedings of the commission under process is entitled to the same mileage and per diem as a witness before a grand jury in this state. The testimony given at any hearing conducted under this article shall be given under oath subject to the penalties of perjury. If a person disobeys a lawfully issued subpoena or other process, the commission may cite the person for contempt and cause the person to be prosecuted for contempt according to the procedure prescribed by Chapter 301, Government Code, or by other law.

(h) This section expires September 1, 2007.

(5) Add the following new ARTICLE, appropriately numbered, to read as follows:

ARTICLE __, PROFESSIONAL FEES

PART A. TEMPORARY INCREASE IN PROFESSIONAL FEES

SECTION __A.01. Section 153.053, Occupations Code, is amended to read as follows:

Sec. 153.053. SURCHARGE FOR CERTAIN FEES. (a) The board shall collect a fee surcharge as follows:

- (1) \$400 [~~\$200~~] for the license fee;
- (2) \$800 [~~\$400~~] for the first registration permit;
- (3) \$800 [~~\$400~~] for renewal of a registration permit; and
- (4) \$400 [~~\$200~~] for reinstatement of a license after cancellation for cause.

(b) Of each surcharge collected under Subsections (a)(1) and (4), the board shall deposit \$100 [~~\$50~~] to the credit of the foundation school fund and \$300 [~~\$150~~] to the credit of the general revenue fund.

(c) Of each surcharge collected under Subsections (a)(2) and (3), the board shall deposit \$200 [~~\$100~~] to the credit of the foundation school fund and \$600 [~~\$300~~] to the credit of the general revenue fund.

SECTION __A.02. Sections 201.153(b) and (c), Occupations Code, are amended to read as follows:

(b) Each of the following fees imposed under Subsection (a) is increased by \$400 [~~\$200~~]:

- (1) the fee for an annual renewal of a license;
- (2) the fee for issuance of a license to an out-of-state applicant;
- (3) the fee for an examination; and
- (4) the fee for a reexamination.

(c) For each \$400 [~~\$200~~] fee increase collected under Subsection (b), \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.03. Section 254.004(b), Occupations Code, is amended to read as follows:

(b) The amount of the dental application fee and dentist annual renewal fee is the amount set by the board under Subsection (a) and an additional charge of \$400 [~~\$200~~]. Of each fee increase collected under this subsection, \$100 [~~\$50~~] shall be deposited to the credit of the foundation school fund and \$300 [~~\$150~~] shall be deposited to the credit of the general revenue fund.

SECTION __A.04. Sections 351.153(a) and (b), Occupations Code, are amended to read as follows:

(a) The fee for the issuance of a license under this chapter and the fee for the renewal of a license under this chapter are the amounts of those fees set by the board under Section 351.152 and an additional fee of \$400 [~~\$200~~].

(b) Of each additional fee collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.05. Sections 501.153(a) and (b), Occupations Code, are amended to read as follows:

(a) The amount of the following fees is the amount set by the board under Section 501.152 and an additional charge of \$400 [~~\$200~~]:

- (1) the fee for renewing a license;
- (2) the fee for applying to take the provisional license examination; and
- (3) the fee for renewing a provisional license.

(b) Of each additional \$400 [~~\$200~~] collected, \$100 [~~\$50~~] shall be deposited to the credit of the foundation school fund and \$300 [~~\$150~~] shall be deposited to the credit of the general revenue fund.

SECTION __A.06. Sections 801.154(b) and (c), Occupations Code, are amended to read as follows:

(b) The license renewal fee set by the board under this chapter is the amount set by the board under Subsection (a) and an additional fee of \$400 [~~\$200~~].

(c) Of each additional fee collected under Subsection (b), \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.07. Section 901.406, Occupations Code, is amended to read as follows:

Sec. 901.406. FEE INCREASE. (a) The fee for the issuance of a certificate under this chapter and the fee for the issuance or renewal of a license under this chapter is the amount of the fee set by the board under Section 901.154 and a fee increase of \$400 [~~\$200~~].

(b) For each fee increase collected under this section, \$100 [~~\$50~~] shall be deposited to the credit of the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.08. Sections 1001.206(a) and (b), Occupations Code, are amended to read as follows:

(a) The fee for a license under this chapter, for the annual renewal of that license, and for a reciprocal license under this chapter is increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.09. Section 1051.652, Occupations Code, is amended to read as follows:

Sec. 1051.652. FEE INCREASE. (a) The fee for the issuance of a certificate to an applicant possessing a license or certificate to practice architecture in another state and the fee for the renewal of a certificate under this chapter are increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.10. Section 1052.0541, Occupations Code, is amended to read as follows:

Sec. 1052.0541. FEE INCREASE. (a) The fee for the issuance of a certificate of registration under this chapter and the fee for the renewal of a certificate of registration under this chapter is increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.11. Section 1053.0521, Occupations Code, is amended to read as follows:

Sec. 1053.0521. FEE INCREASE. (a) The fee for the issuance of a certificate of registration under this chapter and the fee for the renewal of a certificate of registration under this chapter is increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.12. Sections 1071.1521(a) and (b), Occupations Code, are amended to read as follows:

(a) The fee for the issuance of a certificate of registration to a registered professional land surveyor under this chapter and the fee for the renewal of a certificate of registration for a registered professional land surveyor under this chapter is increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.13. Section 1101.153, Occupations Code, is amended to read as follows:

Sec. 1101.153. FEE INCREASE. (a) The fee for filing an original application for an individual broker license and the fee for annual renewal of an individual broker license is the amount of the fee set by the commission under Section 1101.152 and a fee increase of \$400 [~~\$200~~].

(b) Of each fee increase collected under Subsection (a), \$100 [~~\$50~~] shall be deposited to the credit of the foundation school fund and \$300 [~~\$150~~] shall be deposited to the credit of the general revenue fund.

SECTION __A.14. Section 1152.053, Occupations Code, is amended to read as follows:

Sec. 1152.053. FEE INCREASE. (a) The fee for the registration of a person under this chapter and the fee for the renewal of a registration under this chapter is increased by \$400 [~~\$200~~].

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited in the foundation school fund and \$300 [~~\$150~~] shall be deposited in the general revenue fund.

SECTION __A.15. Section 191.142(b), Tax Code, is amended to read as follows:

(b) The tax rate is \$400 [~~\$200~~] per year to be paid in advance.

SECTION __A.16. Section 41, The Securities Act (Article 581-41, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 41. INCREASE IN FEES. (a) Each of the following fees imposed by or under another section of this Act is increased by \$400 [~~\$200~~]:

(1) fee for filing any original application of a dealer or investment adviser or for submitting a notice filing for a federal covered investment adviser;

(2) fee for filing any renewal application of a dealer or investment adviser or for submitting a renewal notice filing for a federal covered investment adviser;

(3) fee for filing any original application for agent, officer, or investment adviser representative or for submitting a notice filing for an investment adviser representative of a federal covered investment adviser; and

(4) fee for filing any renewal application for agent, officer, or investment adviser representative or for submitting a renewal notice filing for an investment adviser representative of a federal covered investment adviser.

(b) Of each fee increase collected, \$100 [~~\$50~~] shall be deposited to the credit of the foundation school fund and \$300 [~~\$150~~] shall be deposited to the credit of the general revenue fund. This subsection applies to the disposition of each fee increase regardless of any other provision of law providing for a different disposition of funds.

SECTION __A.17. This part applies only to a fee imposed on or after the effective date of this part. A fee imposed before that date is governed by the law in effect on the date the fee is imposed, and that law is continued in effect for that purpose.

SECTION __A.18. This part takes effect September 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 November 1, 2005.

PART B. REPEAL OF TEMPORARY PROFESSIONAL FEES INCREASE

SECTION __B.01. Section 153.053, Occupations Code, is amended to read as follows:

Sec. 153.053. SURCHARGE FOR CERTAIN FEES. (a) The board shall collect a fee surcharge as follows:

- (1) \$200 for the license fee;
- (2) \$400 for the first registration permit;
- (3) \$400 for renewal of a registration permit; and
- (4) \$200 for reinstatement of a license after cancellation for cause.

(b) Of each surcharge collected under Subsections (a)(1) and (4), the board shall deposit \$50 to the credit of the foundation school fund and \$150 to the credit of the general revenue fund.

(c) Of each surcharge collected under Subsections (a)(2) and (3), the board shall deposit \$100 to the credit of the foundation school fund and \$300 to the credit of the general revenue fund.

SECTION __B.02. Sections 201.153(b) and (c), Occupations Code, are amended to read as follows:

(b) Each of the following fees imposed under Subsection (a) is increased by \$200:

- (1) the fee for an annual renewal of a license;
- (2) the fee for issuance of a license to an out-of-state applicant;
- (3) the fee for an examination; and
- (4) the fee for a reexamination.

(c) For each \$200 fee increase collected under Subsection (b), \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

SECTION __B.03. Section 254.004(b), Occupations Code, is amended to read as follows:

(b) The amount of the dental application fee and dentist annual renewal fee is the amount set by the board under Subsection (a) and an additional charge of \$200. Of each fee increase collected under this subsection, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund.

SECTION __B.04. Sections 351.153(a) and (b), Occupations Code, are amended to read as follows:

(a) The fee for the issuance of a license under this chapter and the fee for the renewal of a license under this chapter are the amounts of those fees set by the board under Section 351.152 and an additional fee of \$200.

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

SECTION __B.05. Sections 501.153(a) and (b), Occupations Code, are amended to read as follows:

(a) The amount of the following fees is the amount set by the board under Section 501.152 and an additional charge of \$200:

- (1) the fee for renewing a license;
- (2) the fee for applying to take the provisional license examination; and
- (3) the fee for renewing a provisional license.

(b) Of each additional \$200 collected, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund.

SECTION __B.06. Sections 801.154(b) and (c), Occupations Code, are amended to read as follows:

(b) The license renewal fee set by the board under this chapter is the amount set by the board under Subsection (a) and an additional fee of \$200.

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

SECTION __B.07. Section 901.406, Occupations Code, is amended to read as follows:

Sec. 901.406. FEE INCREASE. (a) The fee for the issuance of a certificate under this chapter and the fee for the issuance or renewal of a license under this chapter is the amount of the fee set by the board under Section 901.154 and a fee increase of \$200.

(b) For each fee increase collected under this section, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited in the general revenue fund.

SECTION __B.08. Sections 1001.206(a) and (b), Occupations Code, are amended to read as follows:

(a) The fee for a license under this chapter, for the annual renewal of that license, and for a reciprocal license under this chapter is increased by \$200.

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

SECTION __B.09. Section 1051.652, Occupations Code, is amended to read as follows:

Sec. 1051.652. FEE INCREASE. (a) The fee for the issuance of a certificate to an applicant possessing a license or certificate to practice architecture in another state and the fee for the renewal of a certificate under this chapter are increased by \$200.

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

SECTION __B.10. Section 1052.0541, Occupations Code, is amended to read as follows:

Sec. 1052.0541. FEE INCREASE. (a) The fee for the issuance of a certificate of registration under this chapter and the fee for the renewal of a certificate of registration under this chapter is increased by \$200.

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

SECTION __B.11. Section 1053.0521, Occupations Code, is amended to read as follows:

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

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

SECTION __B.12. Sections 1071.1521(a) and (b), Occupations Code, are amended to read as follows:

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

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

SECTION __B.13. Section 1101.153, Occupations Code, is amended to read as follows:

Sec. 1101.153. FEE INCREASE. (a) The fee for filing an original application for an individual broker license and the fee for annual renewal of an individual broker license is the amount of the fee set by the commission under Section 1101.152 and a fee increase of \$200.

(b) Of each fee increase collected under Subsection (a), \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund.

SECTION __B.14. Section 1152.053, Occupations Code, is amended to read as follows:

Sec. 1152.053. FEE INCREASE. (a) The fee for the registration of a person under this chapter and the fee for the renewal of a registration under this chapter is increased by \$200.

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

SECTION __B.15. Section 191.142(b), Tax Code, is amended to read as follows:

(b) The tax rate is \$200 per year to be paid in advance.

SECTION __B.16. Section 41, The Securities Act (Article 581-41, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 41. INCREASE IN FEES. (a) Each of the following fees imposed by or under another section of this Act is increased by \$200:

(1) fee for filing any original application of a dealer or investment adviser or for submitting a notice filing for a federal covered investment adviser;

(2) fee for filing any renewal application of a dealer or investment adviser or for submitting a renewal notice filing for a federal covered investment adviser;

(3) fee for filing any original application for agent, officer, or investment adviser representative or for submitting a notice filing for an investment adviser representative of a federal covered investment adviser; and

(4) fee for filing any renewal application for agent, officer, or investment adviser representative or for submitting a renewal notice filing for an investment adviser representative of a federal covered investment adviser.

(b) Of each fee increase collected, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be deposited to the credit of the general revenue fund. This subsection applies to the disposition of each fee increase regardless of any other provision of law providing for a different disposition of funds.

SECTION __B.17. This part applies only to a fee imposed on or after the effective date of this part. A fee imposed before that date is governed by the law in effect on the date the fee is imposed, and that law is continued in effect for that purpose.

SECTION __B.18. This part takes effect September 1, 2007.

BRIMER

JANEK

Question — Shall Floor Amendment No. 1 to **CSHB 3** be adopted?

Senator Brimer offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 1A

Amend Floor Amendment No. 1 to **CSHB 3** as follows:

(1) On page 3 of the amendment, strike lines 1-2 and substitute the following:

"(3) Strike page 31, line 65, through page 32, line 4, and substitute the following:

"SECTION 4A.01. Effective September 1, 2005, Section".

(2) On page 2, line 29 of the amendment, strike "repealed" and substitute "sunset".

(3) Delete Item 5 (amendment page 4, line 28, through page 17, line 7).

The amendment to Floor Amendment No. 1 to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1A except as follows:

Absent-excused: Carona, Staples.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 3**, the amendment as amended was adopted by the following vote: Yeas 14, Nays 14, Present-not voting 1. (The President announced he would vote "Yea" on the adoption of the amendment as amended.)

Yeas: Armbrister, Brimer, Deuell, Eltife, Estes, Fraser, Harris, Jackson, Janek, Nelson, Seliger, Shapiro, Wentworth, Williams.

Nays: Averitt, Barrientos, Duncan, Ellis, Gallegos, Hinojosa, Lindsay, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Present-not voting: Ogden.

Absent-excused: Carona, Staples.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3** (committee report) as follows:

(1) Insert the following appropriately numbered section and renumbering the subsequent sections accordingly:

Sec. ____ FUNDING FOR DEBT SERVICE TAX RELIEF. A portion of the funds from the revenues generated by this Act shall be used for the following purposes:

(1) a total of \$150,000,000 shall be appropriated to the Texas Education Agency for the purpose of new awards under the Instructional Facilities Allotment Program;

(2) funds previously appropriated for the extension of the Existing Debt Allotment for payment on bonds on which initial payment was made after the 2002-2003 school year shall be replaced with revenues generated by this Act.

(2) On page 1, line 36, strike "\$1.30" and substitute "\$1.31".

(3) On page 1, line 42, strike "\$1.11" and substitute "\$1.13".

(4) On page 1, line 50, strike "\$1.30" and substitute "\$1.31".

(5) On page 1, line 52, strike "\$1.30" and substitute "\$1.31".

(6) On page 1, line 54, strike "\$1.11" and substitute "\$1.13".

(7) On page 1, line 55, strike "\$1.11" and substitute "\$1.13".

LUCIO
SHAPLEIGH
VAN DE PUTTE
ZAFFIRINI

The amendment was read.

Senator Lucio moved to postpone further consideration of Floor Amendment No. 4 to a time certain of 11:30 p.m. today.

The motion prevailed.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 3** in ARTICLE 1 of the bill by adding the following PART, appropriately lettered, to read as follows:

PART ____ . PROPERTY TAX RELIEF FOR RESIDENTIAL TENANTS

SECTION 1_.01. Title 1, Tax Code, is amended by adding Chapter 61 to read as follows:

CHAPTER 61. PROPERTY TAX RELIEF FOR RESIDENTIAL TENANTS

Sec. 61.001. PURPOSE. The purpose of this chapter is to ensure that residential rental tenants receive direct and immediate benefit from reductions in local school district ad valorem taxes until the benefit of that tax relief is fully reflected in rental

rates through free market competition and that every residential landlord gives a monthly rent credit or rebate, at the landlord's option, to each tenant who is renting a residential dwelling unit in this state during 2006, 2007, and 2008.

Sec. 61.002. DEFINITIONS. In this chapter:

(1) "Landlord" means the owner, lessor, or sublessor of a dwelling unit, but does not include a manager or agent of the landlord unless the manager or agent purports to be the owner, lessor, or sublessor in a written or oral lease.

(2) "Lease" means a written or oral agreement between a landlord and tenant that establishes or modifies the terms, conditions, rules, or other provisions regarding the use and occupancy of a dwelling unit.

(3) "Multifamily rental dwelling property" means a multiunit residential property with two or more rental dwelling units. The term includes a duplex, apartment building, dormitory, manufactured housing community, retirement center or community, and assisted living center and any other multiunit rental residential property subject to local school district ad valorem taxes.

(4) "Rent" includes the total amount charged by a landlord, or by a person on the landlord's behalf, for the use and occupancy of a dwelling unit. The term does not include a refundable security deposit.

(5) "Rental dwelling unit" means one or more rooms rented for use as a permanent residence under a single lease to one or more tenants.

(6) "Tenant" means an individual who is authorized by a lease to occupy a dwelling to the exclusion of others other than cotenants and who is obligated under the lease to pay rent.

Sec. 61.003. APPLICABILITY. (a) This chapter applies only to a rental dwelling unit or multifamily rental dwelling property that is subject to ad valorem taxation by a school district.

(b) This chapter does not apply to a temporary residential tenancy created by a contract of sale under which the buyer is entitled to occupy the property before closing or the seller is entitled to occupy the property after closing for a term of not more than 90 days.

Sec. 61.004. CREDIT OR REBATE TO TENANT OF LANDLORD'S PROPERTY TAX SAVINGS. A landlord shall provide each of the landlord's tenants with a monthly credit or rebate on the tenant's rent to reflect a portion of the landlord's school district ad valorem tax savings for 2006, 2007, and 2008.

Sec. 61.005. NOTICE BY CHIEF APPRAISERS. (a) On or before December 1, 2005, or as soon as practicable after that date, the chief appraiser of each appraisal district shall send to all residential property owners a notice describing the requirements of this chapter. The notice shall contain language substantially similar to the following:

"Due to the property tax relief law approved by the 79th Texas Legislature, residential landlords are required to pass along school district ad valorem tax savings to their tenants under all leases in effect as of January 1, 2006, and for all leases entered into in 2006, 2007, and 2008. These savings must be provided to tenants by giving a monthly rent credit or rebate that reflects a portion of the property tax savings on school property taxes. Failure to comply with this law could result in severe penalties, including a civil penalty of \$100, treble damages, and attorney's fees.

Information on complying with this law is available by contacting the (name, address, and telephone number of appraisal district) or by contacting the Texas Comptroller of Public Accounts by calling 1-800-252-5555."

(b) The notice required under Subsection (a) may be sent to property owners as part of another communication sent by the appraisal district under Section 31.01 and is not required to be sent to property owners as a separate communication.

(c) In December 2005, each appraisal district shall place at least one advertisement monthly in a newspaper of general circulation in the county for which the appraisal district is established. The advertisement shall be in 14-point or larger type and contain language substantially similar to the language prescribed by Subsection (a).

Sec. 61.006. TECHNICAL ASSISTANCE BY COMPTROLLER. (a) Not later than December 1, 2005, the comptroller shall develop materials in plain language to assist landlords in complying with this chapter. The materials shall be printed in both English and Spanish and copies shall be sent to each appraisal district on or before December 15, 2005. A copy of the materials shall be provided without cost to any property owner on request.

(b) The comptroller shall provide necessary technical assistance to appraisal districts and landlords in complying with this chapter.

Sec. 61.007. TAX SAVINGS CALCULATIONS BY LANDLORDS. (a) For each year to which this chapter applies, a landlord shall determine the monthly school district ad valorem tax savings payable to the landlord's tenants as follows:

(1) the monthly rent credit or rebate for a single-family rental dwelling unit is equal to 6.25 percent of the difference between the amount of school district ad valorem taxes imposed on the dwelling unit for the preceding year and the amount of the school district ad valorem taxes that would have been imposed on that dwelling unit for that year if the dwelling unit had been taxed at a school district maintenance and operations tax rate of cents plus the school district enrichment tax rate in that tax year per \$100 of taxable value; and

(2) the monthly rent credit or rebate for a rental dwelling unit in a multifamily rental dwelling property is equal to 6.25 percent of the difference between the amount of school district ad valorem taxes imposed on the dwelling property for the preceding year and the amount of the school district ad valorem taxes that would have been imposed on that dwelling property for that year if the dwelling property had been taxed at a school district maintenance and operations tax rate of \$ per \$100 of taxable value, multiplied by the square footage in the tenant's dwelling unit, and divided by the total net rentable square footage of all rental dwelling units in the multifamily rental dwelling property.

(b) The amount of the rent credit or rebate under Subsection (a) shall be calculated on a per-dwelling-unit basis and not on a per-tenant basis.

(c) If the amount of the rent credit or rebate calculated under Subsection (a) is less than zero, the rent credit or rebate is zero.

Sec. 61.008. DATE OF REQUIRED CREDIT OR REBATE. (a) If a landlord gives a monthly credit to a tenant under this chapter, the landlord shall give the credit on the due date for each month's rent.

(b) If a landlord pays a monthly rent rebate to the tenant, the landlord shall pay the rebate not later than the 10th day after the date the tenant pays the entire rent due for the month. A landlord is presumed to have timely paid a rebate if the rebate is placed in the United States mail and postmarked on or before that date.

(c) If the tenant's rent is payable weekly, the amount of the weekly credit or rebate is equal to 1/52 of the credit or rebate for the entire year.

Sec. 61.009. LANDLORD'S NOTICE TO TENANTS. (a) In connection with each lease agreement for a rental dwelling unit entered into before January 1, 2006, that has not terminated or expired as of that date, the landlord shall provide a notice to each tenant on or before January 5, 2006, in boldface, 14-point or larger type, that substantially states the following:

"NOTICE OF TAX SAVINGS ON RENT

"Your current monthly rent on (insert unit number or street address) is \$ _____ (insert amount of rent).

"Because of the property tax relief law passed by the 79th Texas Legislature in 2005, the amount of school district property taxes for your dwelling unit has been reduced by _____ (insert percentage savings) percent for 2006. The property tax relief law provides that the property owner must pass along tax savings to you and other tenants until sufficient time has elapsed for the tax relief to be fully reflected in rental rates through free market competition.

"Accordingly, you will receive a rent credit (or rebate check) of \$ _____ (insert monthly prorated amount) for the current month of January and for each month thereafter until the date your current lease expires or December 31, 2008, whichever date is first. If the amount of taxes imposed on your dwelling unit is not increased or decreased, the cumulative amount of property tax savings that will be passed on to you during the term of your lease as a result of the 2005 property tax relief legislation is projected to be \$ _____ (insert cumulative savings for the unit for the term of the lease).

"This means the net rent you will be paying for this month and each subsequent month under your current lease will be \$ _____ (insert net rent rate), and your rent should also be lower if you enter into a new lease for any rental dwelling unit in Texas any time in 2006, 2007, or 2008, through the date your new lease term expires or December 31, 2008, whichever date is earlier.

"If you have any questions about this new law, please contact the _____ County Appraisal District at (insert address and main phone number of the appraisal district established for the county in which the rental dwelling unit is located)."

(b) In connection with each lease agreement for a rental dwelling unit entered into in 2006, 2007, or 2008, the landlord shall provide a notice to each tenant at the time the lease is signed, in boldface, 14-point or larger type, that substantially states the following:

"NOTICE OF TAX SAVINGS ON RENT

"Your current monthly rent on (insert unit number or street address) is \$ _____ (insert amount of rent).

"Because of the property tax relief law passed by the 79th Texas Legislature in 2005, the amount of school district property taxes for your dwelling unit has been reduced by _____ (insert percentage savings) percent for 2006 (or 2007 or 2008). The

property tax relief law provides that the property owner must pass along tax savings to you and other tenants until sufficient time has elapsed for the tax relief to be fully reflected in rental rates through free market competition.

"Accordingly, you will receive a rent credit (or rebate check) of \$ _____ (insert monthly prorated amount) for the current month and for each month thereafter until the date your current lease expires or December 31, 2008, whichever date is first. If the amount of taxes imposed on your dwelling unit is not increased or decreased, the cumulative amount of property tax savings that will be passed on to you during the term of your lease as a result of the 2005 property tax relief legislation is projected to be \$ _____ (insert cumulative savings for the unit for the term of the lease).

"This means the net rent you will be paying for this month and each subsequent month under your current lease will be \$ _____ (insert net rent rate), and your rent should also be lower if you enter into a new lease for any rental dwelling unit in Texas any time in 2006, 2007, or 2008, through the date your new lease term expires or December 31, 2008, whichever date is earlier.

"If you have any questions about this new law, please contact the _____ County Appraisal District at (insert address and main phone number of the appraisal district established for the county in which the rental dwelling unit is located)."

(c) The notice required by Subsections (a) and (b) shall be translated and printed in English and Spanish. A notice provided by a landlord under this section must be provided in both languages if the rental dwelling unit is located in a county in which the Hispanic population exceeds 25 percent of the total population of that county according to the most recent federal census information available.

Sec. 61.010. CREDIT OR REBATE FOR MULTIPLE TENANTS. If two or more tenants are on a lease for the same rental dwelling unit, the credit or rebate under this chapter shall be provided jointly to all tenants renting the dwelling.

Sec. 61.011. PENALTIES. (a) A landlord who fails to comply with this chapter is liable to the affected tenant for a civil penalty of \$100 and treble the amount of any required rent credit or rebate that was not provided to the tenant.

(b) In a suit involving the payment of a rent credit or rebate, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

Sec. 61.012. TAX APPRAISALS. In tax years 2006-2008, a chief appraiser or an appraisal district may not consider a reduction of school district ad valorem taxes attributable to this chapter in any determination of the appraised value of a rental dwelling unit, real property containing a rental dwelling unit, or a multifamily rental dwelling property.

Sec. 61.013. COMPTROLLER STUDY. (a) The comptroller shall issue a preliminary report not later than March 1, 2007, if sufficient data is available, and shall issue a final report not later than December 1, 2008, to the governor, the lieutenant governor, and the speaker of the house of representatives on the implementation, administration, and effect of this chapter, including findings as to the following:

(1) the impact of property tax relief on rental rates throughout this state considering competitive market conditions, new construction, operating expenses, and other relevant factors impacting rental rates;

(2) the number of civil actions filed by tenants against landlords to enforce the provisions of this chapter and the type of properties owned by those landlords;

(3) the number and amount of civil penalties levied against landlords for noncompliance with this chapter and the type of properties owned by those landlords;

(4) the administrative costs associated with this chapter incurred by the comptroller, appraisal districts, and landlords; and

(5) any effect of reduced school district ad valorem tax rates on increasing the supply of affordable housing for purchase or rent by a person for use as a dwelling.

(b) In preparing the report, the comptroller shall consider the need to recommend alternative methods for providing school district ad valorem tax relief to persons who rent their homes.

Sec. 61.014. EXPIRATION. This chapter expires January 1, 2009.

SECTION 1_.02. Chapter 1, Tax Code, is amended by adding Section 1.16 to read as follows:

Sec. 1.16. LANDLORD LIABILITY FOR RESIDENTIAL TENANT'S PROPERTY TAX RELIEF. The expiration of Chapter 61 does not affect the liability of a landlord or other person for any amount arising under Chapter 61 before the expiration, and the law governing that liability remains in effect notwithstanding the expiration for purposes of enforcing or satisfying the liability.

The amendment was read.

On motion of Senator Ogden, Floor Amendment No. 5 to **CSHB 3** was tabled by the following vote: Yeas 17, Nays 12.

Yeas: Armbrister, Averitt, Brimer, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Wentworth, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Jackson, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Absent-excused: Carona, Staples.

Senator Lindsay, on behalf of Senator Staples, offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 3** (Senate committee printing) by adding the following ARTICLE, appropriately numbered, and renumbering the subsequent ARTICLES of the bill appropriately:

ARTICLE __. PROPERTY TAX PROCEDURES

SECTION __.01. Section 41.66, Tax Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) Except as provided by Subsection (d-1), hearings [~~Hearings~~] conducted as provided by this chapter are open to the public. The appraisal review board by rule may permit a person who is not a party to a hearing but who is entitled to be present at the hearing to make an audiovisual recording of the hearing on agreement of the parties to the hearing.

(d-1) A hearing in which information made confidential under Section 22.27 is disclosed shall be closed to any person who is not authorized by that section to have access to the information.

SECTION __.02. The change in law to Section 41.66, Tax Code, as amended by this article, applies only to a hearing under Chapter 41, Tax Code, that is conducted by an appraisal review board on or after the effective date of this Act.

The amendment was read.

On motion of Senator Ogden, Floor Amendment No. 6 to **CSHB 3** was tabled by the following vote: Yeas 25, Nays 4.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hinojosa, Jackson, Janek, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Williams.

Nays: Deuell, Harris, Lindsay, Zaffirini.

Absent-excused: Carona, Staples.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 3** by adding an appropriately numbered SECTION of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

Section ____. Subsection (a), Section 23.101, Government Code, is amended to read as follows:

(a) The trial courts of this state shall regularly and frequently set hearings and trials of pending matters, giving preference to hearings and trials of the following:

(1) temporary injunctions;

(2) criminal actions, with the following actions given preference over other criminal actions:

(A) criminal actions against defendants who are detained in jail pending trial;

(B) criminal actions involving a charge that a person committed an act of family violence, as defined by Section 71.004, Family Code; and

(C) an offense under:

(i) Section 21.11, Penal Code;

(ii) Chapter 22, Penal Code, if the victim of the alleged offense is younger than 17 years of age;

(iii) Section 25.02, Penal Code, if the victim of the alleged offense is younger than 17 years of age; or

(iv) Section 25.06, Penal Code;

(3) election contests and suits under the Election Code;

(4) orders for the protection of the family under Subtitle B, Title 4, Family Code;

(5) appeals of final rulings and decisions of the Texas Workers' Compensation Commission and claims under the Federal Employers' Liability Act and the Jones Act; ~~and~~

(6) appeals of final orders of the commissioner of the General Land Office under Section 51.3021, Natural Resources Code; and
(7) appeals of appraisal review board orders brought under Section 42.01, 42.02, or 42.015, Tax Code.

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Absent-excused: Carona, Staples.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 3** by adding the following section to the bill, appropriately numbered, and renumbering existing sections accordingly:

SECTION __. (a) Section 21.02, Tax Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsections [Subsection] (b) and (d) and by Sections 21.021, 21.04, and 21.05, tangible personal property is taxable by a taxing unit if:

- (1) it is located in the unit on January 1 for more than a temporary period;
- (2) it normally is located in the unit, even though it is outside the unit on January 1, if it is outside the unit only temporarily;
- (3) it normally is returned to the unit between uses elsewhere and is not located in any one place for more than a temporary period; or
- (4) the owner resides (for property not used for business purposes) or maintains the owner's [his] principal place of business in this state (for property used for business purposes) in the unit and the property is taxable in this state but does not have a taxable situs pursuant to Subdivisions (1) through (3) of this section.

(d) This subsection does not apply to a drilling rig designed for offshore drilling or exploration operations. A mobile portable drilling rig, and equipment associated with the drilling rig, is taxable by the taxing unit in which the rig is located on January 1 if the rig was located in the appraisal district that appraises property for the unit for the preceding 365 consecutive days. If the rig and associated equipment was not located in the appraisal district where it is located on January 1 for the preceding 365 days, it is taxable by the taxing unit in which the owner's principal place of business in this state is located on January 1.

(b) Section 21.02, Tax Code, as amended by Subsection (a) of this section, applies only to an ad valorem tax year that begins on or after January 1, 2006.

(c) This section takes effect January 1, 2006.

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8 except as follows:

Absent-excused: Carona, Staples.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSHB 3** by adding the following appropriately numbered SECTION:

SECTION _____. Section 23.12, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) In this subsection, "drug supplies held in surplus" means drugs, as defined by the TEXAS FOOD, DRUG AND COSMETIC ACT, Section 431.002(14), Health and Safety Code, that are owned by a person who holds a wholesale drug distributor license under Chapter 431, for use in responding to public emergencies, including trauma-related incidents, and that are held for less than sixty-(60) days, but only that percentage of the owner's inventory necessary to treat victims of public emergencies by attending physicians or other emergency health care personnel. In determining the market value of drug supplies held in surplus, the chief appraiser shall exclude as economic obsolescence from the market value the value attributable to drug supplies held in surplus that exceed the amount of drugs held for normal market purposes. For rendition purposes, in calculating the number of days drug supplies held in surplus are held in an inventory, the owner shall quantify the average number of days of the owner's day-to-day working inventory (cycle stock) that the owner holds to meet normal customer demand and shall subtract that number of days from the average number of days the owner holds the owner's total drug inventory. When the owner renders the owner's total drug inventory, the owner shall include information sufficient to establish the validity of the owner's calculations under this subsection. Notwithstanding any other provision of this subsection, the percentage of an owner's drug supplies held in surplus inventory may not exceed three-(3) days of the owner's total inventory of drugs as defined by the TEXAS FOOD, DRUG and COSMETIC ACT, Section 431.002(14), Health and Safety Code

The amendment to **CSHB 3** was read and was adopted by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Duncan, Estes, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Madla, Nelson, Ogden, Shapiro, Van de Putte, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Deuell, Ellis, Eltife, Fraser, Lucio, Seliger, Shapleigh, West.

Absent-excused: Carona, Staples.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 10

Amend **CSHB 3** by adding new Subsection (9) to Section 171.001(b) (committee printing page 2, between lines 55 and 56),

(9) "Trust" does not include a trust or other financial assurance arrangement as required and approved by the U.S. Nuclear Regulatory Commission for the provision of decommissioning costs.

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 10 except as follows:

Absent-excused: Carona, Staples.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 11

Amend **CSHB 3** as follows:

In Article 2, Franchise Tax, page 6, Section 2C.02, Section 171.103, Tax Code, DETERMINATION OF GROSS RECEIPTS FROM BUSINESS DONE IN THIS STATE FOR TAXABLE CAPITAL., Subsection (2), insert the following between "state" and ";": except that receipts derived from servicing of loans secured by real property are in this state if the payor is located in this state

AND

On page 6, Section 2C.03, Section 171.1032, Tax Code, Subsection (2), insert the following between "state" and ";": except that receipts derived from servicing loans secured by real property are in this state if the payor is located in this state

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 11 except as follows:

Nays: Shapleigh.

Absent-excused: Carona, Staples.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 12

Amend **CSHB 3** as follows:

(1) On page 7, line 23, strike "or".

(2) On page 7, line 29, strike the period and Substitute: "or

(3) during the period on which earned surplus is based, the corporation received the amount from a person or entity that is not a related party, and on behalf of that unrelated person or entity, paid that amount to the related party in an arm's length transaction."

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 12 except as follows:

Absent-excused: Carona, Staples.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 13

Amend **CSHB 3** as follows:

(1) Strike SECTION 2A.09, page 4, lines 17-18, of the bill and insert a new section as follows:

"This part takes effect January 1, 2006, and applies to reports originally due after May 15, 2006."

(2) Strike PART D, page 8, lines 6-44, of the bill and renumber accordingly.

The amendment was read.

Senator Jackson offered the following amendment to Floor Amendment No. 13:

Floor Amendment No. 14

Amend Floor Amendment No. 13 to **CSHB 3** by deleting Subsection (2), lines 6 and 7, and inserting the following language:

PART D. TRANSITIONAL PROVISIONS FOR PARTS A, B, AND C

SECTION 2D.01. (a) Subject to other provisions of this section, Parts A, B, and C of this article apply to reports originally due on or after the effective date of those parts.

(b) For a corporation becoming subject to the franchise tax under this article:

(1) income or losses, and related gross receipts, occurring before January 1, ~~2005~~ 2006, may not be considered for purposes of the earned surplus component, or for apportionment purposes for the taxable capital component;

(2) a corporation subject to the franchise tax on January 1, ~~2006~~ 2007, for which January 1, ~~2006~~ 2007, is not the beginning date, shall file an annual report due May 15, ~~2006~~ 2007, based on the period:

(A) beginning on the later of:

(i) January 1, ~~2005~~ 2006; or

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

(B) ending on the date the corporation's last accounting period ends in ~~2005~~ 2006 or, if none, on December 31, ~~2005~~ 2006; and

(3) a corporation subject to the earned surplus component of the franchise tax at any time after October 31, ~~2005~~ 2006, and before January 1, ~~2006~~ 2007, but not subject to the earned surplus component on January 1, ~~2006~~ 2007, shall file a final report computed on net taxable earned surplus, for the privilege of doing business at any time after October 31, ~~2005~~ 2006, and before January 1, ~~2006~~ 2007, based on the period:

(A) beginning on the later of:

(i) January 1, ~~2005~~ 2006; or

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

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

SECTION 2D.02. Parts A, B, and C of this article take effect, except as provided by those parts, November 1, ~~2005~~ 2006, and apply to reports originally due on or after that date.

The amendment to Floor Amendment No. 13 to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 14 except as follows:

Absent-excused: Carona, Staples.

Question — Shall Floor Amendment No. 13 as amended to **CSHB 3** be adopted?

On motion of Senator Ogden, Floor Amendment No. 13 as amended to **CSHB 3** was tabled by the following vote: Yeas 22, Nays 7.

Yeas: Barrientos, Brimer, Deuell, Duncan, Ellis, Fraser, Gallegos, Harris, Hinojosa, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Shapiro, Shapleigh, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Armbrister, Averitt, Eltife, Estes, Jackson, Seliger, Wentworth.

Absent-excused: Carona, Staples.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 15

Amend **CSHB 3** as follows:

On page 3, after line 63, insert a new SECTION 2A.07 as follows, and renumber subsequent SECTIONS accordingly:

SECTION 2A.07. Section 171.109, Tax Code, is amended by adding a new Subsection (o) to read as follows:

(o) Notwithstanding any other subsection in this section, there shall be excluded from the taxable capital of a parent or investor corporation the direct or indirect investment by that parent or investor corporation in one or more other corporations in which that parent or investor corporation has a "controlling interest" as that term is defined in Section 171.1001. In the event a partnership becomes subject to tax under this chapter, the term corporation shall include a partnership for purposes of this subsection.

Senator Shapiro temporarily withdrew Floor Amendment No. 15.

(President in Chair)

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 16

Amend **CSHB 3** by adding the following new section and renumbering subsequent appropriately:

SECTION _____. Subchapter C, Chapter 171, Tax Code, is amended by adding Section 171.114 to read as follows:

Sec. 171.114. TEMPORARY CREDIT ON NET TAXABLE EARNED SURPLUS BEGINNING 2006. (a) Not later than March 1, 2006, a taxable entity may notify the comptroller in writing of its intent to preserve its right to take a credit in an amount allowed by this section on the tax due on net taxable earned surplus. The comptroller may not grant an extension. The taxable entity may thereafter elect

to claim the credit for the current year and future years at or before the original due date of any report due after January 1, 2006, until the taxable entity revokes the election or this section expires, whichever is earlier. A taxable entity may claim the credit for not more than 20 consecutive privilege periods beginning with the first report due under this chapter after January 1, 2006. A taxable entity may make only one election under this section and the election may not be conveyed, assigned, or transferred to another entity.

(b) The credit allowed under this section for any privilege period is computed by:

(1) determining the amount, as of the end of the taxable entity's accounting year ending in 2005, that is the difference between the basis used for financial accounting purposes and the basis used for federal income tax purposes of an asset or a liability that at some future date will reverse;

(2) apportioning the amount determined under Subdivision (1) to this state in the same manner earned surplus is apportioned under Section 171.106, on the first report due on or after January 1, 2006;

(3) multiplying the amount determined under Subdivision (2) by five percent; and

(4) multiplying the amount determined under Subdivision (3) by the tax rate prescribed by Section 171.002(a)(2).

(c) In computing the amount under Subsection (b)(1), the taxable entity may not consider differences that result from deferred investment tax credits, allowances for funds used during construction, or any other timing difference for which a deferred tax liability is not required under generally accepted accounting principles.

(d) After making the election under Subsection (a) the taxable entity must, for purposes of computing its taxable capital under this chapter, use the same accounting methods under generally accepted accounting principles to account for the assets and liabilities that determine the amount of the credit that the taxable entity uses to compute the credit. Notwithstanding Section 171.109(e), if a taxable entity changes an accounting method for an asset or liability that determines, in whole or in part, the amount of the credit during the period the election is in effect, the election is automatically revoked.

(e) A taxable entity that notifies the comptroller of its intent to preserve its right to take a credit allowed by this section shall submit with its notice of intent a statement of the amount determined under Subsection (b)(1). The comptroller may request that the taxable entity submit in the annual report for each succeeding privilege period in which the taxable entity is eligible to take a credit information relating to the amount determined under Subsection (b)(1). The taxable entity shall submit in the form and content the comptroller requires any information relating to the assets and liabilities that determine the amount of the credit, the amount determined under Subsection (b)(1), or any other matter relevant to the computation of the credit for which the taxable entity is eligible.

(f) A credit allowed under this section may not be carried forward or backward or used to create a business loss carryover under Section 171.110.

(g) A taxable entity may not use a credit allowed under this section in connection with the computation of the taxable entity's tax on net taxable capital.

(h) In addition to the tax imposed by Section 171.002, an additional tax is imposed on each taxable entity during each year the taxable entity takes the credit allowed under this section. The additional tax is equal to 0.1 percent of the taxable entity's net taxable capital per year of privilege period.

(i) This section expires September 1, 2026.

The amendment was read.

Senator Williams offered the following amendment to Floor Amendment No. 16:

Floor Amendment No. 17

Amend Floor Amendment No. 16 to **CSHB 3** (Williams amendment, page 48 of the amendment packet) as follows:

(1) Throughout the amendment, replace "taxable entity" with "corporation" and "taxable entity's" with "corporation's".

(2) Insert the following new Subsection (j) to read as follows:

"(j) This section applies only to a corporation that becomes subject to the franchise tax as a result of the application of Section 171.001(d-1)(3)."

The amendment to Floor Amendment No. 16 to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 17 except as follows:

Absent-excused: Carona, Staples.

Question recurring on the adoption of Floor Amendment No. 16 to **CSHB 3**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 16 as amended except as follows:

Absent-excused: Carona, Staples.

(Monday, July 11, 2005)

The President laid out as postponed business Floor Amendment No. 4 to **CSHB 3**:

Floor Amendment No. 4

Amend **CSHB 3** (committee report) as follows:

(1) Insert the following appropriately numbered section and renumbering the subsequent sections accordingly:

Sec. ____ FUNDING FOR DEBT SERVICE TAX RELIEF. A portion of the funds from the revenues generated by this Act shall be used for the following purposes:

(1) a total of \$150,000,000 shall be appropriated to the Texas Education Agency for the purpose of new awards under the Instructional Facilities Allotment Program;

(2) funds previously appropriated for the extension of the Existing Debt Allotment for payment on bonds on which initial payment was made after the 2002-2003 school year shall be replaced with revenues generated by this Act.

- (2) On page 1, line 36, strike "\$1.30" and substitute "\$1.31".
- (3) On page 1, line 42, strike "\$1.11" and substitute "\$1.13".
- (4) On page 1, line 50, strike "\$1.30" and substitute "\$1.31".
- (5) On page 1, line 52, strike "\$1.30" and substitute "\$1.31".
- (6) On page 1, line 54, strike "\$1.11" and substitute "\$1.13".
- (7) On page 1, line 55, strike "\$1.11" and substitute "\$1.13".

LUCIO
SHAPLEIGH
VAN DE PUTTE
ZAFFIRINI

Question — Shall Floor Amendment No. 4 to **CSHB 3** be adopted?

Senator Lucio offered the following amendment to Floor Amendment No. 4:

Floor Amendment No. 4A

Amend Floor Amendment No. 4 to **CSHB 3**, as follows:

1. Strike provisions (2) - (7) (Amendment page 1, lines 14-19);
2. Section 45.003(d-1)(1)(A), Education Code, is amended by striking "\$1.30" and substituting "\$1.31";
3. Section 45.003(d-1)(2)(A), Education Code, is amended by striking "\$1.25" and substituting "\$1.27"; and
4. Section 45.003(e), Education Code, is amended to read as follows:

"(e) An election held before January 1, 2005, authorizing a maintenance tax at a rate of at least \$1.31 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.31 or less for the 2005 tax year. An election held before January 1, 2006, authorizing a maintenance tax at a rate of at least \$1.27 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.27 or less for the 2006 tax year. An election held before January 1, 2007, authorizing a maintenance tax at a rate of at least \$1.10 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.10 or less for the 2007 and subsequent tax years."

The amendment to Floor Amendment No. 4 to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4A except as follows:

Absent-excused: Carona, Staples.

Question — Shall Floor Amendment No. 4 as amended to **CSHB 3** be adopted?

On motion of Senator Ogden, Floor Amendment No. 4 as amended to **CSHB 3** was tabled by the following vote: Yeas 18, Nays 11.

Yeas: Averitt, Brimer, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Wentworth, Whitmire, Williams.

Nays: Armbrister, Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, West, Zaffirini.

Absent-excused: Carona, Staples.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 18

Amend **CSHB 3** as follows:

In Article 3, Sales and Use Tax, on page 27, line 58, strike "For" through "program." on line 60.

The amendment was read.

Senator Ogden moved to table Floor Amendment No. 18 to **CSHB 3**.

The motion was lost by the following vote: Yeas 12, Nays 17.

Yeas: Averitt, Brimer, Duncan, Ellis, Hinojosa, Jackson, Lucio, Madla, Ogden, Shapleigh, Whitmire, Williams.

Nays: Armbrister, Barrientos, Deuell, Eltife, Estes, Fraser, Gallegos, Harris, Janek, Lindsay, Nelson, Seliger, Shapiro, Van de Putte, Wentworth, West, Zaffirini.

Absent-excused: Carona, Staples.

Question recurring on the adoption of Floor Amendment No. 18 to **CSHB 3**, the amendment was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 18 except as follows:

Absent-excused: Carona, Staples.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 19

Amend **CSHB 3**, on page 29, line 22, by striking "\$75" and replacing it with "\$100".

The amendment was read.

On motion of Senator Ogden, Floor Amendment No. 19 to **CSHB 3** was tabled by the following vote: Yeas 17, Nays 12.

Yeas: Armbrister, Averitt, Brimer, Deuell, Duncan, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Wentworth, Williams.

Nays: Barrientos, Ellis, Eltife, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Absent-excused: Carona, Staples.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 20

Amend **CSHB 3** (Senate committee printing) by adding the following appropriately numbered SECTIONS to PART A, ARTICLE 3 of the bill and renumbering subsequent SECTIONS of that PART accordingly:

SECTION 3A.____. Section 151.326(a), Tax Code, is amended to read as follows:

(a) The sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

(1) the sales price of the article is less than \$100; and

(2) the sale takes place during:

(A) a period beginning at 12:01 a.m. on the first Friday in August and ending at 12 midnight on the following Sunday; or

(B) a period beginning at 12:01 a.m. on the first Friday in December and ending at 12 midnight on the following Sunday.

SECTION 3A.____. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.327 to read as follows:

Sec. 151.327. SCHOOL SUPPLIES BEFORE START OF SCHOOL. (a) The sale or storage, use, or other consumption of a school supply, including a backpack, is exempted from the taxes imposed by this chapter if the school supply is purchased:

(1) for use by a student in a class in a public or private elementary or secondary school;

(2) during a period described by Section 151.326(a)(2); and

(3) for a sales price of less than \$100 per item.

(b) The comptroller shall adopt rules specifying the school supplies that are exempt from taxation under this section.

SHAPLEIGH
HINOJOSA
ZAFFIRINI

The amendment was read.

On motion of Senator Ogden, Floor Amendment No. 20 to **CSHB 3** was tabled by the following vote: Yeas 16, Nays 13.

Yeas: Armbrister, Averitt, Brimer, Duncan, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Wentworth, Williams.

Nays: Barrientos, Deuell, Ellis, Eltife, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Absent-excused: Carona, Staples.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 21

Amend **CSHB 3** by adding the following appropriately numbered article and renumbering the subsequent articles of the bill accordingly:

ARTICLE __. BUY-DOWN OF SCHOOL DISTRICT TAXES

SECTION __.01. Chapter 403, Government Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. DISTRIBUTION OF SALES AND USE TAX REVENUE
FOR SCHOOL DISTRICT TAX RATE REDUCTION

Sec. 403.351. DISTRIBUTION OF SALES AND USE TAX REVENUE FOR TAX RATE REDUCTION. (a) Each month the comptroller shall distribute to the school districts in this state for tax rate reduction an amount equal to the amount of revenue received by this state in the preceding month that is attributable to the imposition of the sales and use tax imposed by Chapter 151, Tax Code, at a rate of one-half of one percent.

(b) The amount distributed shall be apportioned among the school districts in amounts that, applied to the total taxable value of property in each district determined under Subchapter M for the most recent year for which the information is available, would reduce the rate of each school district's maintenance and operations tax by the same percentage, except that a school district maintenance and operations tax rate may not be reduced to less than 75 cents for each \$100 of taxable value.

(c) The money received by each school district under this section must be applied to reducing the rollback tax rate of the district as provided by Section 26.08, Tax Code.

SECTION __.02. Section 26.08, Tax Code, is amended by adding Subsection (n) to read as follows:

(n) For the 2005 tax year, the rollback tax rate of each school district shall be reduced by the rate that, when applied to current total value, would impose taxes in an amount equal to the amount the comptroller estimates the district will receive during the 2005-2006 school year under Subchapter O, Chapter 403, Government Code. For the 2006 tax year, the rollback tax rate of each school district shall be reduced by the rate that, when applied to current total value, would impose taxes in an amount equal to the amount by which the actual amount received by the district during the 2005-2006 school year under Subchapter O, Chapter 403, Government Code, exceeded the amount the comptroller estimated the school district would receive, if applicable, or shall be increased by the rate that, when applied to current total value, would impose taxes in an amount equal to the amount by which the estimate exceeded the actual amount received, if applicable. For the 2007 and subsequent tax years, the rollback tax rate of each school district shall be reduced by the rate that, when applied to current total value, would impose taxes in an amount equal to the amount by which the amount received by the district during the preceding school year under Subchapter O, Chapter 403, Government Code, exceeded the amount received during the school year preceding that school year, if applicable, or shall be increased by the rate that, when applied to current total value, would impose taxes in an amount equal to the amount by which the amount received in the school year preceding the preceding school year exceeded the amount received in the preceding school year.

SECTION __.03. (a) The changes in law made by this article apply to the tax rate of a school district beginning with the 2005 tax year.

(b) If before the effective date of this Act, the governing body of a school district adopted an ad valorem tax rate for the district for the 2005 tax year under the law in effect immediately before the effective date of this Act, and the adopted ad valorem tax rate is greater than the rollback tax rate of the district for the 2005 tax year as calculated under the law as amended by this article:

(1) on the effective date of this Act, the ad valorem tax rate adopted for the district before the effective date of this Act is invalidated; and

(2) the governing body shall adopt a new ad valorem tax rate for the 2005 tax year in accordance with the changes in law made by this article.

(c) If tax bills for the 2005 tax year were sent by the tax assessor for a school district pursuant to a tax rate invalidated under Subsection (b)(1) of this section, the tax assessor for the school district shall prepare and mail a new tax bill for the 2005 tax year to each taxpayer of the district in the manner required by Chapter 31, Tax Code. If a taxpayer pays the taxes for the 2005 tax year pursuant to a tax rate invalidated under Subsection (b)(1) of this section, the school district shall promptly refund any difference between the tax paid and the tax due at the rate adopted under Subsection (b)(2) of this section.

(d) If this Act is passed by the legislature without receiving a vote of two-thirds of all the members elected to each house, any action taken before the effective date of this Act in preparation for the implementation of the changes in law made by this article, including adoption of a tax rate, by an officer or employee or the governing body of a school district that the officer, employee, or governing body determines is necessary or appropriate and that the officer, employee, or governing body would have been authorized to take had this article been in effect at the time of the action is validated as of the effective date of this Act. Any public notice required by Chapter 26, Tax Code, or Chapter 44, Education Code, given before the effective date of this Act that includes an additional statement that the tax rate for the school district will be adopted in accordance with the changes in law made by this article is validated as of the effective date of this Act.

The amendment was read.

Senator Williams offered the following amendment to Floor Amendment No. 21:

Floor Amendment No. 22

Amend Floor Amendment No. 21 by Williams to **CSHB 3** in SECTION .01 of the article proposed by the amendment by striking proposed Subsection (b), Section 403.351, Government Code, and substituting the following:

(b) The amount distributed in a fiscal year shall be apportioned among the school districts in amounts that, using the total taxable value of property in each district determined under Subchapter M for the most recent year for which the information is available, would permit each district to reduce its maintenance and operations tax rate for the tax year that ends in that fiscal year from the rate adopted by the district in the preceding tax year by the same percentage as each other school district. The comptroller may not distribute to a school district in a fiscal year an amount that, when added to the taxes that would be generated by the district for the tax year that ends in that fiscal year using a maintenance and operations tax rate of 75 cents, and to the state funds that would be distributed to the district under Chapter 42,

Education Code, for the school year beginning in that tax year using that tax rate, would provide an amount per student in weighted average daily attendance for that school year that exceeds the amount of state funds distributed under Chapter 42, Education Code, and this section and maintenance and operations taxes of the district per student in weighted average daily attendance that would have been available to the district in the preceding year if the funding elements for Chapters 41 and 42, Education Code, for the current year had been in effect for the preceding year.

The amendment to Floor Amendment No. 21 to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 22 except as follows:

Absent-excused: Carona, Staples.

Question — Shall Floor Amendment No. 21 as amended to **CSHB 3** be adopted?

On motion of Senator Ogden, Floor Amendment No. 21 as amended to **CSHB 3** was tabled by the following vote: Yeas 19, Nays 10.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Duncan, Ellis, Gallegos, Hinojosa, Lindsay, Lucio, Madla, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Nays: Deuell, Eltife, Estes, Fraser, Harris, Jackson, Janek, Nelson, Wentworth, Williams.

Absent-excused: Carona, Staples.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 23

Amend **CSHB 3** (Senate committee report) by adding a new article to the bill, appropriately numbered, to read:

ARTICLE ____ . LOCAL MOTOR FUELS TAX

SECTION ____ .01. Chapter 370, Transportation Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. FINANCIAL PARTICIPATION OF CERTAIN COUNTIES IMPOSING LOCAL FUELS TAX

Sec. 370.351. DEFINITIONS. In this subchapter:

- (1) "Dealer" has the meaning assigned by Section 162.001, Tax Code.
- (2) "Diesel fuel" has the meaning assigned by Section 162.001, Tax Code.
- (3) "Gasoline" has the meaning assigned by Section 162.001, Tax Code.
- (4) "Jobber" means a person who:

(A) purchases tax-paid diesel fuel or gasoline from a person who holds a license under Chapter 162, Tax Code; and

(B) makes a sale with the tax included to a person who maintains storage facilities for motor fuel and uses all or part of the stored motor fuel to operate a motor vehicle.

(5) "Motor vehicle" has the meaning assigned by Section 162.001, Tax Code.

(6) "Net gallon" has the meaning assigned by Section 162.001, Tax Code.

(7) "Public highway" has the meaning assigned by Section 162.001, Tax Code.

(8) "Sale" has the meaning assigned by Section 162.001, Tax Code.

Sec. 370.352. TAX ON SALE OF DIESEL FUEL AND GASOLINE AUTHORIZED. (a) A county, by order of the commissioners court, may impose a tax on the sale of diesel fuel and gasoline sold in the county to propel a motor vehicle on the public highways of this state if:

(1) the county is included in an authority or is adjacent to such a county, provided that a county not included in the authority must be located in the same metropolitan planning organization as the county in the authority to which it is adjacent;

(2) the county is located in the boundaries of a metropolitan planning area that is served by a metropolitan planning organization; and

(3) imposition of the tax is approved at an election called for that purpose and held in each county located in that metropolitan planning area.

(b) The counties located in a metropolitan planning area described by Subsection (a)(2) may hold the election to authorize the imposition of the tax on the same uniform election dates or on different uniform election dates. If the counties hold the elections on different uniform election dates, a county included in that metropolitan planning area may not impose the tax until the imposition of the tax has been approved in each county.

Sec. 370.353. RATE OF TAX. (a) The tax authorized by this subchapter may be imposed in increments of one cent for each net gallon of diesel fuel or gasoline sold in the county to propel a motor vehicle on the public highways of this state, with a minimum rate of three cents for each net gallon and a maximum rate of 10 cents for each net gallon.

(b) If the voters of the counties located in a metropolitan planning area described by Section 370.352(a)(3) authorize the imposition of the tax at different rates, each county shall impose the tax at the lowest authorized rate.

Sec. 370.354. ADOPTION ELECTION PROCEDURE. (a) An election to adopt the tax authorized by this subchapter is called by an order of the commissioners court.

(b) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local tax on the sale of diesel fuel and gasoline in (insert name of county) at the maximum rate of (insert proposed rate) cents per gallon."

Sec. 370.355. COMPUTATION OF TAX. (a) A person, including a dealer or jobber, who makes a sale of diesel fuel or gasoline in a county authorized to impose the tax to a person who uses the diesel fuel or gasoline to propel a motor vehicle on the public highways of this state shall collect the tax authorized by this subchapter for the benefit of the county.

(b) The seller shall add the amount of the tax authorized by this subchapter to the selling price of the diesel fuel or gasoline, and the tax is a part of the fuel price, is a debt owed to the seller, and is recoverable at law in the same manner as the fuel charge.

(c) The tax authorized by this subchapter is in addition to the tax imposed by Chapter 162, Tax Code.

Sec. 370.356. EXEMPTIONS APPLICABLE. The exemptions provided by Sections 162.104 and 162.204, Tax Code, apply to the tax authorized by this subchapter.

Sec. 370.357. EFFECTIVE DATE OF TAX. After the imposition of the tax has been approved in each county located in a metropolitan planning area described by Section 370.352(a)(2), the commissioners court of each county shall issue a concurrent order prescribing the date on which the adoption of the tax will take effect in those counties.

Sec. 370.358. COLLECTION AND ENFORCEMENT OF TAX. (a) A person, including a dealer or jobber, required to collect the tax authorized by this subchapter shall report and send the taxes to the county as provided by the county.

(b) The county may prescribe monetary penalties, including interest charges, for failure to keep records required by this subchapter, to report when required, or to pay the tax when due.

(c) The county may permit a person who is required to collect the tax authorized by this subchapter to retain a percentage of the amount collected and required to be reported as reimbursement to the person for the costs of collecting the tax. The county may provide that the person may retain the amount only if the person pays the tax and files reports as required by the county.

(d) The county attorney may bring suit against a person who violates this subchapter.

Sec. 370.359. REFUND. (a) A person who has paid the tax authorized by this subchapter on diesel fuel or gasoline used by the person for a purpose other than to propel a motor vehicle on the public highways of this state or for a use exempted under Section 370.356 may file a claim for a refund.

(b) The county shall prescribe the procedures a person must use to obtain a refund under this section.

Sec. 370.360. REQUIRED PERMIT. The county may require a dealer, jobber, or other person required to collect, report, and pay the tax authorized by this subchapter to obtain a permit from the county.

Sec. 370.361. TRANSFER TO AUTHORITY. (a) Not later than the last day of the first month following each calendar quarter, the county treasurer shall send to the authority the taxes collected during that calendar quarter after payment of all refunds allowed by law and expenses of collection.

(b) Net tax revenue received by an authority under this subchapter shall be accounted for separately and may not be commingled with other authority revenue.

Sec. 370.362. USE OF TAX PROCEEDS. An authority may use net tax revenue received under this subchapter only to:

(1) reduce the number of lane miles included in a proposed transportation project or a part or section of a proposed transportation project for which the authority intends to impose a toll for use according to the authority's most recently adopted toll plan;

(2) reduce the amount of the toll charged for use of a transportation project or a part or section of a transportation project in use at the time the tax is imposed under this subchapter;

(3) waive the toll charged for use of a transportation project or for a part or section of a transportation project by one or more classes of vehicles prescribed by the authority, such as public school buses and mass transit vehicles; and

(4) finance any costs associated with the implementation, operation, or maintenance of a passenger rail transportation project.

SECTION ____.02. This article take effect September 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 on the 91st day after the last day of the legislative session.

The amendment was read.

POINT OF ORDER

Senator Ogden raised a point of order that Floor Amendment No. 23 was not germane to the body of the bill.

POINT OF ORDER RULING

The President ruled that the point of order was well-taken and sustained.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 24

Amend **CSHB 3** (Senate committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE __. REPORT ON EFFECTS OF TAX POLICIES

SECTION __.01. SPECIAL REPORT ON EFFECTS OF CERTAIN TAX POLICIES ON PERSONAL INCOME AND BUSINESSES. (a) The comptroller of public accounts shall prepare a report that provides a comprehensive analysis of the effects of tax policies adopted by the 79th Legislature, 1st Called Session, on the personal income of residents of this state and on businesses in this state. Not later than October 15, 2006, the comptroller shall submit the report to the governor, lieutenant governor, speaker of the house of representatives, and each other member of the legislature.

(b) The report required under Subsection (a) of this section must include at least the following information with respect to business taxes enacted or significantly reformed by the 79th Legislature, 1st Called Session:

(1) the total amount of the tax revenue collected from businesses between the effective date of this article and the date of the report;

(2) a profile of the businesses that paid the taxes by:

- (A) the number of employees;
- (B) the two-digit standard industrial classification; and
- (C) for the period described by Subdivision (1) of this subsection:
 - (i) the total amount of wages paid and, reported separately, the total amount of taxable wages paid;
 - (ii) the total amount of profits made and, reported separately, the total amount of taxable profits made;
 - (iii) the total amount of taxes paid; and
 - (iv) any credits used to reduce tax liability;
- (3) the percentage of the taxes that were paid by businesses with fewer than 100 employees;
- (4) an estimate of the number and wages of workers not covered by the taxes; and
- (5) an estimate of the number, two-digit standard industrial classification, and profits of, and an estimate of the wages paid by, businesses not covered by the taxes.

(c) The report required under Subsection (a) of this section must also include at least the following:

(1) with respect to major legislation enacted by the 79th Legislature, 1st Called Session, a tax incidence analysis, categorized by industry sector and family income level, of the effects of:

- (A) any reduction in school district tax rates;
- (B) any changes in business taxation;
- (C) any changes in property taxation;
- (D) any increase in the rate of the sales tax on the sales tax base as compared to the sales tax base that existed on January 1, 2005;
- (E) any repeal of a sales tax exemption or exclusion;
- (F) any increase in the rate of the motor vehicle sales and use tax;
- (G) any increase in the rate of the boat and boat motor sales and use tax;
- (H) any tax imposed on the sale of discretionary food and drink items;
- (I) any increase in rate of the cigarette, cigar, or tobacco products tax;

and

(J) any other changes in major state taxes; and

(2) with respect to residents of this state who itemize deductions on their federal income tax returns, an analysis, categorized by income level, of:

(A) the amount of state sales taxes deducted from those persons' federal income taxes; and

(B) the difference between the federal income tax deductions for property taxes paid that were claimed by those persons before property tax rate reductions were enacted by the 79th Legislature, 1st Called Session, and the federal income tax deductions for property taxes paid that were claimed by those persons after those reductions were enacted.

(d) Not later than October 15, 2008, the comptroller of public accounts shall:

(1) update the information contained in the report submitted under this section; and

(2) submit the updated report to the persons listed in Subsection (a) of this section.

SECTION __.02. This article takes effect November 1, 2005.

The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 24 except as follows:

Absent-excused: Carona, Staples.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 25

Amend **CSHB 3** (Senate committee report) by inserting the following provisions where appropriate and renumbering accordingly:

(1) Amend Section 401.003, Health and Safety Code by adding Subdivision (12-a) to read as follows:

(12-a) "Gross receipts" includes, with respect to an entity or affiliated members, owners, shareholders, or limited or general partners, all receipts from the entity's storage or disposal operations in Texas licensed under this chapter including any bonus, commission, or similar payment received by the entity from a customer, contractor, subcontractor, or other person doing business with the entity or affiliated members, owners, shareholders, or limited or general partners. This term does not include receipts from the entity's operations in Texas, or affiliated members, owners, shareholders, or limited or general partners, for capital reimbursements, and federal or state taxes or fees on waste received uniquely required to meet the specifications of a license or contract. The commission may promulgate rules in establishing the criteria for determining gross receipts consistent with the parameters of this definition.

(2) Subchapter G, Chapter 401, Health and Safety Code, is amended by adding Sections 401.271 and 401.272 to read as follows:

Sec. 401.271. STATE FEE ON RADIOACTIVE SUBSTANCES. (a) A holder of a license issued by the commission under this chapter that authorizes the storage or disposal of a radioactive substance from other persons shall remit each quarter an amount equal to 10 percent of the license holder's gross receipts received from storage or disposal operations under a license issued under this chapter as follows:

(1) eight percent shall be remitted to the comptroller for deposit into the general revenue fund; and

(2) two percent shall be remitted to the host county in accordance with Sections 401.244(b) and (d).

(b) Subsection (a) does not apply to compact waste or federal facility waste as defined by Section 401.2005, or industrial solid waste as defined by Section 361.003.

Sec. 401.272. AUDIT AUTHORITY. The commission may audit a license holder's financial records and waste manifest information to ensure that the fees imposed under this chapter are accurately paid. The license holder shall comply with the commissions's audit-related requests for information.

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The amendment to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 25 except as follows:

Absent-excused: Carona, Staples.

Senator Shapleigh, on behalf of Senator Barrientos, offered the following amendment to the bill:

Floor Amendment No. 26

Amend **CSHB 3** as follows:

(1) Strike SECTION 1.01 of the bill and substitute the following:

SECTION 1.01. Section 45.003, Education Code, is amended by amending Subsection (d) and adding Subsections (d-1), (d-2), and (e) to read as follows:

(d) A proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate stated in the proposition, which may be not more than the sum of:

(1) \$1.19 [~~\$1.50~~] on the \$100 valuation of taxable property in the district;
and

(2) \$0.15 on the \$100 valuation of taxable property in the district for enrichment, as authorized by an election as provided by Chapter 42[~~, stated in the proposition~~].

(d-1) Notwithstanding Subsection (d), for the following tax years, a proposition submitted to authorize the levy of maintenance taxes must include the question of whether the governing board or commissioners court may levy, assess, and collect annual ad valorem taxes for the further maintenance of public schools, at a rate not to exceed the rate stated in the proposition, which may be not more than the sum of:

(1) for the 2005 tax year:

(A) \$1.39 on the \$100 valuation of taxable property in the district; and

(B) \$0.10 on the \$100 valuation of taxable property in the district for enrichment, as authorized by an election as provided by Chapter 42; and

(2) for the 2006 tax year:

(A) \$1.34 on the \$100 valuation of taxable property in the district; and

(B) \$0.15 on the \$100 valuation of taxable property in the district for enrichment, as authorized by an election as provided by Chapter 42.

(d-2) Subsection (d-1) and this subsection expire January 1, 2007.

(e) An election held before January 1, 2005, authorizing a maintenance tax at a rate of at least \$1.39 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.39 or less for the 2005 tax year. An election held before January 1, 2006, authorizing a maintenance tax at a rate of at least \$1.34 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.34 or less for the 2006 tax year. An election held before January 1, 2007,

authorizing a maintenance tax at a rate of at least \$1.19 on the \$100 valuation of taxable property in the district is sufficient to authorize a rate of \$1.19 or less for the 2007 and subsequent tax years.

(2) Strike PART E of ARTICLE 2 of the bill (committee printing page 8, line 45, through page 27, line 47) and substitute the following:

PART E. REPEAL OF THE FRANCHISE TAX

SECTION 2E.01. Chapter 171, Tax Code, is repealed effective January 1, 2008.

The amendment was read.

On motion of Senator Ogden, Floor Amendment No. 26 to **CSHB 3** was tabled by the following vote: Yeas 16, Nays 13.

Yeas: Armbrister, Averitt, Brimer, Deuell, Duncan, Estes, Fraser, Harris, Jackson, Janek, Nelson, Ogden, Seliger, Shapiro, Wentworth, Williams.

Nays: Barrientos, Ellis, Eltife, Gallegos, Hinojosa, Lindsay, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Absent-excused: Carona, Staples.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 27

Amend **CSHB 3** by adding a new appropriately numbered ARTICLE to read as follows:

ARTICLE ___. CHARITABLE BINGO

SECTION ___. Section 2001.002, Occupations Code, is amended by amending Subdivisions (5) and (11) and adding Subdivisions (9-a), (9-b), (9-c), (13-a), (20-a), (20-b), and (26-a) to read as follows:

(5) "Bingo equipment" means equipment used, made, or sold for the purpose of use in bingo. The term:

(A) includes:

(i) a machine or other device from which balls or other items are withdrawn to determine the letters and numbers or other symbols to be called;

(ii) an electronic or mechanical cardminding device;

(iii) a pull-tab dispenser;

(iv) a bingo card;

(v) a bingo ball; ~~and~~

(vi) an electronic monitoring terminal;

(vii) a site controller; and

(viii) any other device commonly used in the direct operation of a bingo game; and

(B) does not include:

(i) a bingo game set commonly manufactured and sold as a child's game for a retail price of \$20 or less unless the set or a part of the set is used in bingo subject to regulation under this chapter; or

(ii) a commonly available component part of bingo equipment such as a light bulb or fuse.

(11) "Fraternal Organization" means:

(A) a nonprofit organization 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 Conservations 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 exercised 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, employment-related, or educational functions.

(9-a) "Electronic monitoring terminal" means a computer or other electronic terminal with input capabilities and touch screen or other video monitors that may be used to play electronic pull-tab bingo. The term includes a portable, upright, or tabletop terminal.

(9-b) "Electronic pull-tab bingo" means a version of pull-tab bingo that is capable of being played on a card-minding device or electronic monitoring terminal using electronic pull-tab bingo tickets.

(9-c) "Electronic pull-tab bingo ticket" means an electronic or printed ticket used in electronic pull-tab bingo that is issued from a finite deal of tickets in which some of the tickets have been designated in advance as winning tickets.

(13-a) "Independent testing facility" means a laboratory of national reputation that is demonstrably competent and qualified to scientifically test and evaluate devices for compliance with this chapter. An independent testing facility may not be owned or controlled by a licensee subject to this chapter, except that the licensee may pay the facility for requested testing and evaluation activities.

(20-a) "Player account card" means a plastic, magnetic stripe, paper, or smart card that may be used to:

(A) enable or track the play of bingo games;

(B) track and record customer account data, including electronic credits purchased, played, won, or otherwise available for participating in bingo games; or

(C) redeem credits purchased, played, or won through a cashier or other point-of-sale station or redemption system.

(20-b) "Point-of-sale station" includes a cashier or a terminal that accepts or dispenses player account cards, debit cards, or cash.

(26-a) "Site controller" means computer hardware or software that is located on the premises of a licensed authorized organization and that stores and distributes electronic pull-tab bingo tickets for display on electronic monitoring terminals or card-minding devices.

SECTION __. Section 2001.054, Occupations Code, is amended to read as follows:

Sec. 2001.054. RULEMAKING AUTHORITY. (a) The commission may adopt rules to enforce and administer this chapter.

(b) The commission has broad authority to adopt rules to administer and ensure compliance with Sections 2001.409(b) and 2001.4091-2001.4095.

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

Section 2001.1015. CHARITABLE BINGO BY TRIBAL FRATERNAL ORGANIZATIONS. (a) A nonprofit organization that qualifies as a fraternal organization under Section 2001.102(11) 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 provisions of this chapter and of Sections 47(b) and (c), Article III, Texas Constitution.

(b) An organization described by Subsection (a) may conduct bingo activities only in accordance with the provisions of this chapter in compliance with Section 107(b), Ysleta del Sur Pueblo Restoration Act (25 U.S.C. Section 1300g-(6)).

(c) A tribal organization conducting bingo under this section shall collect from a person who wins a bingo prize a fee in the amount of five percent of the amount or value of the prize and remit the fee to the State of Texas in a manner determined by the comptroller to provide funding for the public school finance system.

SECTION __. Subsections (b), (d), and (f), Section 2001.407, Occupations Code, are amended to read as follows:

(b) A licensed distributor may not furnish, by sale, lease, or otherwise, bingo equipment or supplies to a person other than a licensed authorized organization, another licensed distributor, or a person authorized to conduct bingo under Section 2001.551(b)(3) or (4). A sale or lease of bingo equipment or supplies authorized by this section must be made on terms requiring immediate payment or payment not later than the 30th day after the date of actual delivery.

(d) A licensed authorized organization may lease or purchase bingo equipment or supplies [~~electronic or mechanical card minding devices, pull tab dispensers, bingo machines, consoles, blowers, and flash boards~~] directly from a licensed distributor.

(f) With the prior written consent of the commission, a licensed authorized organization may make an occasional sale of bingo equipment or supplies [~~cards or of a used bingo flash board or blower~~] to another licensed authorized organization.

SECTION __. Sections 2001.408 and 2001.409, Occupations Code, are amended to read as follows:

Sec. 2001.408. OTHER METHODS FOR PLAYING BINGO. (a) Subject to the commission's rules, bingo may be played using a pull-tab bingo ticket or an electronic pull-tab bingo ticket.

(b) All prize limitations and exemptions applicable to pull-tab bingo under Section 2001.420 are also applicable to electronic pull-tab bingo.

Sec. 2001.409. CARD-MINDING DEVICES. (a) A person may ~~[not]~~ use a card-minding device:

(1) to account for credits purchased, played, or won by playing electronic pull-tab bingo authorized by this chapter;

(2) to display and exchange credits described by Subdivision (1) for electronic pull-tab bingo tickets that may be played by the person during a bingo occasion;

(3) to read a player account card;

(4) for purchasing, marketing, and playing electronic pull-tab bingo authorized by this chapter; and

(5) to display graphics and animation that correspond to or represent, in an entertaining manner, the outcome of an approved electronic pull-tab bingo ticket or game ~~[generate or determine the random letters, numbers, or other symbols used in playing the bingo card played with the device's assistance;~~

~~[(2) as a receptacle for the deposit of tokens or money in payment for playing the bingo card played with the device's assistance; or~~

~~[(3) as a dispenser for the payment of a bingo prize, including coins, paper currency, or a thing of value for the bingo card played with the device's assistance].~~

(b) The display of graphics and animation used to correspond to, display, or represent the outcome of an approved electronic pull-tab bingo ticket may not be the basis of a requirement that a card-minding device that has previously been approved for the play of electronic pull-tab bingo be retested or reapproved.

SECTION __. Subchapter I, Chapter 2001, Occupations Code, is amended by adding Sections 2001.4091 through 2001.4095 to read as follows:

Sec. 2001.4091. SITE CONTROLLERS. (a) A site controller may be used to:

(1) create, shuffle, store, and configure electronic pull-tab bingo tickets;

(2) distribute electronic pull-tab bingo tickets to electronic monitoring terminals or card-minding devices;

(3) account for, through a means that may include a player account card, electronic credits purchased, played, or won by playing electronic pull-tab bingo authorized by this chapter;

(4) exchange credits described by Subdivision (3) for electronic pull-tab bingo tickets that may be played by a person during a bingo occasion; or

(5) play electronic pull-tab bingo authorized by this chapter.

(b) The creation or distribution of electronic pull-tab bingo tickets by or through a site controller or other method may not be the basis of a requirement that a preapproved site controller be retested or reapproved.

(c) A person who sells or supplies a site controller or other equipment used to play electronic pull-tab bingo is not required to hold a system service provider license, and the functions performed by a site controller or other equipment related to electronic pull-tab bingo may not be construed as the provision of automated bingo services governed by Subchapter F.

(d) A site controller used for electronic pull-tab bingo must be manufactured in accordance with the standards provided by this chapter and is subject to testing by the commission or by an independent testing facility reasonably acceptable to the commission.

(e) The commission may inspect a site controller.

(f) The manufacturer of a site controller shall maintain a central communications system or facility to provide the commission with the ability to review and audit electronic pull-tab bingo sales data.

(g) A site controller must provide a physical and electronic means, by use of a password or other method specified by commission rule, for securing:

(1) electronic pull-tab bingo tickets created, shuffled, stored, and configured by the site controller; and

(2) accounting system data.

(h) Nothing in this chapter requires the use of a site controller to play electronic pull-tab bingo or prohibits the use of other means of creating, shuffling, storing, configuring, or distributing electronic pull-tab bingo tickets. All manufacturers shall maintain a central communications system or facility to provide the commission with the ability to review and audit electronic pull-tab bingo sales data.

Sec. 2001.4092. ELECTRONIC MONITORING TERMINALS. (a) A person may use an electronic monitoring terminal:

(1) to insert or read a player account card;

(2) to account for credits purchased, played, or won by playing electronic pull-tab bingo authorized by this chapter;

(3) to display or exchange credits purchased, won, or otherwise available for play of electronic pull-tab bingo authorized by this chapter; or

(4) for purchasing, marketing, and playing electronic pull-tab bingo authorized by this chapter.

(b) Nothing in this chapter prohibits an electronic monitoring terminal from generating or creating graphics and animation to correspond to, display, or represent, in an entertaining manner, the outcome of an approved electronic pull-tab bingo ticket. The generation or creation of the graphics and animation may not be the basis of a requirement that a preapproved electronic monitoring terminal be retested or reapproved.

Sec. 2001.4093. USE OF CARD-MINDING DEVICES OR ELECTRONIC MONITORING TERMINALS IN ELECTRONIC PULL-TAB BINGO. (a) A card-minding device, a site controller, or an electronic monitoring terminal used for electronic pull-tab bingo:

(1) must be manufactured in accordance with the standards provided by this chapter;

(2) is subject to testing by the commission or by an independent testing facility reasonably acceptable to the commission;

(3) must be approved by the commission prior to use; and

(4) may not use graphics, audio, lights or animation to display the play or outcome of an approved electronic pull-tab bingo ticket if the graphics, audio, lights or animation include a spinning reel or reels or the electronic monitoring terminal or card-minding device generates sounds that resemble the sounds of bells, gongs, or whistles or of dropping coins in or spinning reels on a slot machine.

(b) The commission may audit data relating to the sale, exchange, inventory, or play of electronic pull-tab bingo tickets.

(c) The commission may inspect a card-minding device or electronic monitoring terminal. The commission shall not approve any electronic pull-tab bingo ticket or electronic pull-tab bingo display that fails to preserve the integrity of the commission, in that it depicts alcoholic beverages, profane language, or provocative, sexually explicit, or derogatory images or text, or otherwise, and is inconsistent with symbols or displays previously approved by the commission for pull-tab bingo or lottery tickets.

(d) A person may not use a card-minding device or electronic monitoring terminal:

(1) as a receptacle for the deposit of tokens or money in payment for playing bingo played with the device's assistance; or

(2) as a physical dispenser for the payment of a bingo prize, including coins, paper currency, or a thing of value for bingo played with the device's assistance.

(e) A card-minding device, site controller, or electronic monitoring terminal may not be used in connection with electronic pull-tab bingo unless the system that includes the use of the card-minding device, site controller, or electronic monitoring terminal would be a Class II game, if it were subject to the provisions of Chapter 29, Title 25, United States Code, and the rules and regulations under those provisions in effect on January 1, 2005. For purposes of the preceding sentence, the commission may determine that the system that includes the card-minding device, site controller, or electronic monitoring terminal would be a Class II game if it were subject to the provisions of Chapter 29, Title 25, United States Code, and the rules and regulations under those provisions in effect on January 1, 2005. In the alternative, a licensee may demonstrate that its system complies with the above requirements by submitting evidence to the commission under this subsection, which may include a certification or letter opinion from the National Indian Gaming Commission or an independent testing facility, or a final determination from a court of competent jurisdiction that the system that includes the use of a card-minding device, site controller, or electronic monitoring terminal in connection with electronic pull-tab bingo is a Class II game, and such determination shall be binding on the commission.

(f) All requests for an approval of bingo equipment under this section that are received not later than the 30th day after the date of adoption of a rule establishing the standards for such approval and that satisfy all requirements applicable to such equipment shall be approved on the same date, which shall be no later than the 120th day after the date of adoption of such standards. In no event shall such requests be approved on different dates by the commission. Similar deadlines may be established for future approvals of new card-minding devices, site controllers, or electronic monitoring terminals.

Sec. 2001.4094. AUDIT AND COMPLIANCE OF ELECTRONIC PULL-TAB BINGO. (a) The commission may adopt rules governing:

(1) the central communications system or facility required to be maintained by the manufacturer to provide the commission with the ability to review and audit electronic pull-tab bingo sales data;

(2) the recording and reporting of:

(A) revenue generated from the play of electronic pull-tab bingo;

(B) all stored but unplayed electronic pull-tab bingo tickets or prizes;

and

(C) all electronic pull-tab bingo tickets played and total prizes awarded;

(3) if a player account card is used, the recording and tracking of player account information, including electronic credits purchased, played, won, or otherwise available for play for electronic pull-tab bingo authorized by this chapter and electronic credits redeemed for cash; and

(4) the retention of data necessary for audit compliance under this chapter, including a requirement that the data be retained electronically for one year.

(b) The commission may investigate a violation or alleged violation of this chapter.

Sec. 2001.4095. SLOT MACHINE AND VIDEO LOTTERY NOT AUTHORIZED. This chapter does not authorize the use of a slot machine or a video lottery terminal.

SECTION __. Subchapter I, Chapter 2001, Occupations Code, is amended by adding Sections 2001.421, 2001.422, and 2001.423 to read as follows:

Sec. 2001.421. PRIZE FEE, PAYOUT PERCENTAGE, AND REVENUE DEDICATION FOR ELECTRONIC PULL-TAB BINGO. (a) A licensed authorized organization shall collect from a person who wins an electronic pull-tab bingo prize of more than \$5 a fee in the amount of five percent of the amount or value of the prize and shall remit a fee in the amount of five percent for all prizes awarded as a result of electronic pull-tab bingo games.

(b) The prize payout percentage for electronic pull-tab bingo games may not be less than the prize payout percentage established for a paper pull-tab bingo game.

(c) The revenue received by the state from the fee imposed by Subsection (a) shall be used to finance the public primary and secondary schools of this state or to reduce public school property taxes, or both, as provided by the General Appropriations Act or other law.

Sec. 2001.422. NO EXCLUSIVE VENDOR FOR ELECTRONIC PULL-TAB BINGO. The commission may not require that electronic pull-tab bingo be provided by a single vendor.

Sec. 2001.423. ADDITIONAL PROVISIONS REGARDING ELECTRONIC PULL-TAB BINGO. (a) In addition to the other provisions contained in this chapter, electronic pull-tab bingo may be allowed only under the following circumstances:

(1) at a location authorized by the commission as of January 1, 2005, that is owned by a governmental agency where bingo is conducted;

(2) at a location that was owned by a licensed authorized organization where bingo was authorized to be conducted on January 1, 2005; and

(3) under a license held by a licensed commercial lessor whose license was in effect as of January 1, 2005, and whose license has been in effect continuously since that date.

SECTION __. The legislature finds and declares the following:

(1) In light of the state's need to reduce school property taxes and finance the public schools, the Texas Lottery Commission must be authorized to commence implementation and authorization of electronic pull-tab bingo games in accordance with Chapter 2001, Occupations Code, as amended by this Act, at the earliest possible date, consistent with legislative directive.

(2) The implementation of electronic pull-tab bingo described as authorized by Chapter 2001, Occupations Code, as amended by this Act, may require significant time, including analysis and testing of electronic monitoring terminals, electronic pull-tab bingo tickets, site controllers, point-of-sale stations, and card-minding devices, in order to establish electronic pull-tab bingo systems.

(3) The state's need to reform the public school finance system and to reduce property taxes constitutes an imminent peril to the public welfare, requiring the adoption of rules and authorization for the Texas Lottery Commission to conduct certain preimplementation activities related to regulating electronic pull-tab bingo to ensure:

(A) that the increase in state revenue from the prize fees derived from the conduct of electronic pull-tab bingo games is realized as soon as possible to further the public interest in reforming the public school finance system and reducing property taxes; and

(B) that electronic pull-tab bingo is fairly conducted and the proceeds derived from it are used for an authorized purpose, and to promote and ensure the integrity, security, honesty, and fairness of the electronic pull-tab bingo system.

(4) In order to commence operation of electronic pull-tab bingo, as authorized by Chapter 2001, Occupations Code, as amended by this Act, the Texas Lottery Commission may conduct limited preimplementation activities as necessary to ensure the prompt approval of electronic pull-tab bingo equipment after the effective date of this Act.

(5) Before the effective date of the changes made to Chapter 2001, Occupations Code, by this Act, the Texas Lottery Commission may request and receive information related to applications for licensing and testing of electronic pull-tab bingo components as authorized under Chapter 2001, Occupations Code, as amended by this Act.

SECTION __. The Texas Lottery Commission may expend money from the Commission's appropriations for the 2006-2007 biennium for purposes of conducting preimplementation activities to implement the changes made to Subchapter I, Chapter 2001, Occupations Code, by this Act, including the development and approval of forms for applications for licensing and testing of electronic pull-tab bingo equipment authorized by Chapter 2001, Occupations Code, as amended by this Act.

SECTION __. (a) Not later than January 1, 2006, the Texas Lottery Commission shall adopt rules necessary to implement the changes in law made to Chapter 2001, Occupations Code, by this Act.

(b) Notwithstanding any other law, the following provisions apply to the procedures for adoption of the rules required by Subsection (a) of this section:

(1) the Texas Lottery Commission shall give at least 15 days' notice of its intention to adopt a rule before it adopts the rule under this section;

(2) a rule adopted under this section takes effect on the date it is filed in the office of the secretary of state;

(3) the commission shall notify all holders of a manufacturer's license of the adoption of a rule under this section not later than the 10th day after the adoption of the rule; and

(4) to the extent the provisions of this section are inconsistent with Subchapter B, Chapter 2001, Government Code, this section prevails.

SECTION __. This Act takes effect November 1, 2005.

The amendment was read.

Senator Armbrister offered the following amendment to Floor Amendment No. 27:

Floor Amendment No. 28

Amend Floor Amendment No. 27 to **CSHB 3** as follows:

(1) On page 2, strike lines 20 through 29 and replace as follows:

(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 exercised tribal authority over a reservation, as defined by 25 U.S.C. Sections 731 and 1300g; and

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

(2) On page 4, strike lines 26 through 29 and replace as follows:

(b) An organization described by Subsection (a) may conduct bingo activities only in accordance with the provisions of this chapter in compliance with Sections 107(b) and 207(b), Ysleta del Sur Pueblo and Alabama and Coushatta Indians Tribes of Texas Restoration Act (25 U.S.C. Sections 737 and 1300g-(6)).

(3) On page 5, strike lines 1 through 5 and replace as follows:

(c) A tribal organization conducting bingo under this section shall collect from a person who wins a bingo prize of more than \$5.00 a fee in the amount of five percent of the amount or value of the prize and remit the fee to the State of Texas in a manner determined by the comptroller to provide funding for the public school finance system.

(4) On page 13, strike lines 14 through 19 and replace as follows:

(2) at a location that was owned by a licensed authorized organization where bingo was authorized to be conducted on January 1, 2005;

(3) under a license held by a licensed commercial lessor whose license was in effect as of January 1, 2005, and whose license has been in effect continuously since that date; and

(4) by an organization authorized under tribal law pursuant to Occupations Code Section 2001.2015.

The amendment to Floor Amendment No. 27 to **CSHB 3** was read and was adopted by the following vote: Yeas 25, Nays 4.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Duncan, Ellis, Eltife, Estes, Gallegos, Harris, Hinojosa, Janek, Lindsay, Lucio, Madla, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Deuell, Fraser, Jackson, Nelson.

Absent-excused: Carona, Staples.

Senator Nelson offered the following amendment to Floor Amendment No. 27:

Floor Amendment No. 29

Amend Floor Amendment No. 27 to **CSHB 3** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter C, Chapter 467, Government Code, is amended by adding Section 467.109 to read as follows:

Sec. 467.109. CONSUMER INFORMATION AND PROTECTION POLICIES AND COMPLAINT PROCEDURE. (a) The commission shall identify applicable laws governing consumer information and protection, including laws governing deceptive trade practices and deceptive advertising, and develop policies to ensure the commission complies with the requirements of those laws and does not violate the prohibitions under those laws.

(b) A consumer may file a complaint with the attorney general if the consumer believes the commission has failed to comply with or is violating a law identified or a policy developed as provided by Subsection (a). After investigating the complaint and conducting a hearing, if appropriate, the attorney general may:

(1) make recommendations to the commission regarding modification of the commission's policies; or

(2) issue an opinion on whether the commission is complying with or violating the law or policy.

SECTION __. Section 466.101, Government Code, is amended to read as follows:

Sec. 466.101. PROCUREMENT PROCEDURES. Except as otherwise provided by this subchapter, the general law governing purchasing and contracts by state agencies applies to the commission. ~~[(a) The executive director may establish procedures for the purchase or lease of facilities, goods, and services and make any purchases, leases, or contracts that are necessary for carrying out the purposes of this chapter. The procedures must, as determined feasible and appropriate by the executive director, promote competition to the maximum extent possible.~~

[(b) In all procurement decisions, the executive director shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery and the objective of producing revenues for the state treasury.

~~[(e) The procurement procedures adopted by the executive director must, as determined feasible and appropriate by the executive director, afford any party who is aggrieved by the terms of a solicitation or the award of a contract an opportunity to protest the executive director's action to the commission. The protest procedures must provide for an expedient resolution of the protest in order to avoid substantially delaying a solicitation or contract award that is necessary for the timely implementation of a lottery game. A protest must be in writing and be filed with the commission not later than 72 hours after receipt of notice of the executive director's action.~~

~~[(d) A party who is aggrieved by the commission's resolution of a protest under Subsection (e) may file an action in the district court of Travis County. The court shall give preference to hearings and trials of actions under this section. If the party filing the action seeks to enjoin the implementation of a solicitation or contract, the party shall post a bond that is payable to the state if the party does not prevail in the appeal, and is in an amount sufficient to compensate the state for the revenue that would be lost due to the delay in lottery operations.~~

~~[(e) The commission shall require any person seeking to contract for goods or services relating to the implementation and administration of this chapter to submit to competitive bidding procedures in accordance with rules adopted by the commission. The procedures must be for the purpose of ensuring fairness and integrity.]~~

SECTION __. Sections 466.102, 466.104, 466.105, 466.106, 466.107, and 466.108, Government Code, are repealed.

SECTION __. Not later than March 1, 2006, the Texas Lottery Commission shall adopt the policies required by Section 467.109, Government Code, as added by this Act.

SECTION __. The change in law made by this Act to Chapter 466, Government Code, governing purchasing and contracts by the Texas Lottery Commission applies to a purchase or contract made on or after the effective date of this Act, except that a contract or purchase for which the initial notice soliciting bids or proposals or other applicable expressions of interest is given before that date is governed by the law in effect when the initial notice for the contract or purchase is given, and the former law is continued in effect for that purpose. The change in law made by this Act does not affect a contract entered into before the effective date of this Act, and does not apply to a purchase made on or after the effective date of this Act under a contract entered into before the effective date of this Act if the purchase is made during the period covered by the contract.

The amendment to Floor Amendment No. 27 to **CSHB 3** was read and was adopted by the following vote: Yeas 25, Nays 4.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Deuell, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Duncan, Lucio, Madla, Wentworth.

Absent-excused: Carona, Staples.

Senator Nelson offered the following amendment to Floor Amendment No. 27:

Floor Amendment No. 30

Amend Floor Amendment No. 27 to **CSHB 3** as follows:

On page 9, delete lines 2 through line 8.

The amendment to Floor Amendment No. 27 to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 30 except as follows:

Absent-excused: Carona, Staples.

Senator Nelson offered the following amendment to Floor Amendment No. 27:

Floor Amendment No. 31

Amend Floor Amendment No. 27 to **CSHB 3** as follows:

Beginning on page 10, strike line 27, beginning with "In the alternative" through page 11, line 7 and replace with the following:

A licensee may demonstrate to the commission that its system complies with the above requirements by submitting evidence to the commission under this subsection, which may include a certification or letter opinion from the National Indian Gaming Commission or an independent testing facility. In the alternative, a licensee may demonstrate to the commission that its system complies with the above requirements by submitting to the commission a final determination from a court of competent jurisdiction that the system that includes the use of a card-minding device, site controller, or electronic monitoring terminal in connection with electronic pull-tab bingo is a Class II game, and such final determination from a court shall be binding on the commission.

The amendment to Floor Amendment No. 27 to **CSHB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 31 except as follows:

Absent-excused: Carona, Staples.

Senator Nelson offered the following amendment to Floor Amendment No. 27:

Floor Amendment No. 32

Amend Floor Amendment No. 27 to **CSHB 3** as follows:

Chapter 466, Subchapter F, Government Code, is amended by adding the following new Section 466.257 to read as follows:

Sec. 466.257. STATE REVENUE AS A PERCENTAGE OF AMOUNT WAGERED. Any game of chance operated under the auspices of the Texas Lottery Commission must generate as revenue to the state an amount that is not less than 12

percent of the total amount wagered. This section does not apply to bingo as defined under Section 2001.002, Texas Occupations Code, using devices expressly permitted and in use as of January 1, 2005.

The amendment was read.

POINT OF ORDER

Senator Armbrister raised a point of order that Floor Amendment No. 32 was drafted against **CSHB 3**, not Floor Amendment No. 27.

POINT OF ORDER WITHDRAWN

Senator Armbrister withdrew the point of order.

Senator Nelson withdrew Floor Amendment No. 32.

Senator Nelson offered the following amendment to Floor Amendment No. 27:

Floor Amendment No. 33

Amend Floor Amendment No. 27 to **CSHB 3** by adding the following SECTION, appropriately numbered, and renumbering subsequent SECTIONs of the bill accordingly:

SECTION __. Section 2001.420, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) A prize payout for electronic pull-tab bingo or any electronic bingo game may not exceed 65 percent of total receipts.

The amendment was read.

On motion of Senator Armbrister, Floor Amendment No. 33 to Floor Amendment No. 27 to **CSHB 3** was tabled by the following vote: Yeas 21, Nays 7.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Duncan, Ellis, Eltife, Estes, Gallegos, Harris, Hinojosa, Janek, Lindsay, Lucio, Madla, Ogden, Seliger, Van de Putte, Wentworth, Whitmire, Zaffirini.

Nays: Deuell, Fraser, Nelson, Shapiro, Shapleigh, West, Williams.

Absent: Jackson.

Absent-excused: Carona, Staples.

Senator Nelson offered the following amendment to Floor Amendment No. 27:

Floor Amendment No. 34

Amend Floor Amendment No. 27 to **CSHB 3** as follows:

Chapter 466, Subchapter F, Government Code, is amended by adding the following new Section 466.257 to read as follows:

Sec. 466.257. STATE REVENUE AS A PERCENTAGE OF AMOUNT WAGERED. Any game of bingo under Section 2001 of the Texas Occupations Code operated under the auspices of the Texas Lottery Commission must generate as revenue to the state an amount that is not less than 12 percent of the total amount wagered. This section does not apply to bingo as defined under Section 2001.002, Texas Occupations Code, using devices expressly permitted and in use as of January 1, 2005.

The amendment was read.

On motion of Senator Armbrister, Floor Amendment No. 34 to Floor Amendment No. 27 to **CSHB 3** was tabled by the following vote: Yeas 18, Nays 10.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Duncan, Ellis, Estes, Gallegos, Harris, Hinojosa, Janek, Lucio, Madla, Seliger, Shapiro, Van de Putte, Wentworth, Zaffirini.

Nays: Deuell, Eltife, Fraser, Lindsay, Nelson, Ogden, Shapleigh, West, Whitmire, Williams.

Absent: Jackson.

Absent-excused: Carona, Staples.

Question recurring on the adoption of Floor Amendment No. 27 to **CSHB 3**, the amendment as amended was adopted by the following vote: Yeas 23, Nays 5.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Ellis, Eltife, Estes, Gallegos, Harris, Hinojosa, Janek, Lindsay, Lucio, Madla, Seliger, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Deuell, Duncan, Fraser, Nelson, Ogden.

Absent: Jackson.

Absent-excused: Carona, Staples.

(Senator Brimer in Chair)

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 35

Amend **CSHB 3** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE __. VIDEO LOTTERY

SECTION 1. Section 466.002, Government Code, is amended by amending Subdivisions (2) through (10) and adding Subdivisions (11) through (36) to read as follows:

(2) "Central determinant system" means a video lottery system that provides lottery outcome from a central determinant computer that is transmitted to video lottery terminals in a manner prescribed by the commission.

(3) "Communication technology" means the methods used and the components employed to facilitate the transmission of information, including transmission and reception systems that transmit information through wire, cable, radio, microwave, light, optics, or computer data networks.

(4) "Director" means a [the] director employed by the executive director under Section 467.033 [of the division].

(5) "Disable," with respect to a video lottery terminal, means the process that causes the video lottery terminal to cease functioning on issuance of a shutdown command from the video lottery central system.

(6) "Distribute," with respect to a video lottery terminal, an electronic computer component of a video lottery terminal, the cabinet in which a video lottery terminal is housed, video lottery equipment, or video lottery game software intended for use or play in this state, including on Indian lands in this state, means the sale, lease, marketing, offer, or other disposition of any of those items.

(7) [~~3~~] "Division" means the lottery division established by the commission under Chapter 467.

(8) "Electronic storage medium," with respect to video lottery, means the electronic medium on which the operation software for a game playable on a video lottery terminal is stored in the form of erasable programmable read only memory, compact disc-read only memory, flash random access memory, or other technology medium the commission approves for use in a video lottery terminal.

(9) [~~4~~] "Executive director" means the executive director of the commission.

(10) "Gaming agreement" means an agreement authorized under Subchapter K between this state and a federally recognized Indian tribe under which this state allows the tribe to conduct limited gaming activities authorized under this chapter or applicable federal law.

(11) "House-banked game" means a game of chance in which:

(A) the house plays as a participant;

(B) the house competes against all players, collects from all losers, and pays all winners; and

(C) the house has an opportunity to win.

(12) "Indian lands" means:

(A) land located within an Indian reservation and occupied by an Indian tribe on January 1, 1998; and

(B) land occupied by an Indian tribe on January 1, 1998, over which an Indian tribe exercises governmental power and the title to which is:

(i) held in trust by the United States for the benefit of an Indian tribe or individual member of an Indian tribe; or

(ii) held by an Indian tribe or an individual member of an Indian tribe and subject to restriction by the United States against alienation.

(13) "Institutional investor" means:

(A) a state or federal government pension plan; or

(B) any of the following that meets the requirements of a "qualified institutional buyer" as defined in 17 C.F.R. Section 230.144A, adopted as Rule 144A by the United States Securities and Exchange Commission under the Securities Act of 1933 (15 U.S.C. Section 77a et seq.), and the rules and regulations adopted under that rule by the United States Securities and Exchange Commission:

(i) a bank as defined by Section 3(a)(6), Securities Exchange Act of 1934 (15 U.S.C. Section 78c(a)(6)), and the rules and regulations adopted under that act by the United States Securities and Exchange Commission;

(ii) an insurance company as defined by Section 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section 80a-2(a)(17));

(iii) an investment company registered under Section 8, Investment Company Act of 1940 (15 U.S.C. Section 80a-8);

(iv) an employee benefit plan or pension fund subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), excluding an employee benefit plan or pension fund sponsored by a publicly traded corporation registered with the United States Securities and Exchange Commission;

(v) a group composed entirely of persons specified by this subdivision; or

(vi) any other person the commission recognizes as an institutional investor for reasons consistent with the policies expressed in this chapter.

(14) [(5)] "Lottery" means the ~~state lottery established and operated in accordance with the Texas Constitution under this chapter and includes the operation of a state controlled video lottery system~~ procedures operated by the state under this chapter through which prizes are awarded or distributed by chance among persons who have paid, or unconditionally agreed to pay, for a chance or other opportunity to receive a prize. Such procedures shall include instant-ticket lottery games in which a central system randomly shuffles and stores paper and electronic ticket series, distributes the tickets to lottery operators and site controllers, monitors all system activity, and performs accounting and security functions. Such tickets shall be predetermined to be either winners or losers before the time of purchase, and once a player has purchased a ticket, it shall be removed from the pool of available tickets and may not be dispensed again. [~~procedures operated by the state under this chapter through which prizes are awarded or distributed by chance among persons who have paid, or unconditionally agreed to pay, for a chance or other opportunity to receive a prize~~].

(15) [(6)] "Lottery game" means an activity conducted lawfully and in accordance with the Texas Constitution and this chapter that is controlled by this state as part of the lottery and through which prizes are awarded or distributed by chance to persons who have paid or unconditionally agreed to pay, or who otherwise participate in a game, for a chance or other opportunity to receive a prize [~~includes a lottery activity~~].

(16) [(7)] "Lottery operator" means a person selected under Section 466.014(b) to operate a lottery game.

(17) "Manufacture," with respect to a video lottery terminal, an electronic computer component of a video lottery terminal, the cabinet in which a video lottery terminal is housed, video lottery equipment, or video lottery game software intended for use or play in this state, including on Indian lands in this state, means to design, assemble, fabricate, produce, program, or make modifications to any of those items.

(18) "Net terminal income" means the total amount of money paid to play video lottery games less the value of all credits redeemed, including any progressive prizes and bonuses, by the players of the video lottery games. Promotional prizes unrelated to video lottery game wagers that are offered by a video lottery retailer or video lottery manager may not be deducted or otherwise considered credits redeemed for money by players for the purpose of determining net terminal income.

(19) "Pari-mutuel license holder" means a person licensed to conduct wagering on a greyhound race or a horse race under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(20) "Person" means, for purposes of video lottery operations, any natural person, corporation, association, trust, partnership, limited partnership, joint venture, subsidiary, or other entity, regardless of its form, structure, or nature.

(21) [~~(8)~~] "Player" means a person who contributes any part of the consideration for a ticket or to play a video lottery game under this chapter.

(22) "Racetrack" means a racetrack as defined by Section 1.03(25), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(23) [~~(9)~~] "Sales agent" or "sales agency" means a person licensed under this chapter to sell tickets.

(24) "Slot machine" means a mechanical, electrical, or other type of device, contrivance, or machine not connected to the video lottery central system that plays or operates on insertion of a coin, currency, token, or similar object or on payment of any other consideration, and the play or operation of which, through the skill of the operator, by chance, or both, may deliver to the person playing or operating the machine, or entitle the person to receive, cash, premiums, merchandise, tokens, or any other thing of value, whether the payoff is made automatically from the machine or in any other manner. The term does not include any equipment, machine, technological aid, or other device used or authorized in connection with the play of bingo under Chapter 2001, Occupations Code.

(25) "Substantial interest holder" means any of the following that is not a bona fide lender, bank, or other authorized or licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business or a vendor of the applicant or license holder that is not otherwise a substantial business holder:

(A) a person who directly, indirectly, or beneficially owns any interest in a privately owned corporation, association, trust, partnership, limited partnership, joint venture, subsidiary, or other entity, regardless of its form, structure, or nature;

(B) a person who directly, indirectly, or beneficially owns 10 percent or more of any publicly owned corporation, association, trust, partnership, limited partnership, joint venture, subsidiary, or other entity, regardless of its form, structure, or nature;

(C) a person associated with an applicant or license holder who the commission determines has the power or authority to:

(i) control the activities of the applicant or license holder; or

(ii) elect or select the executive director, the managers, the partners, or a majority of the board of directors of the applicant or license holder; and

(D) any key personnel of a video lottery retailer or video lottery manager, including an executive director, officer, director, manager, member, partner, limited partner, executive, employee, or agent, who the commission determines has the power to exercise significant influence over decisions concerning any part of the applicant's or license holder's business operation.

(26) [~~(10)~~] "Ticket" means any tangible evidence issued to provide participation in a lottery game authorized by this chapter other than a video lottery game.

(27) "Video lottery" means an electronic version of the paper instant-ticket lottery games conducted by the Commission, and is composed of:

(A) video display terminals that accept players' paper currency, credit cards, or account cards, and permit players to view the results of the purchased electronic instant lottery tickets;

(B) site controllers that link a number of video display terminals to a central system, store and manage unpurchased electronic tickets series and are programmed to dispense electronic lottery tickets in the sequence received from and determined by the central system; and

(C) a central system that randomly shuffles and stores electronic ticket series, distributes the tickets to site controllers, monitors all system activity, and performs accounting and security functions.

(28) "Video lottery central system" means the system of procedures and facilities operated and controlled by the commission that is designed to link together all video lottery terminals operated in this state, that allows the commission to continuously monitor the activity of each video lottery terminal and to disable any video lottery terminal in this state, and that is a central determinant system.

(29) "Video lottery central system provider" means a person that, under a contract with the commission, provides the video lottery central system.

(30) "Video lottery equipment" means:

(A) a video lottery terminal;

(B) equipment, a component, or a contrivance used remotely or directly in connection with a video lottery terminal to:

(i) affect the reporting of gross revenue and other accounting information, including a device for weighing and counting money;

(ii) provide accounting, player tracking, bonuses and inhouse or wide-area progressive prizes;

(iii) monitor video lottery terminal operations; and

(iv) provide for the connection of video lottery terminals to the video lottery central system; or

(C) any other communications technology or equipment necessary for the operation of a video lottery terminal.

(31) "Video lottery game" means an electronic version of the state lottery displayed on a video lottery terminal connected to the video lottery central system. ~~an electronically simulated game displayed on a video lottery terminal the outcome of which is determined solely by chance based on a computer generated random selection of winning combinations of symbols or numbers other than roulette, dice, or baccarat game themes associated with casino gambling, except that game themes displaying symbols that appear to roll on drums to simulate a classic casino slot machine or themes of other card games and keno may be used.~~

(32) "Video lottery manager" means a person who:

(A) is licensed by the commission under this chapter to manage a video lottery terminal establishment at a racetrack; or

(B) provides management services for a video lottery terminal establishment on Indian lands.

(33) "Video lottery retailer" means a racetrack or the premises of a pari-mutuel license holder at which a video lottery terminal establishment is located and that holds a video lottery retailer license under Subchapter K.

(34) "Video lottery system" means a state-controlled lottery system under which individuals may play lottery games of chance on video lottery terminals owned and operated by persons licensed or otherwise authorized by this state in order to generate revenue for public purposes.

(35) "Video lottery terminal" means an interactive electronic device that is capable of displaying video lottery games.

(36) "Video lottery terminal establishment" means premises at which the operation of video lottery terminals is authorized by the commission under this chapter in accordance with a license or a gaming agreement.

(37) "Video lottery terminal provider" means a person in the business of manufacturing or distributing video lottery terminals in this state.

(38) "Video lottery ticket" means the tangible evidence issued by a video lottery terminal to reflect winnings from the play of a video lottery game.

SECTION 2. Section 466.003, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Any ~~A~~ contract or authorized agreement between the division and a lottery operator, the video lottery central system provider, a video lottery terminal provider, or a manufacturer or distributor of video lottery games under Section 466.014(b) must contain a provision allowing the contract or authorized agreement to be terminated without penalty should the division be abolished unless another state agency is assigned to regulate all video lottery game activity as required by this chapter.

(c) Notwithstanding Subsection (a), if any gaming agreement that allows video lottery is in effect, the commission or another state agency designated by the legislature must regulate video lottery games as necessary to comply with a gaming agreement under this chapter.

SECTION 3. Subsection (a), Section 466.004, Government Code, is amended to read as follows:

(a) A political subdivision of this state may not impose:

(1) a tax on the sale of a ticket;

(2) a tax on the payment of a prize under this chapter; ~~or~~

(3) an ad valorem tax on tickets;

(4) a tax, fee, or other assessment on consideration paid to play a video

lottery game; or

(5) a tax or fee for attendance or admission to a video lottery terminal establishment or a racetrack at which a video lottery terminal establishment is located unless specifically authorized by statute.

SECTION 4. Section 466.014, Government Code, is amended to read as follows:

Sec. 466.014. POWERS AND DUTIES OF COMMISSION AND EXECUTIVE DIRECTOR; CONTRACT AUTHORITY. (a) The commission and executive director have broad authority and shall exercise strict control and close supervision over ~~all~~ lottery games ~~conducted in this state~~ to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery.

(b) The executive director may contract with or employ a person to perform a function, activity, or service in connection with the operation of the lottery as prescribed by the executive director. A contract relating to the operation of video lottery must be consistent with Subchapter K. Except as provided by this subsection, a [A] person with whom the executive director contracts to operate a lottery game must be eligible for a sales agent license under Section 466.155. A person with whom the executive director contracts to provide the video lottery central system must be eligible under the same standards as those applicable to the registration or approval by the commission of a video lottery terminal provider in accordance with Subchapter K.

(c) The executive director may award a contract for lottery supplies, equipment, or services, including a contract under Subsection (b), pending the completion of any investigation and licensing, registration, or other approval authorized or required by this chapter. A contract awarded under this subsection must include a provision permitting the executive director to terminate the contract without penalty if the investigation reveals that the person to whom the contract is awarded would not be eligible for a sales agent license under Section 466.155 or, with regard to video lottery, does not satisfy the applicable requirements for licensing, registration, or other approval under Subchapter K.

(d) In the acquisition or provision of facilities, supplies, equipment, materials, or services related to the implementation of video lottery, the commission is exempt from:

(1) procurement procedures prescribed under:

(A) Subtitle D, Title 10; and

(B) Section 466.101; and

(2) any bidding or contract requirements provided by any other law or by commission rules.

(e) Subsection (d) and this subsection expire January 1, 2008.

SECTION 5. Subsection (b), Section 466.015, Government Code, is amended to read as follows:

(b) The commission shall adopt rules to the extent they are not inconsistent with Chapters 551 and 552 governing the:

(1) security for the lottery and the commission, including the development of an internal security plan;

(2) apportionment of the total revenues from the sale of tickets and from all other sources in the amounts provided by this chapter;

(3) enforcement of prohibitions on the sale of tickets to or by an individual younger than 18 years of age or the sale of a video lottery game to or by an individual younger than 21 years of age; ~~and~~

(4) enforcement of prohibitions on a person playing a lottery game by telephone; and

(5) enforcement of prohibitions provided by law on the sale of any purchase or play of a video lottery game.

SECTION 6. Section 466.017, Government Code, is amended to read as follows:

Sec. 466.017. AUDITS. (a) The commission ~~[executive director]~~ shall provide for a certified public accountant to conduct an independent audit of the commission's annual financial statements in accordance with generally accepted auditing standards that requires the accountant to express an opinion on the conformity of the financial statements with generally accepted accounting principles ~~[for each fiscal year of all accounts and transactions of the lottery]~~. The certified public accountant may not have~~[, as determined by the executive director,]~~ a significant financial interest in a sales agent, lottery vendor, ~~[or]~~ lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider. The certified public accountant shall present an audit report to the executive director, the commission, the governor, the comptroller, and the legislature not later than the 30th day after the submission date for the annual financial report required by the General Appropriations Act. ~~[The report must contain recommendations to enhance the earnings capability of the lottery and improve the efficiency of lottery operations.]~~ The state auditor may review the results of and working papers related to the audit.

(b) The records of a ~~[Each]~~ lottery operator, sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider ~~[operator's and sales agent's records]~~ are subject to audit by the commission and the state auditor. For the purpose of carrying out this chapter, the executive director or state auditor may examine all books, records, papers, or other objects that the executive director or state auditor determines are necessary for conducting a complete examination under this chapter and may also examine under oath any officer, director, or employee of a lottery operator, ~~[or]~~ sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider. The executive director or state auditor may conduct an examination at the principal office or any other office of the person subject to the audit ~~[lottery operator or sales agent]~~ or may require the person ~~[lottery operator or sales agent]~~ to produce the records at the office of the commission or state auditor. If a sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider refuses to permit an examination or to answer any question authorized by this subsection, the executive director may summarily suspend the license or registration of the sales agent, video lottery manager, video lottery retailer, or video lottery terminal provider under Section 466.160 or Subchapter K until the examination is completed as required. Section 321.013(h) does not apply to an audit of a lottery operator, ~~[or]~~ sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider.

SECTION 7. Section 466.018, Government Code, is amended to read as follows:

Sec. 466.018. INVESTIGATIONS. The attorney general, the district attorney for Travis County, or the district attorney, criminal district attorney, or county attorney performing the duties of district attorney for the county in which the violation or alleged violation occurred may investigate a violation or alleged violation of this chapter and of the penal laws of this state by the commission or its employees, a sales agent, a lottery vendor, ~~[or]~~ a lottery operator, a video lottery manager, a video lottery retailer, a video lottery terminal provider, or a video lottery central system provider.

SECTION 8. Subsections (c), (d), and (e), Section 466.020, Government Code, are amended to read as follows:

(c) A security officer or investigator employed by the department of security or a peace officer who is working in conjunction with the commission or the Department of Public Safety in the enforcement of this chapter may:

(1) ~~[]~~ without a search warrant, ~~[may]~~ search and seize a lottery vending machine, lottery computer terminal, video lottery terminal, or other lottery or gaming equipment that is located on premises for which a person holds a sales agent, video lottery retailer, or video lottery manager license issued under this chapter; or

(2) seize a lottery vending machine, lottery computer terminal, video lottery terminal, or other lottery or gaming equipment that is being used or is in the possession of any person in violation of this chapter.

(d) The Department of Public Safety or any other state or local law enforcement agency in this state, at the commission's request and in accordance with an interagency agreement, shall perform a full criminal background investigation of a prospective deputy or investigator of the department of security. The commission shall reimburse the agency ~~[Department of Public Safety]~~ for the actual costs of an investigation.

(e) At least once every two years, the executive director shall employ an independent firm that is experienced in security, including computer security and systems security, to conduct a comprehensive study of all aspects of lottery security, including:

- (1) lottery personnel security;
- (2) sales agent security;
- (3) lottery operator and vendor security;
- (4) security against ticket counterfeiting and alteration and other means of fraudulent winning;
- (5) security of lottery drawings;
- (6) lottery computer, data communications, database, and systems security;
- (7) lottery premises and warehouse security;
- (8) security of distribution of tickets;
- (9) security of validation and payment procedures;
- (10) security involving unclaimed prizes;
- (11) security aspects of each lottery game;
- (12) security against the deliberate placement of winning tickets in lottery games that involve preprinted winning tickets by persons involved in the production, storage, transportation, or distribution of tickets; ~~[and]~~
- (13) security of video lottery retailers, video lottery managers, video lottery terminal providers, and video lottery central system providers; and
- (14) other security aspects of lottery operations, including video lottery game operations.

SECTION 9. Subsection (a), Section 466.021, Government Code, is amended to read as follows:

(a) The executive director shall, every two years, employ an independent firm experienced in demographic analysis to conduct a demographic study of lottery players. The study must examine ~~include~~ the income, age, sex, race, education, and frequency of participation of players. The study must distinguish between players of traditional lottery games and video lottery games.

SECTION 10. Section 466.022, Government Code, is amended by amending Subsection (b) and adding Subsections (c) through (f) to read as follows:

(b) In addition to commission records excepted from disclosure under Chapter 552, the following information is confidential and is exempt from disclosure:

(1) security plans and procedures of the commission designed to ensure the integrity and security of the operation of the lottery;

(2) information of a nature that is designed to ensure the integrity and security of the selection of winning tickets or numbers in the lottery, other than information describing the general procedures for selecting winning tickets or numbers; ~~and~~

(3) the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information; and

(4) information relating to all system operations of video lottery games, including the operation of the video lottery system, security related to video lottery games, and commission plans and procedures intended to ensure the integrity and security of the operation of video lottery games.

(c) Information that is confidential under Subsection (b)(4) includes information and data that:

(1) are furnished to the commission under Subchapter K or that may be otherwise obtained by the commission from any source;

(2) pertain to an applicant's criminal record, antecedents, and background and are furnished to or obtained by the commission from any source, including information obtained by the commission under Section 411.108(d);

(3) are provided to the commission, a commission employee, or an investigator acting on behalf of the commission by a governmental agency or an informer or on the assurance that the information will be held in confidence and treated as confidential;

(4) are obtained by the commission from a video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider; or

(5) are prepared or obtained by an agent or employee of the commission relating to a license, registration, or renewal application, a finding of suitability, or any approval required under Subchapter K.

(d) Information that qualifies as confidential under Subsection (b)(4) may be disclosed in whole or in part only as necessary to administer this chapter or under a court order. The commission, subject to appropriate procedures, may disclose the information and data to an authorized agent of a political subdivision of this state, the United States, another state or a political subdivision of another state, a tribal law enforcement agency, or the government of a foreign country.

(e) For the annual report required under Section 466.016, the commission may disclose a compilation of statistical information that is otherwise confidential under Subsection (b)(4) if the compilation does not disclose the identity of an applicant, license or registration holder, or video lottery terminal establishment.

(f) Notwithstanding any other provision of state law, the information provided under Subsection (d) or (e) may not otherwise be disclosed without specific commission authorization.

SECTION 11. Section 466.024, Government Code, is amended to read as follows:

Sec. 466.024. PROHIBITED GAMES. (a) The executive director, ~~[or]~~ a lottery operator, a video lottery manager, a video lottery retailer, a video lottery terminal provider, or a video lottery central system provider may not establish or operate a lottery game in which the winner is chosen on the basis of the outcome of a live sports event.

(b) The ~~[commission shall adopt rules prohibiting the]~~ operation of any game using a video lottery machine, slot ~~[or]~~ machine, or other gambling device that is not connected to the video lottery central system and regulated by this state as required by this chapter is prohibited.

(c) In this section, "sports[+]

[(1) "Sports] event" means a football, basketball, baseball, or similar game, or a horse or dog race on which pari-mutuel wagering is allowed.

[(2) "Video lottery machine" or "machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including video poker, keno, and blackjack, using a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash, coins, or tokens, or that directly dispenses cash, coins, or tokens.]

SECTION 12. Section 466.025, Government Code, is amended to read as follows:

Sec. 466.025. REPORTS OF TICKETS SOLD, NET TERMINAL INCOME, AND PRIZES AWARDED. For each lottery game, other than a video lottery game, after the last date on which a prize may be claimed under Section 466.408(d), the director shall prepare a report that shows the total number of tickets sold and the number and amounts of prizes awarded in the game. The report must be available for public inspection. For video lottery games, the director shall prepare a weekly report that shows net terminal income for the preceding week.

SECTION 13. Subsection (a), Section 466.103, Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the executive director may not award a contract for the purchase or lease of facilities, goods, or services related to lottery operations to a person who:

(1) would be denied a license as a sales agent under Section 466.155; or

(2) with regard to video lottery equipment:

(A) is not a registered video lottery terminal provider if registration is required; or

(B) would be deemed unsuitable to be a video lottery terminal provider under Subchapter K.

SECTION 14. Section 466.110, Government Code, is amended to read as follows:

Sec. 466.110. PROHIBITED ADVERTISEMENTS. The legislature intends that advertisements or promotions sponsored by the commission or the division for the lottery not be of a nature that unduly influences any person to purchase a lottery ticket or number or play a video lottery game.

SECTION 15. Subsection (b), Section 466.151, Government Code, is amended to read as follows:

(b) The executive director may establish a provisional license or other classes of licenses necessary to regulate and administer the quantity and type of lottery games provided at each licensed location of a sales agent.

SECTION 16. Subsection (a), Section 466.158, Government Code, is amended to read as follows:

(a) Unless suspended or revoked, a license issued under this subchapter expires on the date specified in the license, which may not be later than the fifth ~~second~~ anniversary of its date of issuance.

SECTION 17. Subsection (a), Section 466.201, Government Code, is amended to read as follows:

(a) The commission is entitled to conduct an investigation of and is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency to assist in the investigation of:

(1) a sales agent or an applicant for a sales agent license;

(2) a person required to be named in a license application;

(3) a lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider, or prospective lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider;

(4) an employee of a lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider or prospective lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider, if the employee is or will be directly involved in lottery operations;

(5) a person who manufactures or distributes lottery equipment or supplies, or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;

(6) a person who has submitted a written bid or proposal to the commission in connection with the procurement of goods or services by the commission, if the amount of the bid or proposal exceeds \$500;

(7) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license;

(8) a person who proposes to enter into or who has a contract with the commission to supply goods or services to the commission; or

(9) if a person described in Subdivisions (1) through (8) is not an individual, an individual who:

(A) is an officer or director of the person;

- (B) holds more than 10 percent of the stock in the person;
- (C) holds an equitable interest greater than 10 percent in the person;
- (D) is a creditor of the person who holds more than 10 percent of the person's outstanding debt;
- (E) is the owner or lessee of a business that the person conducts or through which the person will conduct lottery-related activities;
- (F) shares or will share in the profits, other than stock dividends, of the person;
- (G) participates in managing the affairs of the person; or
- (H) is an employee of the person who is or will be involved in:
 - (i) selling tickets; or
 - (ii) handling money from the sale of tickets.

SECTION 18. Subchapter E, Chapter 466, Government Code, is amended by adding Section 466.206 to read as follows:

Sec. 466.206. CRIMINAL HISTORY INVESTIGATION FOR VIDEO LOTTERY. (a) Except as otherwise provided by this section, Sections 466.020 and 466.201, and Subchapter K, a criminal history investigation of a video lottery retailer, video lottery manager, video lottery terminal provider, or video lottery central system provider is governed by commission rules adopted under Subchapter K, which may consider a criminal history investigation conducted under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(b) The Department of Public Safety or a state or local law enforcement agency in this state, in accordance with an interagency agreement with the commission, shall provide any assistance requested by the commission in the administration and enforcement of this chapter, including conducting background investigations of a person seeking a license, registration, or other commission authorization required under Subchapter K or of any person required to be named in an application for a license, registration, or other commission authorization under that subchapter.

(c) This section does not limit the commission's right to obtain criminal history record information from any other local, state, or federal agency. The commission may enter into a confidentiality agreement with the agency as necessary and proper.

(d) Except as otherwise provided by Section 411.108(d) or another provision of this chapter, criminal history record information obtained by the commission under this section may be disclosed only:

- (1) to another law enforcement agency to assist in or further an investigation related to the commission's operation and oversight of video lottery; or
- (2) under a court order.

SECTION 19. Section 466.252, Government Code, is amended to read as follows:

Sec. 466.252. PLAYER [~~PURCHASE OF TICKET~~] AGREEMENT TO ABIDE BY RULES AND INSTRUCTIONS. (a) By purchasing a ticket in a particular lottery game or participating as a player in a lottery game, a player agrees to abide by and be bound by the commission's rules and instructions, including the rules or instructions applicable to the particular lottery game involved. The player also acknowledges that the determination of whether the player is a valid winner is subject to:

(1) the commission's rules, instructions, and claims procedures, including those developed for the particular lottery game involved; ~~and~~

(2) any validation tests established by the commission for the particular lottery game involved; and

(3) the limitations and other provisions prescribed by this chapter.

(b) If the lottery uses tickets, an abbreviated form of the rules or a reference to the rules may appear on the tickets.

SECTION 20. Section 466.3011, Government Code, is amended to read as follows:

Sec. 466.3011. VENUE. Venue is proper in Travis County or any county in which venue is proper under Chapter 13, Code of Criminal Procedure, for:

(1) an offense under this chapter;

(2) an offense under the Penal Code, if the accused:

(A) is a lottery operator, lottery vendor, sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, video lottery central system provider, or employee of the division; and

(B) is alleged to have committed the offense while engaged in lottery activities, including video lottery activities; or

(3) an offense that involves property consisting of or including lottery tickets under Title 7 or 11, Penal Code.

SECTION 21. Subchapter G, Chapter 466, Government Code, is amended by adding Section 466.3031 to read as follows:

Sec. 466.3031. UNAUTHORIZED OPERATION, USE, OR POSSESSION OF VIDEO LOTTERY TERMINAL. (a) A person may not operate, use, or possess a video lottery terminal unless the operation, use, or possession is expressly authorized by this chapter or other law.

(b) Except for transport to or from a video lottery terminal establishment and as provided by this chapter, a person commits an offense if the person operates, uses, or possesses any video lottery terminal that is not at all times connected to the video lottery central system or that does not generate revenue for this state, except funds retained by the commission to pay administrative costs. An offense under this subsection is a felony of the third degree.

(c) Notwithstanding Subsection (b), a video lottery retailer, video lottery manager, or registered or approved video lottery terminal provider may store or possess a video lottery terminal as authorized by the commission, and the commission may possess video lottery terminals for study and evaluation.

(d) Nothing in this section shall be construed to prohibit the operation, use, or possession of equipment, machines, technological aids, or other devices allowed in connection with the play of bingo under Chapter 2001, Occupations Code.

SECTION 22. Subsection (a), Section 466.305, Government Code, is amended to read as follows:

(a) A sales agent, video lottery manager, or video lottery retailer, or an employee of a sales agent, video lottery manager, or video lottery retailer, commits an offense if the person intentionally or knowingly sells a ticket to another person or allows the

person to play or conduct a game on a video lottery terminal by extending credit or lending money to the person to enable the person to purchase the ticket or play the game.

SECTION 23. The heading to Section 466.3051, Government Code, is amended to read as follows:

Sec. 466.3051. SALE [OF TICKET] TO OR PURCHASE OF LOTTERY TICKET BY PERSON YOUNGER THAN 18; PLAY OF VIDEO LOTTERY GAME BY PERSON YOUNGER THAN 21 [YEARS OF AGE].

SECTION 24. Section 466.3051, Government Code, is amended by adding Subsections (a-1) and (b-1) and amending Subsections (b) through (f) to read as follows:

(a-1) A video lottery manager, a video lottery retailer, or an employee of a video lottery manager or video lottery retailer commits an offense if the person intentionally or knowingly allows a person younger than 21 years of age to play a video lottery game.

(b) An individual who is younger than 18 years of age commits an offense if the individual:

(1) purchases a lottery ticket; or
(2) falsely represents the individual to be 18 years of age or older by displaying evidence of age that is false or fraudulent or misrepresents in any way the individual's age in order to purchase a lottery ticket.

(b-1) An individual who is younger than 21 years of age commits an offense if the individual:

(1) plays a video lottery game; or
(2) falsely represents the individual to be 21 years of age or older by displaying evidence of age that is false or fraudulent or misrepresents in any way the individual's age in order to play a video lottery game.

(c) A person 18 years of age or older may purchase a lottery ticket to give as a gift to another person, including an individual younger than 18 years of age.

(d) It is a defense to the application of Subsection (b) that the individual younger than 18 years of age is participating in an inspection or investigation on behalf of the commission or other appropriate governmental entity regarding compliance with this section. It is a defense to the application of Subsection (b-1) that the individual younger than 21 years of age is participating in an inspection or investigation on behalf of the commission or other appropriate governmental entity regarding compliance with this section.

(e) An offense under Subsection (a) or (a-1) is a Class C misdemeanor.

(f) An offense under Subsection (b) or (b-1) is punishable by a fine not to exceed \$250.

SECTION 25. Section 466.3053, Government Code, is amended to read as follows:

Sec. 466.3053. PURCHASE OF TICKET OR VIDEO LOTTERY GAME WITH PROCEEDS OF AFDC CHECK OR FOOD STAMPS. (a) A person commits an offense if the person intentionally or knowingly purchases a ticket or plays a video lottery game with:

(1) the proceeds of a check issued as a payment under the Aid to Families with Dependent Children program administered under Chapter 31, Human Resources Code; or

(2) a food stamp coupon issued under the food stamp program administered under Chapter 33, Human Resources Code.

(b) An offense under this section is a Class C misdemeanor.

SECTION 26. Section 466.306, Government Code, is amended to read as follows:

Sec. 466.306. FORGERY; ALTERATION OF TICKET. (a) A person commits an offense if the person intentionally or knowingly alters or forges a ticket or video lottery ticket.

(b) An offense under this section is a felony of the third degree unless it is shown on the trial of the offense that the prize alleged to be authorized by the ticket or video lottery ticket forged or altered is greater than \$10,000, in which event the offense is a felony of the second degree.

SECTION 27. Subsection (a), Section 466.309, Government Code, is amended to read as follows:

(a) A person commits an offense if the person intentionally or knowingly tampers with, damages, defaces, or renders inoperable any vending machine, electronic computer terminal, video lottery terminal or other video lottery equipment, or other mechanical device used in a lottery game.

SECTION 28. The heading to Section 466.317, Government Code, is amended to read as follows:

Sec. 466.317. PROHIBITION AGAINST SALE OF CERTAIN LOTTERY TICKETS OR OPERATION OF CERTAIN VIDEO LOTTERY SYSTEMS.

SECTION 29. Section 466.317, Government Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

(a-1) A person may not control or operate a video lottery system in this state except as provided by this chapter.

(b) The state may enter into a compact with another state or state government [~~or an Indian tribe or tribal government~~] to permit the sale of lottery tickets of this state in the state's[~~tribe's,~~] or government's jurisdiction and to allow the sale of the state's[~~tribe's,~~] or government's lottery tickets in this state.

(c) A person commits an offense if the person violates this section. An offense under this section is a felony of the third degree [~~Class A misdemeanor~~].

SECTION 30. Subsection (a), Section 466.355, Government Code, is amended to read as follows:

(a) The state lottery account is a special account in the general revenue fund. The account consists of all revenue received from the sale of tickets, license and application fees under this chapter, other than Subchapter K, and all money credited to the account from any other fund or source under law. Interest earned by the state lottery account shall be deposited in the unobligated portion of the general revenue fund.

SECTION 31. Subchapter H, Chapter 466, Government Code, is amended by adding Section 466.360 to read as follows:

Sec. 466.360. VIDEO LOTTERY TERMINAL REVENUE. Revenue generated from the operation of video lottery terminals is governed by Subchapter K and commission rules.

SECTION 32. Section 466.402, Government Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to the payment of prizes for video lottery games governed by Subchapter K.

SECTION 33. Chapter 466, Government Code, is amended by adding Subchapters K and L to read as follows:

SUBCHAPTER K. VIDEO LOTTERY

Sec. 466.501. LEGISLATIVE FINDINGS AND DECLARATIONS. The legislature finds and declares the following:

(1) The purpose and intent of this chapter is to carry out the intent of the voters as established by the approval of Section 47(e), Article III, Texas Constitution, to expand the revenue-generating ability of the state lottery by authorizing this state to operate a video lottery system consistent with public policy strictly limiting the expansion of gambling in this state.

(2) Except for the operation of video lottery terminals on certain Indian lands, the people of this state intend to allow only state-controlled video lottery games to be conducted in this state and only in locations at which pari-mutuel wagering is authorized ~~conducted~~ at racetracks.

(3) This state has the authority and responsibility to control the proliferation of gambling by:

(A) limiting the total number of video lottery terminals permitted at authorized locations in this state;

(B) limiting video lottery licensing to specific licensed racetracks;

(C) extending strict and exclusive state oversight and supervision to all persons, locations, practices, and associations related to the operation of video lottery games; and

(D) providing comprehensive law enforcement supervision of video lottery game activities.

(4) This state's ability to monitor and control the operation of all video lottery terminals ensures the integrity of the system and provides for the most efficient oversight and supervision. ~~Costs incurred for oversight and supervision of gambling will be significantly less than if video lottery terminals were not operated as part of the video lottery system.~~ In addition, providing for the state-controlled system will defend against criminal infiltration of gambling operations.

(5) The video lottery games operated at racetracks under this chapter are controlled by this state in a manner that allows this state to continuously monitor all video lottery terminals and to disable any video lottery terminal for the protection of the public and this state.

(6) Through the video lottery system this state will monitor the network of video lottery terminals to ensure maximum security unique to state-operated gambling. Except as may otherwise be required by federal law governing Indian lands, each operating video lottery terminal in this state will be connected to a video lottery central system.

(7) The authorization for state-controlled video lottery terminals to fund governmental programs is consistent with this state's public policy prohibiting gambling provided the gambling is not, in any way, expanded beyond that directly controlled by this state. Expanded gambling beyond this limited form of state-controlled gambling would compromise the public safety, law, and long-standing policy against gambling in this state. In addition, such expanded gambling could impose prohibitive cost on this state's regulatory system and, therefore, defeat the effort to raise revenue for state governmental programs through authorized video lottery terminals. For these reasons, any interpretation that allows for casino gaming of the type operating in Nevada and New Jersey in 2005 to be conducted in this state at racetracks or on Indian lands as a result of the authorization of video lottery terminals would have severe adverse consequences on this state's efforts to raise revenue to fund governmental programs through the operation of video lottery terminals and would violate the public policy against gambling in such a way that would clearly outweigh any potential positive economic consequences.

(8) In authorizing only a state-controlled and state-operated video lottery system and state-controlled video lottery terminals in limited locations and continuing the general prohibition on gambling in this state as a matter of public policy, this state is protecting the state's legitimate interests by restricting such vice activity. By limiting the operation of video lottery terminals to those connected to the state-controlled video lottery system and to certain lands and certain types of games, the legislature seeks to foster this state's legitimate sovereign interest in regulating the growth of gambling activities in this state. Historically, this state has banned commercial gambling altogether and, therefore, it is in this state's best interest to limit the placement of commercial gambling operations to certain locations. Limiting video lottery terminals to those controlled by this state and located on racetracks where regulated gambling occurs is reasonably designed to defend against the criminal infiltration of gambling operations and adverse impacts on communities statewide. By restricting gambling such as video lottery terminals to carefully limited locations and video lottery terminals controlled by this state that may be disabled by this state if necessary to protect the public, this state furthers the state's purpose of ensuring that such gambling activities are free from criminal and undesirable elements.

(9) This chapter is game-specific and may not be construed to allow the operation of any other form of gambling unless specifically allowed by this chapter. This chapter does not allow the operation of slot machines, dice games, roulette wheels, house-banked games, including house-banked card games, or games in which winners are determined by the outcome of a sports contest that are expressly prohibited under other state law.

(10) In considering limitations on expanded gambling in this state, it is a critical factor to effectuate the will of the voters that any gaming on lands of the Ysleta del Sur Pueblo and Alabama-Coushatta Indian tribes must be in strict compliance with state law. The Kickapoo Traditional Tribe of Texas is only entitled to operate video lottery terminals in strict compliance with state law, unless otherwise required by federal law, and in accordance with a gaming agreement negotiated with

the governor and ratified by the legislature. A tribe may not under any circumstances operate Class III gaming as defined by federal law other than video lottery terminals connected to a video lottery central system controlled and operated by this state.

(11) The legislature has conferred a substantial economic benefit on federally recognized Indian tribes by allowing operation of video lottery terminals on lands held in trust by the Ysleta del Sur Pueblo and Alabama-Coushatta Indian tribes, and on Indian lands of the Kickapoo Traditional Tribe of Texas on which gaming is allowed under applicable federal law. These tribes have the exclusive right to operate video lottery terminals at locations on the Indian lands in this state without incurring the investment necessary to construct, maintain, and operate racetracks for live racing, and through revenue-sharing both the policy of self-governance for the tribes and this state's interests in generating additional revenue to fund governmental programs can be promoted.

(12) The public has an interest in video lottery game operations, and lottery operations conducted under Section 47(e), Article III, Texas Constitution, and this chapter represent an exception to the general policy of this state prohibiting wagering for private gain. Therefore, participation in a video lottery game by a holder of a license, registration, or approval under this chapter is considered a privilege conditioned on the proper and continued qualification of the holder and on the discharge of the affirmative responsibility of each holder to provide to the commission or other regulatory and investigatory authorities established by this chapter any assistance and information necessary to assure that the policies declared by this chapter are achieved. Consistent with this policy, the legislature intends this chapter to:

(A) preclude the creation of any property right in any license, registration, or approval issued or granted by this state under this chapter, the accrual of any value to the privilege of participation in any video lottery game operation, or the transfer of a license or permit; and

(B) require that participation in video lottery game operations be solely conditioned on the individual qualifications of persons seeking this privilege.

(13) Only video lottery terminals lawfully operated in connection with a video lottery system authorized by this subchapter may be lawfully operated on Indian lands under the Johnson Act (15 U.S.C. Section 1175).

(14) Because all video lottery terminal license holders will be expected to invest significant sums in facilities and infrastructure in order to maximize the usage of video lottery terminal machines, and thus the tax revenue to this State, it is the intention of the Legislature to create a reasonable time period for such significant investments to be amortized. Accordingly, the percentages and amounts set forth in Section 466.530 (annual fees per machine), Section 466.801 (tax rate), and Section 466.560 (purse rate) shall remain unchanged until at least January 1, 2016.

(15) To further the goal of revenue for the State, any laws or rules imposing in-state residency requirements on a United States citizen who has resided in this State for the period of 10 total years are void as anti-competitive and against the best interest of this State.

Sec. 466.502. CONSTRUCTION; APPLICABILITY OF OTHER LAWS.

(a) This subchapter applies uniformly throughout this state and all political subdivisions of this state.

(b) To the extent of any inconsistency between Chapter 2003 and this subchapter or a commission rule governing video lottery terminals, this subchapter or the commission rule controls in all matters related to video lottery terminals, including hearings before the State Office of Administrative Hearings.

(c) Video lottery equipment operated under commission authority and this chapter is exempt from 15 U.S.C. Section 1172.

Sec. 466.503. AUTHORITY TO OPERATE VIDEO LOTTERY SYSTEM.

(a) The commission may implement and operate a video lottery system and regulate the operation of video lottery terminals at racetracks in accordance with this chapter and the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes). This chapter supersedes any conflicting or inconsistent provision of the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) or other state law.

(b) The commission may allow the operation of video lottery terminals pursuant to this chapter at locations on Indian lands in accordance with an effective gaming agreement and in compliance with applicable federal law.

Sec. 466.504. VIDEO LOTTERY GAMES; STATE OWNERSHIP AND PROPRIETARY INTEREST. (a) This state owns all video lottery games, regardless of ownership of the video lottery terminal. This state possesses a proprietary interest in:

(1) the main logic boards and any electronic storage medium used in video lottery equipment or games; and

(2) software consisting of computer programs, documentation, and other related materials necessary for the operation of the video lottery system.

(b) For purposes of this chapter, this state may acquire a proprietary interest in video lottery game software through:

(1) ownership of the software; or

(2) an exclusive product license agreement with a provider in which the provider retains copyrighted ownership of the software but the license granted to this state is nontransferable and authorizes this state to operate the software program, solely for the state's own use, on the video lottery central system and video lottery terminals connected to the video lottery central system.

Sec. 466.505. STATE CONTROL OF VIDEO LOTTERY SYSTEM. (a) In accordance with Section 47(e), Article III, Texas Constitution, the commission shall control and regulate the video lottery system and the video lottery central system through which this state has the exclusive and unilateral ability to monitor activity of video lottery terminals and remotely disable video lottery terminals for the public safety, health, and welfare or the preservation of the integrity of the lottery and to prevent any financial loss to this state.

(b) This section does not affect or restrict the ability of a video lottery manager or video lottery retailer to monitor activity of video lottery terminals and to disable video lottery terminals in accordance with commission rules.

(c) The commission may disable a video lottery terminal if a video lottery retailer's or video lottery manager's license is revoked, surrendered, or summarily suspended under this subchapter and to prevent any financial loss to this state.

Sec. 466.506. VIDEO LOTTERY CENTRAL SYSTEM. (a) The commission shall establish or cause to be established a video lottery central system to link all video lottery terminals in the video lottery system. The video lottery central system must provide the auditing and other information required by the commission.

(b) The commission shall provide to a registered video lottery terminal provider or an applicant applying for registration as a video lottery terminal provider the protocol documentation data necessary to enable the provider's or applicant's video lottery terminals to communicate with the commission's video lottery central system for transmission of auditing program information and for activation and disabling of video lottery terminals.

(c) The video lottery central system design may not limit or preclude potential providers from providing ~~state of the art, industry standard video lottery terminals and associated equipment such as~~ player tracking systems, accounting systems, progressive systems, and bonusing systems, except for providers that fail to meet registration or approval specifications established by the commission.

(d) The commission may not allow a video lottery central system provider to sell or distribute video lottery terminals in this state to ensure the efficiency, integrity, and security of the video lottery system.

(e) The commission may contract with a video lottery central system provider to establish the video lottery central system.

Sec. 466.507. VIDEO LOTTERY TERMINAL PROVIDER: REGISTRATION OR APPROVAL REQUIRED. (a) A person may not manufacture or distribute video lottery equipment for use or play in this state unless the person is registered as a video lottery terminal provider or is otherwise approved by the commission to manufacture or distribute video lottery equipment in this state.

(b) Unless suspended or revoked, the registration or approval expires on the date specified by the commission, which may not be later than the fifth anniversary of the date of the registration or approval. A person may renew an unexpired registration or approval by paying the required renewal fee and complying with the requirements of this subchapter and commission rule.

(c) To be eligible for registration or commission approval as required by this section, an applicant must satisfy all applicable requirements under this subchapter.

Sec. 466.508. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION; CHANGE IN INFORMATION. (a) The commission shall adopt rules governing the registration or approval of video lottery terminal providers. The rules must require the application and any other form or document submitted to the commission by or on behalf of the applicant to determine the applicant's qualification under this section to be sworn to or affirmed before an officer qualified to administer oaths.

(b) An applicant for a video lottery terminal provider registration or approval must provide the following information:

(1) the full name and address of the applicant;

(2) the full name and address of each location at which video lottery equipment is or will be manufactured or stored in this state;

(3) the name, home address, and share of ownership of the applicant's substantial interest holders;

(4) a full description of each separate type of video lottery equipment that the applicant seeks to manufacture or distribute in this state;

(5) the brand name under which each type of video lottery equipment is to be distributed;

(6) if the applicant is incorporated under law other than the laws of this state, the applicant's irrevocable designation of the secretary of state as the applicant's resident agent for service of process and notice in accordance with the law of this state;

(7) a list of all businesses or organizations in this state in which the applicant has any financial interest and the details of that financial interest, including all arrangements through which a person directly or indirectly receives any portion of the profits of the video lottery terminal provider and indebtedness between the license holder and any other person, other than a regulated financial institution, in excess of \$5,000;

(8) a list of all affiliated businesses or corporations in which the applicant or an officer, director, or substantial interest holder of the applicant, either directly or indirectly, owns or controls as a sole proprietor or partner more than 10 percent of the voting stock of a publicly traded corporation;

(9) a list of all businesses or corporations licensed to conduct gambling activities or to supply gambling-related equipment, supplies, or services in which the applicant or an officer, director, or substantial interest holder of the applicant has any interest;

(10) a list of all jurisdictions in which the applicant or an officer, director, or substantial interest holder of the applicant has been licensed, registered, qualified, or otherwise approved to conduct gambling-related activities during the 10 years preceding the date of the filing of the application;

(11) a statement, including all related details, indicating whether the applicant or an officer, director, or substantial interest holder of the applicant has ever had a license, registration, qualification, or other approval for gambling-related activities denied, revoked, or suspended by any jurisdiction or has been fined or otherwise required to pay penalties or monetary forfeitures for gambling-related activities in any jurisdiction; and

(12) a statement acknowledging that the applicant will make available for review at the time and place requested by the commission all records related to the ownership or operation of the business.

(c) The commission may require the following information from an applicant:

(1) personal financial and personal history records of all substantial interest holders;

(2) all records related to the scope of activity, including sales of product, purchases of raw materials and parts, and any contracts, franchises, patent agreements, or similar contracts or arrangements related to manufacturing or distributing video lottery terminals; and

(3) records related to any financial or management control of or by customers and suppliers.

(d) The applicant must demonstrate the ability to comply with all manufacturing, quality control, and operational restrictions imposed on authorized video lottery equipment, patented or otherwise restricted video lottery games, or other video lottery equipment that the applicant seeks to manufacture or distribute for use in this state. The registration or approval process may include an on-site review of the applicant's manufacturing equipment and process for each separate type of authorized video lottery equipment to ensure compliance with the requirements of this chapter and commission rules.

(e) Not later than the 30th day after the date of any change in the information submitted on or with the application form, the applicant shall notify the commission of the change, including a change that occurs after the registration or other commission approval has been granted.

(f) The applicant shall comply with all federal and state laws, local ordinances, and rules.

Sec. 466.509. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION FEE. (a) An applicant seeking registration or approval or renewal of registration or approval as a video lottery terminal provider must pay a nonrefundable application fee in the amount prescribed by commission rule that is sufficient to pay the costs to the commission of administering and licensing video lottery terminals.

(b) Application fees paid under this section shall be retained by the commission to defray costs incurred in the administration and enforcement of this chapter relating to the operation of video lottery terminals.

Sec. 466.510. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER LICENSE REQUIRED. Except as provided by a gaming agreement, a person may not own or operate a video lottery terminal if the person does not satisfy the requirements of this subchapter and is not licensed by the commission to act as a video lottery retailer or video lottery manager.

Sec. 466.511. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER: APPLICATION AND QUALIFICATION. (a) An applicant for a video lottery retailer or video lottery manager license must apply to the commission under rules adopted by the commission, provide the information necessary to determine the applicant's eligibility for a license, and provide other information considered necessary by the commission. The applicant must:

(1) hold a valid pari-mutuel license granted by the Texas Racing Commission under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes);

(2) have a valid and executed contract with a racetrack that satisfies the requirements of Subdivision (1) to act as a video lottery manager for the racetrack subject to licensing under this chapter; or

(3) demonstrate to the commission's satisfaction that the applicant seeks to act as a video lottery manager for a federally recognized Indian tribe that has entered into a gaming agreement with this state that is in effect and governs the regulation of video lottery terminals on Indian lands in this state;

~~(4) have an application pending at the Texas Racing Commission for a pari mutuel license under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) on June 1, 2005; or~~

~~(5) have an entity or be a person whose pari-mutuel license has lapsed or been suspended or surrendered if such person is qualified and licensed as a pari-mutuel license holder under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) on or before January 1, 2006.~~

(b) Each officer, partner, director, key employee, substantial interest holder, video lottery game operation employee, and owner of video lottery game operations must be eligible and maintain eligibility in accordance with this subchapter to be involved in video lottery games in this state.

(c) An applicant for a video lottery retailer or video lottery manager license has the burden of proving qualification for a license by clear and convincing evidence. In addition to satisfying minimum requirements established by commission rules, an applicant for a video lottery retailer or video lottery manager license must:

(1) be a person of good character, honesty, and integrity;

(2) be a person whose background and prior activities, including criminal record, reputation, habits, and associations, do not pose a threat to the security and integrity of video lottery or to the public interest of this state or to the effective operation and control of video lottery, or do not create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of video lottery or in the carrying on of the business and financial arrangements incidental to video lottery;

(3) if applying for a new license, provide fingerprints for a criminal records evaluation by the Department of Public Safety or other law enforcement agency, including fingerprints for each person required to be named in an application, accompanied by a signed authorization for the release of information to the commission by the Department of Public Safety and the Federal Bureau of Investigation;

(4) not have been convicted of an offense under this chapter or of any crime related to theft, bribery, or gambling or involving moral turpitude;

(5) demonstrate adequate business probity, competence, experience, and financial stability as defined by the commission;

(6) demonstrate adequate financing for the operation of the facility at which the video lottery terminals will be operated from a source that meets the requirements of this subchapter and is adequate to support the successful performance of the duties and responsibilities of the license holder and disclose all financing or refinancing arrangements for the purchase, lease, or other acquisition of video lottery equipment in the degree of detail requested by the commission;

(7) when applying for a new license or renewing a license under this chapter, present evidence to the commission of the existence and terms of any agreement regarding the proceeds from the operation of video lottery terminals;

(8) demonstrate that each substantial interest holder in the applicant meets all applicable qualifications under this subchapter;

(9) provide all information, including financial data and documents, consents, waivers, identification of surety and insurance providers, and any other materials, requested by the commission for purposes of determining qualifications for a license; and

(10) as part of its application, expressly waive any and all claims against the commission, this state, and a member, officer, employee, or authorized agent of the commission or this state for damages resulting from any background investigation, disclosure, or publication relating to an application for a video lottery retailer or video lottery manager license.

(d) An application or disclosure form and any other document submitted to the commission by or on behalf of the applicant for purposes of determining qualification for a video lottery retailer or video lottery manager license must be sworn to or affirmed before an officer qualified to administer oaths.

(e) An applicant who knowingly fails to reveal any fact material to qualification for a license, finding of suitability, or other approval or who knowingly submits false or misleading material information is ineligible for a video lottery retailer or video lottery manager license.

(f) An applicant for a license or renewal of a license as a video lottery retailer or video lottery manager shall notify the commission of any change in the application information for a license or renewal of a license not later than the 10th day after the date of the change, except that a publicly traded corporation or other business association or entity applicant is not required to notify the commission of a transfer by which any person directly or indirectly becomes the beneficial owner of less than 10 percent of the stock of the corporation or association.

(g) Except as provided by Section 466.513(e), the commission shall deny an application for a license or shall suspend or revoke a license if the commission finds that the applicant would be subject to denial or revocation of a sales agent license under Section 466.155.

Sec. 466.512. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER: APPLICATION FEE. (a) An applicant for a video lottery retailer or video lottery manager license shall submit a nonrefundable application processing fee in the amount prescribed by commission rule that is sufficient and reasonable to pay the costs of determining the applicant's eligibility, not to exceed \$50,000.

(b) An application may not be processed until the applicant pays the application fee. If the application fee is not received by the 30th day after the date the commission notifies the applicant of the amount of the fee, the application is considered withdrawn and may not be considered by the commission.

Sec. 466.513. VIDEO LOTTERY TERMINAL ESTABLISHMENT LICENSE: REQUIREMENTS; LOCATION. (a) An applicant for a video lottery terminal establishment license must ensure that the facility for the establishment will comply with all applicable building codes and rules of the commission. The rules adopted by the commission relating to facilities for video lottery terminal establishments must relate solely to this state's interest in the operation of video lottery terminals.

(b) A video lottery terminal establishment shall provide office space for the commission sufficient for at least one commission employee.

(c) An applicant for a video lottery terminal establishment license or a license holder shall provide the information required by commission rule relating to the applicant's or license holder's video lottery terminal establishment and update the information at least annually.

~~(d) The commission may not issue a video lottery terminal establishment license to a racetrack if as of January 1, 2005, a property line of the licensed premises of the racetrack is located within one half mile of the property line of a public school.~~

~~(d) Notwithstanding Section 466.155, the commission may not deny, suspend, or revoke a license under this subchapter based on the fact that a video lottery terminal establishment or a proposed video lottery terminal establishment is a location for which a person holds a wine and beer retailer's permit, mixed beverage permit, mixed beverage late hours permit, private club registration permit, or private club late hours permit, issued under Chapter 25, 28, 29, 32, or 33, Alcoholic Beverage Code.~~

~~(e) Video lottery retail establishments may only be located:~~

~~(1) at greyhound racetracks located:~~

~~(A) in a county that borders the Gulf of Mexico and in for which a license for a greyhound track in the county had been issued by the agency that regulates pari-mutuel wagering in this state on or before January 1, 2005;~~

~~(B) in a county that borders the Gulf of Mexico and that is adjacent to another state that currently permits wagering, provided that the voters in the county approve a local option election for pari mutuel wagering on or before October 1, 2005; or~~

~~(C) in a county with a population of more than 1.4 million that is adjacent to a county with a population of more than 1.4 million, according to the 2000 census, in which a license for a horse racing track had been issued by the agency that regulates pari-mutuel wagering in this state on or before January 1, 2005, for either county, provided that to ensure public accessibility, tourism enhancement, and economic development near public facilities in urban areas, creating a destination resort, greyhound racetracks under this subdivision may be located only in an area that is a downtown area of the largest municipality in the county, served by commuter rail, and either:~~

~~(i) for the racetrack located in a county with a population of more than 2.2 million, within an area bounded by the Convention Center DART station, the Cedars DART station, and the Trinity River redevelopment project, and to the south of and in close proximity to the municipal convention center, provided that video lottery terminal games may not be located or conducted on any property that a city, town, or municipality has, by contract or agreement, dedicated solely to general municipal purposes; or~~

~~(ii) for the racetrack located in another county, on a portion of a tract of land that is within an area bordered by the Trinity River and the Intermodal Transportation Center and is closest to the municipal convention center so as to enhance tourism and development in the area described;~~

~~(2) at horse racetracks located:~~

~~(A) in a county in for which a horse-racing track license had been issued by the agency that regulates pari-mutuel wagering in this state prior to January 1, 2005, and in which a track was operational or located on that date;~~

~~(B) in a county in which an application for a horse racetrack license was pending with the Texas Racing Commission on June 1, 2005;~~

(C) in a county adjacent to a county with a population of more than 1.4 million in which a class 2 horse racetrack license had previously been issued by the Texas Racing Commission;

(D) in a city with a population of 55,000 or more in a county with a population of 250,000 or more that is adjacent to a county having a population of 2.8 million or more at a location that is within one half mile of a public municipal convention center; or

(E) in a city with a population of less than 140,000 in a county with a population of 250,000 or more adjacent to a border of this state; and

(3) on or adjacent to the lands of the Ysleta del Sur Pueblo and Alabama-Coushatta Indian tribes, which, under agreement with this state in the form prescribed by general law or negotiated by the governor, operate the games on lands held in trust by the United States for such tribes on January 1, 1998, pursuant to the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (25 U.S.C. Section 731 et seq.) and the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section 2701 et seq.) and designated by the tribes for video lottery activity or the lands of the Kickapoo Traditional Tribe of Texas, which, under agreement with this state in the form prescribed by general law or negotiated by the governor, operates the games on lands held in trust by the United States for such tribes on January 1, 2005, for the benefit of the tribe on which Class III gaming is permitted under the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section 2701 et seq.) and designated by the tribe for video lottery activity.

Sec. 466.514. LICENSE HOLDER AS SALES AGENT. The holder of a video lottery retailer or video lottery manager license may operate as a sales agent for video lottery tickets in accordance with this chapter.

Sec. 466.515. LICENSE TERM; RENEWAL ELIGIBILITY. (a) Unless suspended or revoked, a license issued under this subchapter, other than a video lottery retailer license, expires on the date specified in the license, which may not be later than the fifth anniversary of the date of issuance.

(b) A video lottery retailer license is valid for the same term as a pari-mutuel license and until suspended or revoked. The commission may charge an annual fee not to exceed \$50,000 to the holder of a video lottery retailer license.

(c) To be eligible for renewal of a license, an applicant must satisfy all applicable licensing requirements under this subchapter.

Sec. 466.516. RULES FOR ADDITIONAL LICENSE QUALIFICATIONS. The commission by rule may establish other license qualifications the commission determines are in the public interest and consistent with the declared policy of this state.

Sec. 466.517. APPLICATION AS REQUEST FOR CHARACTER DETERMINATION. An application under this subchapter to receive or renew a license, registration, or approval or to be found suitable constitutes a request for a determination of the applicant's general character, integrity, and ability to participate or engage in or be associated with the operation of video lottery terminals.

Sec. 466.518. IMMUNITY FOR STATEMENT MADE IN PROCEEDING OR INVESTIGATION. Any written or oral statement made in the course of an official commission proceeding or investigative activities related to an application for commission licensing, registration, or other approval under this subchapter, by any member or agent or any witness testifying under oath that is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

Sec. 466.519. SUITABILITY FINDING. To promote the integrity and security of the lottery, the commission in its discretion may require a suitability finding for any person doing business with or in relation to the operation of video lottery terminals who is not otherwise required to obtain a license, registration, or approval from the commission for the person's video lottery-related operations.

Sec. 466.520. SUMMARY SUSPENSION OF VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER LICENSE; TERMINAL DISABLED. (a) The commission may summarily suspend the license of a video lottery retailer or video lottery manager without notice or hearing if the commission finds the action is necessary to maintain the integrity, security, honesty, or fairness of the operation or administration of the lottery or to prevent financial loss to this state and:

(1) the license holder fails to deposit money received from video lottery terminal operations as required by this chapter or commission rule;

(2) an event occurs that would render the license holder ineligible for a license under this subchapter;

(3) the license holder refuses to allow the commission, the commission's agents, or the state auditor, or their designees, to examine the license holder's books, records, papers, or other objects under Section 466.017; or

(4) the executive director learns the license holder failed to disclose information that would, if disclosed, render the video lottery retailer or video lottery manager ineligible for a license under this subchapter.

(b) A summary suspension under this section must comply with the notice and procedure requirements provided by Section 466.160.

(c) The commission may disable a video lottery terminal operated by a license holder under this subchapter at the time:

(1) a proceeding to summarily suspend the license is initiated;

(2) the commission discovers the license holder failed to deposit money received from video lottery terminal operation as required if the license is being summarily suspended under this section; or

(3) an act or omission occurs that, under commission rules, justifies the termination of video lottery terminal operations to:

(A) protect the integrity of the lottery or the public health, welfare, or safety; or

(B) prevent financial loss to this state.

(d) The commission shall immediately disable a video lottery terminal if necessary to protect the public health, welfare, or safety.

Sec. 466.521. TRANSFER RESTRICTIONS. (a) A video lottery retailer or video lottery manager license is not transferable.

(b) A pari-mutuel license holder that sells, transfers, assigns, or otherwise conveys ~~any interest or~~ control in the pari-mutuel license or the racetrack owned or managed by the license holder before video lottery operations begin at the racetrack or before the third anniversary of the commencement of video lottery operations shall remit to this state a transfer fee equal to 75 percent of the sales, transfer, assignment, or other conveyance price or other consideration received by the pari-mutuel license holder. A transfer or conveyance of ~~an interest or~~ control under this subsection is subject to Section 6.21, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(c) A sale, transfer, assignment, or conveyance of interest or control to which Subsection (b) applies may not be approved by the commission until this state receives the transfer fee.

(d) This section does not apply to a transfer or assignment the commission determines is necessary to secure financing for the construction or operation of the racetrack. The commission may adopt rules to implement this section.

Sec. 466.522. LICENSING, REGISTRATION, SUITABILITY, AND REGULATORY APPROVAL AS REVOCABLE PERSONAL PRIVILEGES. (a) An applicant for a license, registration, suitability, or other affirmative regulatory approval under this subchapter does not have any right to the license, registration, suitability, or approval sought.

(b) Any license, registration, or suitability or other regulatory approval granted under this subchapter is a revocable privilege, and a holder of the privilege does not acquire any vested right in or under the privilege.

(c) The courts of this state do not have jurisdiction to review a decision to deny, limit, or condition the license, registration, suitability, or approval unless the judicial review is sought on the ground that the denial, limitation, or condition is based on a suspect classification, such as race, color, religion, sex, or national origin, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. If a state court has jurisdiction over a claim under this section, then this state's sovereign immunity is waived only to the extent expressly provided by Section 466.567.

(d) A license, registration, suitability, or regulatory approval granted or renewed under this subchapter may not be transferred or assigned to another person, and a license, registration, suitability, or approval may not be pledged as collateral. The purchaser or successor of a person who has been granted a license, registration, suitability, or regulatory approval must independently qualify for a license, registration, suitability, or approval required by this subchapter.

(e) The following acts void the license, registration, suitability, or other regulatory approval of the holder unless approved in advance by the commission:

(1) the transfer, sale, or other disposition of an interest in the holder that results in a change in the identity of a substantial interest holder; or

(2) the sale of the assets of the holder, other than assets bought and sold in the ordinary course of business, or any interest in the assets, to any person not already determined to have met the applicable qualifications of this subchapter.

Sec. 466.523. CAPITAL INVESTMENTS AND IMPROVEMENT REQUIREMENTS FOR VIDEO LOTTERY TERMINAL ESTABLISHMENT. A video lottery retailer or video lottery manager shall provide all necessary capital investments and required improvements at a video lottery terminal establishment operated by the retailer or manager.

Sec. 466.524. VIDEO LOTTERY TERMINAL. The commission shall provide all video lottery retailers or video lottery managers with a list of registered video lottery terminal providers, video lottery games, and video lottery terminals authorized for operation under this subchapter.

Sec. 466.525. VIDEO LOTTERY TERMINAL: DISTRIBUTION AND COMMISSION APPROVAL. (a) A video lottery terminal provider may not distribute a video lottery terminal or other video lottery equipment for placement at a video lottery terminal establishment in this state unless the video lottery terminal has been approved by the commission.

(b) Only a video lottery terminal provider registered with or approved by the commission may apply for approval of a video lottery terminal or other video lottery equipment.

(c) Not later than the 10th day before the date of shipment to a location in this state, a video lottery terminal provider shall file a report with the commission itemizing all video lottery terminals and other video lottery equipment to be provided to a video lottery retailer or video lottery manager in the shipment.

Sec. 466.526. VIDEO LOTTERY TERMINAL: TESTING; REPORT. (a) A video lottery terminal provider shall submit two copies of terminal illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, and any other information requested by the commission for the purpose of analyzing and testing the video lottery terminal or other video lottery equipment.

(b) The commission may require a working model of a video lottery terminal to be provided to the commission unless the video lottery terminal provider provides a certification from an independent, commission-approved testing laboratory that the video lottery terminal is compatible with the state's video lottery system and functions as required by the commission.

Sec. 466.527. VIDEO LOTTERY TERMINAL: INSTALLATION; MODIFICATION REQUEST. (a) A video lottery terminal provider is responsible for the assembly and installation of all video lottery terminals and other video lottery equipment.

(b) A video lottery terminal provider or a video lottery retailer or video lottery manager may not change the assembly or operational functions of a video lottery terminal authorized by the commission for placement in this state unless a request for modification of an existing video lottery terminal prototype is approved by the commission. The request must contain:

- (1) a detailed description of the type of change;
- (2) a detailed description of the reasons for the change; and
- (3) technical documentation of the change.

(c) A video lottery terminal approved by the commission for placement at a video lottery terminal establishment must conform to the specifications of the video lottery terminal prototype tested or approved by the commission.

Sec. 466.528. VIDEO LOTTERY TERMINAL REMOVAL. (a) If any video lottery terminal that has not been approved by the commission is distributed by a video lottery terminal provider or operated by a video lottery retailer or video lottery manager or if an approved video lottery terminal malfunctions, the commission shall require the terminal to be removed from use and play.

(b) The commission may order that an unapproved terminal be seized and destroyed.

(c) The commission may suspend or revoke the license of a video lottery retailer or video lottery manager or the registration of a video lottery terminal provider for the distribution, possession, or operation of an unauthorized video lottery terminal.

(d) A video lottery retailer or video lottery manager may retain on the premises of a video lottery establishment a number of machines that the retailer or manager determines is necessary for spare parts or repair purposes or as replacements. The retailer or manager must provide to the commission each month a list of the terminals retained under this subsection.

Sec. 466.529. VIDEO LOTTERY TERMINAL SPECIFICATIONS. (a) The commission shall adopt rules for approval of video lottery terminals, including requirements for video lottery tickets, maximum and minimum payout, and maximum wagers.

(b) A commission-approved video lottery terminal must meet the following minimum specifications:

(1) the terminal must:

(A) operate through a player's insertion of a coin, currency, voucher, or token into the video lottery terminal that causes the video lottery terminal to display credits that entitle the player to select one or more symbols or numbers or cause the video lottery central system [terminal] to randomly select symbols or numbers;

(B) allow the player to win additional game play credits, coins, or tokens based on game rules that establish the random selection of winning combinations of symbols or numbers and the number of free play credits, coins, or tokens to be awarded for each winning combination; and

(C) allow the player at any time to clear all game play credits and receive a video lottery ticket or similar representation of credits entitling the player to receive the cash value of those credits;

(2) a surge protector must be installed on the electrical power supply line to each video lottery terminal, a battery or equivalent power backup for the electronic meters must be capable of maintaining the accuracy of all accounting records and video lottery terminal status reports for a period of 180 days after power is disconnected from the video lottery terminal, and the power backup device must be in the compartment specified in Subdivision (4);

(3) the operation of each video lottery terminal may not be adversely affected by any static discharge or other electromagnetic interference;

(4) the main logic boards of all electronic storage mediums must be located in a separate compartment in the video lottery terminal that is locked and sealed by the commission;

(5) the instructions for play of each game must be displayed on the video lottery terminal face or screen, including a display detailing the credits awarded for the occurrence of each possible winning combination of numbers or symbols;

(6) communication equipment and devices must be installed to enable each video lottery terminal to communicate with the video lottery central system through the use of a communications protocol provided by the commission to each registered video lottery terminal provider, which must include information retrieval and programs to activate and disable the terminal; and

(7) a video lottery terminal may be operated only if connected to the video lottery central system, and play on the terminal may not be conducted unless the terminal is connected to the video lottery central system.

(c) The commission may reject any instructions for play required under Subsection (b)(5) that the commission determines to be incomplete, confusing, or misleading.

Sec. 466.530. VIDEO LOTTERY TERMINALS: HOURS OF OPERATION; COMMUNICATION; LOCATION; FEES. (a) Except as otherwise provided by the commission, the hours of operation for video lottery terminals are subject to restrictions only as provided by commission rules.

(b) The commission by rule may prescribe restrictions on the hours of video lottery terminal operations for purposes determined by the commission, including accounting for and collecting revenue generated by video lottery terminal operations and performing other operational services on the video lottery system.

(c) Communication between the video lottery central system and each video lottery terminal must be continuous and on a real-time basis as prescribed by the commission.

(d) Except as provided by a gaming agreement or commission rule, placement or movement of video lottery terminals in a video lottery terminal establishment must be consistent with a video lottery terminal establishment floor plan filed with the commission.

(e) The commission shall adopt rules to charge a fee on video lottery terminals proposed to be operated in this state as follows:

(1) a video lottery terminal establishment operator shall file with the commission by January 1, 2006, a statement of the total number of video lottery terminals the operator intends to purchase and operate at the video lottery terminal establishment;

(2) after January 1, 2007 [~~2009~~], a video lottery terminal establishment operator may file a statement with the commission increasing the number of video lottery terminals the operator intends to operate at the video lottery terminal establishment;

(3) a video lottery terminal establishment shall pay a fee of \$5,000 ~~\$10,000~~ for each terminal listed in a statement filed under this subsection in the following manner:

(A) one-half of the fee is due and payable on the date the statement is filed; and

(B) the remainder of the fee is due and payable on the date the video lottery terminal establishment accepts delivery of the first video lottery terminals; and

(4) after January 1, 2007, a video lottery terminal establishment shall pay an annual fee to the commission of \$1,000 for the number of video lottery machines listed in the statement filed with the commission under this section.

Sec. 466.531. VIDEO LOTTERY TERMINAL: TRANSPORT; DISPOSITION OF OBSOLETE TERMINAL. (a) The transportation and movement of video lottery terminals into or within this state is prohibited, except as permitted by this subchapter and approved by the commission.

(b) An obsolete video lottery terminal or a video lottery terminal that is no longer in operation must be promptly reported to the commission.

Sec. 466.532. TRAVEL AND INVESTIGATION COSTS. The commission shall pay the travel and investigative expenses incurred under this chapter from money appropriated to the commission.

Sec. 466.533. CONSENT TO COMMISSION DETERMINATION. (a) An application for a license, registration, finding of suitability, or other approval under this chapter constitutes a request to the commission for a decision on the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with the lottery in the manner or position sought.

(b) By filing an application with the commission, the applicant specifically consents to the commission's decision at the commission's election when the application, after filing, becomes moot for any reason other than death.

Sec. 466.534. ABSOLUTE AUTHORITY OF COMMISSION. To protect the integrity of the lottery or the public health, welfare, or safety, or to prevent financial loss to this state, the commission has full and absolute power and authority to:

(1) deny any application or limit, condition, restrict, revoke, or suspend any license, registration, or finding of suitability or approval; and

(2) fine any person licensed, registered, found suitable, or approved for any cause deemed reasonable by the commission.

Sec. 466.535. WAIVER OF REQUIREMENTS. (a) The commission may waive any requirement under this chapter for a finding of suitability of an institutional investor that is a substantial interest holder with respect to the beneficial ownership of the voting securities of a publicly traded corporation if the institutional investor holds the securities for investment purposes only and applies for a waiver in compliance with Section 466.536 and commission rules.

(b) An institutional investor is not eligible for the waiver, except as otherwise provided by Subsection (e), if the institutional investor beneficially owns, directly or indirectly, more than 15 percent of the voting securities and if any of the voting securities were acquired other than through a debt restructuring.

(c) Voting securities acquired before a debt restructuring and retained after a debt restructuring or as a result of an exchange, exercise, or conversion after a debt restructuring, or any securities issued to the institutional investor through a debt restructuring, are considered to have been acquired through a debt restructuring.

(d) A waiver granted under Subsection (a) is effective only as long as the institutional investor's direct or indirect beneficial ownership interest in the voting securities meets the limitations set forth in this section, and if the institutional investor's interest exceeds the limitation at any time, the investor is subject to the suitability findings required under this subchapter.

(e) An institutional investor that has been granted a waiver under Subsection (a) may beneficially own more than 15 percent, but not more than 19 percent, of the voting securities of a publicly traded corporation registered with or licensed by the commission only:

(1) if the additional ownership results from a stock repurchase program conducted by the publicly traded corporation; and

(2) on the conditions that:

(A) the institutional investor does not purchase or otherwise acquire any additional voting securities of the publicly traded corporation that would result in an increase in the institutional investor's ownership percentage; and

(B) the institutional investor reduces its ownership percentage of the publicly traded corporation to 15 percent or less before the first anniversary of the date the institutional investor receives constructive notice that it exceeded the 15 percent threshold, based on any public filing by the corporation with the United States Securities and Exchange Commission.

(f) The one-year time period under Subsection (e)(2)(B) may be extended for a reasonable time on commission approval.

(g) An institutional investor may not be considered to hold voting securities of a publicly traded corporation for investment purposes only unless the voting securities were acquired and are held in the ordinary course of business as an institutional investor and not for the purpose of causing, directly or indirectly, the election of a majority of the members of the board of directors, any change in the corporate charter, bylaws, management, policies, or operations of the corporation registered with or licensed by the commission or any of its gaming affiliates, or any other action which the commission finds to be inconsistent with investment purposes only. The following activities may not be considered to be inconsistent with holding voting securities for investment purposes only:

(1) voting, directly or indirectly through the delivery of a proxy furnished by the board of directors, on all matters voted on by the holders of the voting securities;

(2) serving as a member of any committee of creditors or security holders formed in connection with a debt restructuring;

(3) nominating any candidate for election or appointment to the board of directors in connection with a debt restructuring;

(4) accepting appointment or election as a member of the board of directors in connection with a debt restructuring and serving in that capacity until the conclusion of the member's term;

(5) making financial and other inquiries of management of the type normally made by securities analysts for information purposes and not to cause a change in management, policies, or operations; and

(6) any other activity the commission determines to be consistent with the investment intent.

(h) For purposes of this section, "debt restructuring" means:

(1) a proceeding under the United States Bankruptcy Code; or

(2) any out-of-court reorganization of a person that is insolvent or generally unable to pay the person's debts as they become due.

Sec. 466.536. WAIVER APPLICATION REQUIREMENTS. An application for a waiver under Section 466.535(a) must include:

(1) a description of the institutional investor's business and a statement as to why the institutional investor meets the definition of an institutional investor set forth in this chapter;

(2) a certification, made under oath and penalty of perjury, that:

(A) states that the voting securities were acquired and are held for investment purposes only in accordance with Section 466.535;

(B) provides that the applicant agrees to be bound by and comply with this chapter and the rules adopted under this chapter, to be subject to the jurisdiction of the courts of this state, and to consent to this state as the choice of forum in the event any dispute, question, or controversy arises regarding the application or any waiver granted under Section 466.535(a); and

(C) includes a statement by the signatory explaining the basis of the signatory's authority to sign the certification and bind the institutional investor to its terms;

(3) a description of all actions, if any, taken or expected to be taken by the institutional investor related to the activities described in Section 466.535(e);

(4) the names, addresses, telephone numbers, dates of birth, and social security numbers of:

(A) the officers and directors of the institutional investor or the officers' and directors' equivalents; and

(B) the persons that have direct control over the institutional investor's holdings of voting securities of the publicly traded corporation registered with or licensed by the commission;

(5) the name, address, telephone number, date of birth, and social security number or federal tax identification number of each person who has the power to direct or control the institutional investor's exercise of its voting rights as a holder of voting securities of the publicly traded corporation registered with or licensed by the commission;

(6) the name of each person that beneficially owns more than five percent of the institutional investor's voting securities or other equivalent;

(7) a list of the institutional investor's affiliates;

(8) a list of all securities of the publicly traded corporation registered with or licensed by the commission that are or were beneficially owned by the institutional investor or its affiliates in the preceding year, including a description of the securities, the amount of the securities, and the date of acquisition or sale of the securities;

(9) a list of all regulatory agencies with which the institutional investor or any affiliate that beneficially owns voting securities of the publicly traded corporation registered with or licensed by the commission files periodic reports, and the name, address, and telephone number of the person, if known, to contact at each agency regarding the institutional investor;

(10) a disclosure of all criminal or regulatory sanctions imposed during the preceding 10 years and of any administrative or court proceedings filed by any regulatory agency during the preceding five years against the institutional investor, its affiliates, any current officer or director, or any former officer or director whose tenure

ended within the preceding 12 months, except that for a former officer or director, the information need be provided only to the extent that it relates to actions arising out of or during the person's tenure with the institutional investor or its affiliates;

(11) a copy of the institutional investor's most recent Schedule 13D or 13G and any amendments to that schedule filed with the United States Securities and Exchange Commission concerning any voting securities of the publicly traded corporation registered with or licensed by the commission;

(12) a copy of any filing made under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) with respect to the acquisition or proposed acquisition of voting securities of the publicly traded corporation registered with or licensed by the commission; and

(13) any additional information the commission may request.

Sec. 466.537. CHANGE IN INVESTMENT FOLLOWING WAIVER; NOTICE. (a) An institutional investor that has been granted a waiver of a finding of suitability under Section 466.535 and that subsequently intends not to hold the investor's voting securities of the publicly traded corporation for investment purposes only or that intends to take any action inconsistent with the investor's prior intent shall, not later than the second business day after the date of the decision, deliver notice to the commission in writing of the change in the investor's investment intent. The commission may then take any action the commission deems appropriate.

(b) If the commission finds that an institutional investor has failed to comply with this chapter or should be subject to a finding of suitability to protect the public interest, the commission may require the institutional investor to apply for a finding of suitability.

(c) Any publicly traded corporation registered with or licensed by the commission shall immediately notify the commission of any information about, fact concerning, or actions of an institutional investor holding any of its voting securities that may materially affect the institutional investor's eligibility to hold a waiver under Section 466.535.

Sec. 466.538. EFFECT OF DENIAL OF LICENSE OR REGISTRATION.

(a) A person whose application for a license or registration has been denied may not have any interest in or association with a video lottery retailer or video lottery manager or any other business conducted in connection with video lottery without prior approval of the commission.

(b) Any contract between a person holding a license or registration and a person denied a license or registration must be terminated immediately on receipt of notice from the commission. If the person denied a license or registration has previously been granted a temporary license or registration, the temporary license or registration expires immediately on denial of the permanent license or registration.

(c) Except as otherwise authorized by the commission, a person denied a license or registration may not reapply for any license or registration before the second anniversary of the date of the denial.

Sec. 466.539. PRACTICE BY VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER. A video lottery retailer or video lottery manager must:

(1) be aware of patron conditions and prohibit play by visibly intoxicated patrons;

- (2) comply with state alcoholic beverage control laws;
- (3) at all times maintain sufficient change and cash in denominations accepted by video lottery terminals;
- (4) promptly report all video lottery terminal malfunctions and downtime;
- (5) install, post, and display prominently any material required by the commission;
- (6) prohibit illegal gambling and any related paraphernalia;
- (7) except as otherwise provided by this subchapter, at all times prohibit money lending or other extensions of credit at the video lottery terminal establishment;
- (8) supervise employees and activities to ensure compliance with all commission rules and this chapter;
- (9) maintain continuous camera coverage of all aspects of video lottery game operations, including video lottery terminals; and
- (10) maintain an entry log for each video lottery terminal on the premises of the video lottery terminal establishment and maintain and submit complete records on receipt of each video lottery terminal on the premises as determined by the commission.

Sec. 466.540. RACETRACK REQUIREMENTS. (a) A video lottery retailer at all times must hold a valid pari-mutuel wagering license, except that the commission may allow a person whose pari-mutuel wagering license has lapsed or been revoked, suspended, or surrendered to reapply for a license in order to operate the video lottery terminal establishment or by rule may establish a period not to exceed two years during which time the video lottery terminal establishment may be operated pending acquisition by a person qualified and licensed under this chapter to operate video lottery terminals.

(b) If a video lottery retailer is not licensed as required by Subsection (a) before the second anniversary of the date a license lapses or is revoked, suspended, or surrendered or a new video lottery manager or video lottery retailer is not licensed and authorized to operate the facility before the second anniversary, the pari-mutuel license holder shall permanently lose eligibility under this subchapter to operate video lottery terminals.

(c) Subject to the commission's discretion, a video lottery retailer may continue to operate the video lottery terminal establishment after the second anniversary of the date a license lapses or is revoked, suspended, or surrendered only to satisfy the establishment's existing outstanding debt attributable to video lottery operation.

Sec. 466.541. PRIZE RULES. The commission shall adopt rules governing:

- (1) the range of amounts a player may be charged to play each video lottery game; and
- (2) the range of prizes and credits that may be awarded to the player of a video lottery game.

Sec. 466.542. VIDEO LOTTERY CENTRAL SYSTEM: COMMUNICATION TECHNOLOGY. The video lottery central system provider shall pay for the installation and operation of commission-approved communication technology to provide real-time communication between each video lottery terminal and the video lottery central system.

Sec. 466.543. RESPONSIBILITY FOR VIDEO LOTTERY GAME OPERATIONS. (a) A video lottery retailer or a video lottery manager, if applicable, is responsible for the management of video lottery game operations, including:

(1) the validation and payment of prizes; and

(2) the management of cashiers, food and beverage workers, floor workers, security personnel, the security system, building completion, janitorial services, landscaping design, and maintenance.

(b) Nothing in Subsection (a) limits the authority of the commission, the Department of Public Safety, or another law enforcement agency to administer and enforce this chapter as related to video lottery.

(c) In addition to other requirements under this chapter relating to video lottery, a video lottery retailer or a video lottery manager at all times shall:

(1) operate only video lottery terminals that are distributed by a registered video lottery terminal provider and provide a secure location for the placement, operation, and play of the video lottery terminals;

(2) prevent any person from tampering with or interfering with the operation of a video lottery terminal;

(3) ensure that communication technology from the video lottery central system to the video lottery terminals is connected at all times and prevent any person from tampering or interfering with the operation of the connection;

(4) ensure that video lottery terminals are in the sight and control of designated employees of the video lottery retailer or video lottery manager and in the sight of video cameras as required under this subchapter;

(5) ensure that video lottery terminals are placed and remain placed in the locations in the video lottery terminal establishment that are consistent with the retailer's or manager's floor plan;

(6) monitor video lottery terminals to prevent access to or play by persons who are under 21 years of age or who are visibly intoxicated;

(7) refuse to accept a credit card payment from a player for the exchange or purchase of video lottery game credits or for an advance of coins, currency, vouchers, or tokens to be used by a player to play video lottery games, refuse to extend credit, in any manner, to a player that enables the player to play a video lottery game, and ensure that any person doing business at the video lottery terminal establishment, including a person operating or managing an auxiliary service such as a restaurant, refuses to accept a credit card payment or to extend credit to a person to play a video lottery game in a manner prohibited by this subdivision, except that:

(A) a license holder may cash a check for a player if the license holder exercises reasonable caution cashing the check and does not cash checks for any player in an amount that exceeds \$1,000 in any 24-hour period; and

(B) automated teller machines may be located at a video lottery terminal establishment in compliance with the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) or an effective gaming agreement;

(8) pay all credits won by a player on presentment of a valid winning video lottery ticket;

(9) conduct only the video lottery game advertising and promotional activities consistent with criteria prescribed by the commission, which must prohibit undue influence, offensive language, and anything that would affect the integrity of video lottery operation;

(10) install, post, and display prominently at the licensed location redemption information and other informational or promotional materials as required by the commission;

(11) maintain general liability insurance coverage for the video lottery terminal establishment and all video lottery terminals in the amounts required by the commission;

(12) assume liability for money lost or stolen from any video lottery terminal; and

(13) annually submit an audited financial statement to the commission in accordance with generally accepted accounting principles.

Sec. 466.544. TECHNICAL STANDARDS FOR VIDEO LOTTERY EQUIPMENT. The commission by rule shall establish minimum technical standards for video lottery equipment that may be operated in this state.

Sec. 466.545. INCIDENT REPORTS. (a) A video lottery retailer or video lottery manager shall record all unusual occurrences related to gaming activity in a video lottery terminal establishment operated by the retailer or manager.

(b) A video lottery retailer or video lottery manager shall assign each material incident, without regard to materiality, a sequential number and, at a minimum, provide the following information in a permanent record prepared in accordance with commission rules to ensure the integrity of the record:

(1) the number assigned to the incident;

(2) the date and time of the incident;

(3) the nature of the incident;

(4) each person involved in the incident; and

(5) the name of the employee or other agent of the video lottery retailer or video lottery manager who investigated the incident.

Sec. 466.546. EXCLUSION OF PERSONS. (a) The commission shall compile a list of persons that a video lottery retailer or video lottery manager must bar from a video lottery terminal establishment based on a person's criminal history or association with criminal offenders or because the person poses a threat to the integrity of the lottery.

(b) A video lottery retailer or video lottery manager shall employ the retailer's or manager's best efforts to exclude such persons from entry into the establishment.

(c) A video lottery retailer or video lottery manager may exclude a person for any reason not related to the person's race, sex, national origin, physical disability, or religion.

(d) A person who believes the person may be playing video lottery games on a compulsive basis may request that the person's name be placed on the list compiled by the commission under Subsection (a).

(e) All video lottery game employees shall receive training in identifying players with a compulsive playing problem. Signs and other materials shall be readily available to direct compulsive players to agencies that offer appropriate counseling.

Sec. 466.547. REPORT ON LITIGATION. (a) A video lottery retailer or video lottery manager shall report to the commission any litigation relating to the retailer's or manager's video lottery terminal establishment, including a criminal proceeding, a proceeding involving an issue related to racing activities that impact video lottery operations, or a matter related to character or reputation relevant to a person's suitability under this subchapter.

(b) The report required under Subsection (a) must be filed not later than the fifth day after acquiring knowledge of the litigation.

Sec. 466.548. COMMISSION APPROVAL REQUIRED FOR PROCEDURES AND ADMINISTRATIVE AND ACCOUNTING CONTROLS. (a) The commission's approval is required for all internal procedures and administrative and accounting controls of a video lottery retailer or video lottery manager.

(b) The commission by rule shall establish general accounting and auditing requirements and internal control standards for video lottery retailers and video lottery managers.

Sec. 466.549. VIDEO LOTTERY TERMINAL EVENTS. A video lottery retailer or video lottery manager shall keep a record of video lottery terminal events. The commission by rule shall determine what constitutes a video lottery terminal event for purposes of this section.

Sec. 466.550. EMPLOYEE REPORTING. (a) On or before the 15th day of each month, a video lottery retailer or video lottery manager shall submit to the commission an employee report for the video lottery terminal establishment operated by the retailer or manager. For each employee of the retailer or manager, the report must provide the employee's name, job title, date of birth, and social security number.

(b) The employee report is confidential and may not be disclosed except under commission order or in accordance with Section 466.022(d).

(c) The commission may conduct criminal history investigations for employees of video lottery retailers and video lottery managers.

(d) The commission may prohibit an employee from performing any act relating to video lottery terminals if the commission finds that an employee has:

(1) committed, attempted, or conspired to commit any act prohibited by this chapter;

(2) concealed or refused to disclose any material fact in any commission investigation;

(3) committed, attempted, or conspired to commit larceny or embezzlement;

(4) been convicted in any jurisdiction of an offense involving or relating to gambling;

(5) accepted employment in a position for which commission approval is required after commission approval was denied for a reason involving personal unsuitability or after failing to apply for a license or approval on commission request;

(6) been prohibited under color of governmental authority from being present on the premises of any gaming establishment or any establishment where pari-mutuel wagering is conducted for any reason relating to improper gambling activity or for any illegal act;

(7) wilfully defied any legislative investigative committee or other officially constituted body acting on behalf of the United States or any state, county, or municipality that sought to investigate alleged or potential crimes relating to gaming, corruption of public officials, or any organized criminal activities; or

(8) been convicted of any felony or any crime involving moral turpitude.

(e) The commission may prohibit an employee from performing any act relating to video lottery terminals based on a revocation or suspension of any gaming or wagering license, permit, or approval or for any other reason the commission finds appropriate, including a refusal by a regulatory authority to issue a license, permit, or other approval for the employee to engage in or be involved with the lottery or with regulated gaming or pari-mutuel wagering in any jurisdiction.

(f) In this section, "employee" includes any person connected directly with or compensated by an applicant or license holder as an agent, personal representative, consultant, or independent contractor for activities directly related to video lottery operations.

Sec. 466.551. REPORT OF VIOLATIONS. A person who holds a license or registration under this subchapter shall immediately report a violation or suspected violation of this chapter or a rule adopted under this chapter by any license or registration holder, by an employee of a license or registration holder, or by any person on the premises of a video lottery terminal establishment, whether or not associated with the license or registration holder.

Sec. 466.552. SECURITY. (a) In addition to the security provisions applicable under Section 466.020, a video lottery retailer or video lottery manager shall comply with the following security procedures:

(1) all video lottery terminals must be continuously monitored through the use of a closed-circuit television system that records activity for a continuous 24-hour period and all videotapes or other media used to store video images shall be retained for at least 30 days and made available to the commission on request;

(2) access to video lottery terminal areas shall be restricted to persons who are at least 21 years of age;

(3) the video lottery retailer or video lottery manager must provide to the commission a security plan that includes a floor plan of the area where video lottery terminals are to be operated showing video lottery terminal locations and security camera mount locations; and

(4) each license holder shall employ at least the minimum number of private security personnel the commission determines is necessary to provide for safe and approved operation of the video lottery terminal establishment and the safety and well-being of the players.

(b) Private security personnel must be present during all hours of operation at each video lottery terminal establishment.

(c) An agent or employee of the commission or the Department of Public Safety or other law enforcement personnel may be present at a video lottery terminal establishment at any time.

(d) The commission may adopt rules to impose additional surveillance and security requirements related to video lottery terminal establishments and the operation of video lottery terminals.

Sec. 466.553. VIDEO LOTTERY TERMINAL ESTABLISHMENT: COMMISSION RIGHT TO ENTER. The commission, the commission's representative, the Texas Racing Commission, or a representative of the Texas Racing Commission, after displaying appropriate identification and credentials, has the free and unrestricted right to enter the premises of a video lottery terminal establishment and to enter any other locations involved in operation or support of video lottery at all times to examine the systems and to inspect and copy the records of a video lottery retailer or video lottery manager pertaining to the operation of video lottery.

Sec. 466.554. INDEMNIFICATION, INSURANCE, AND BONDING REQUIREMENTS. (a) A license or registration holder shall indemnify and hold harmless this state, the commission, and all officers and employees of this state and the commission from any and all claims which may be asserted against a license or registration holder, the commission, this state, and the members, officers, employees, and authorized agents of this state or the commission arising from the license or registration holder's participation in the video lottery system authorized under this subchapter.

(b) Surety and insurance required under this subchapter shall be issued by companies or financial institutions financially rated "A" or better as rated by A.M. Best Company or other rating organization designated by the commission and duly licensed, admitted, and authorized to conduct business in this state, or by other surety approved by the commission.

(c) The commission shall be named as the obligee in each required surety and as an additional insured in each required insurance contract.

(d) A video lottery retailer or video lottery manager may not be self-insured with regard to video lottery terminal operations under this section.

(e) The commission by rule shall establish minimum insurance coverage requirements for a video lottery retailer, video lottery manager, or video lottery terminal provider.

Sec. 466.555. LIABILITY FOR CREDIT AWARDED OR DENIED; PLAYER DISPUTE. (a) This state and the commission are not liable for any video lottery terminal malfunction or error by a video lottery retailer, video lottery manager, or video lottery terminal provider that causes credit to be wrongfully awarded or denied to players.

(b) Any dispute arising between a player and a video lottery retailer or video lottery manager shall be resolved by the commission as follows:

(1) if the fair market value of the prize is less than \$1,000, the dispute shall be resolved in accordance with the commission-approved written policies of the video lottery retailer or video lottery manager and without any relief available from the commission or this state; or

(2) if the fair market value of the prize is \$1,000 or more, the dispute shall be resolved by the commission in the commission's sole discretion in accordance with commission rules.

(c) A court of this state does not have jurisdiction to review the decision of the commission resolving a dispute between a player and a video lottery retailer, video lottery manager, or video lottery terminal provider.

Sec. 466.556. STATE VIDEO LOTTERY ACCOUNT. (a) The commission shall deposit funds received under this subchapter to the state video lottery account. The state video lottery account is a special account in the general revenue fund. The account consists of all revenue received by this state from the operation of video lottery terminals.

(a-1) Except as provided by Subsection (b), all revenue received by this state from the operation of the video lottery system shall be distributed solely to reimburse the commission until the \$5 million authorized under this subsection is repaid to the state lottery account. From funds previously appropriated to the commission for the state fiscal biennium ending August 31, 2007, and notwithstanding Section 466.355(b), the commission is authorized to expend an amount not to exceed \$5 million from the state lottery account during that biennium to establish the video lottery system in accordance with this chapter. From revenue deposited in the state video lottery account during that biennium, the commission is hereby appropriated the amount necessary to reimburse the state lottery account for the total amount of funds expended to establish the video lottery system from the appropriation to the state lottery account, and the commission shall deposit that amount to the state lottery account. This subsection expires January 1, 2009.

(b) One ~~Two~~ percent of the net terminal income received by this state under Section 466.557 shall be allocated to the commission to defray expenses incurred in administering this chapter related to video lottery, including expenses incurred to operate the video lottery central system. All money allocated to the commission under this subsection may be retained by the commission to defray expenses of administering this chapter related to video lottery and shall be deposited in the state video lottery account.

Sec. 466.557. ALLOCATION OF NET TERMINAL INCOME; TRANSFER OF MONEY. (a) Net terminal income derived from the operation of video lottery games in this state is allocated as follows:

(1) a portion of the net terminal income generated in each calendar year shall be remitted to this state by the video lottery retailer or video lottery manager in an amount equal to 30 percent of the net terminal income for that year; and

(2) the remainder shall be retained by the video lottery retailer or video lottery manager.

(b) Net terminal income derived from the operation of video lottery terminals on Indian lands under a gaming agreement authorized under this subchapter shall be distributed as set forth in the gaming agreement, provided that the agreement must provide that this state shall receive no more than 25 percent of the net terminal income.

(c) One-quarter of one percent of the net terminal income received by this state under Subsections (a) and (b) shall be transferred to the Texas Commission on Alcohol and Drug Abuse for use in the compulsive gambling program under Section 461.018, Health and Safety Code, if that program is in operation.

(d) One-quarter of one percent of the net terminal income received by this state under Subsections (a) and (b) shall be transferred to the Equine Research Program at the College of Veterinary Medicine at Texas A&M University for use in equine research under Subchapter F, Chapter 88, Education Code.

(e) One percent of the net terminal income received by the state shall be transferred to the Department of Public Safety for the strict enforcement of the gambling laws of this state. The Department of Public Safety may contract with the Attorney General to assist in enforcement and prosecution.

(f) The commission shall require a video lottery retailer or video lottery manager to establish a separate electronic funds transfer account for depositing money from video lottery terminal operations, making payments to the commission or its designee, and receiving payments from the commission or its designee.

(g) A video lottery retailer or video lottery manager may not make payments to the commission in cash. As authorized by the commission, a video lottery retailer or video lottery manager may make payments to the commission by cashier's check.

(h) The commission at least weekly shall transfer this state's share of net terminal income of a video lottery retailer or video lottery manager to the commission through the electronic transfer of the money.

(i) The commission by rule shall establish the procedures for:

(1) depositing money from video lottery terminal operations into electronic funds transfer accounts; and

(2) handling money from video lottery terminal operations.

(j) Unless otherwise directed by the commission, a video lottery retailer or a video lottery manager shall maintain in its account this state's share of the net terminal income from the operation of video lottery terminals, to be electronically transferred by the commission on dates established by the commission. On a license holder's failure to maintain this balance, the commission may disable all of a license holder's video lottery terminals until full payment of all amounts due is made. Interest shall accrue on any unpaid balance at a rate consistent with the amount charged under Section 111.060, Tax Code. The interest shall begin to accrue on the date payment is due to the commission.

(k) In the commission's sole discretion, rather than disable a license holder's video lottery terminals under Subsection (i), the commission may elect to impose a fine on a license holder in an amount determined by the commission not to exceed \$250,000 for each violation. If the license holder fails to remedy the violation, including payment of any amounts assessed by or due to this state, within 10 days, the commission may disable the license holder's video lottery terminals or use any other means for collection as provided by the penalty chart established by the commission.

(l) A video lottery retailer or video lottery manager is solely responsible for resolving any income discrepancies between actual money collected and the net terminal income reported by the video lottery central system. Unless an accounting discrepancy is resolved in favor of the video lottery retailer or video lottery manager, the commission may not make any credit adjustments. Any accounting discrepancies which cannot otherwise be resolved shall be resolved in favor of the commission.

(m) A video lottery retailer and video lottery manager shall remit payment as directed by the commission if the electronic transfer of money is not operational or the commission notifies the license holder that other remittance is required. The license holder shall report this state's share of net terminal income and remit the amount generated from the terminals during the reporting period.

Sec. 466.558. COMMISSION EXAMINATION OF FINANCIAL RECORDS.

The commission may examine all accounts, bank accounts, financial statements, and records in the possession or control of a person licensed under this subchapter or in which the license holder has an interest. The license holder must authorize and direct all third parties in possession or in control of the accounts or records to allow examination of any of those accounts or records by the commission.

Sec. 466.559. FINANCIAL INFORMATION REQUIRED. (a) A video lottery retailer or video lottery manager shall furnish to the commission all information and bank authorizations required to facilitate the timely transfer of money to the commission.

(b) A video lottery retailer or video lottery manager must provide the commission advance notice of any proposed account changes in information and bank authorizations to assure the uninterrupted electronic transfer of money.

(c) The commission is not responsible for any interruption or delays in the transfer of money. The video lottery retailer or video lottery manager is responsible for any interruption or delay in the transfer of money.

Sec. 466.560. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT RACETRACKS. (a) The pari-mutuel license holder that owns or operates a racetrack at which video lottery games are conducted under this subchapter and the state breed registry representing the breed conducting live racing at the racetrack may enter into a written agreement to allocate a percentage of net terminal revenue generated from the operation of video lottery terminals at the racetrack to be used for purses at that racetrack and to specify the time period for which the percentage shall be in effect. If the racetrack is a horse racetrack, the officially recognized horsemen's organization must also be a party to an agreement under this paragraph. If an agreement cannot be reached, any party to the agreement may submit the matter to the commission, sixty days after failure to reach agreement, for determination of the matter under a procedure in accordance with rules issued by the commission.

(b) Under either an agreement or a commission determination, the percentage of net terminal revenue to be used for purses at the racetrack shall be not less than 6.5 percent, and an additional percentage shall be allocated if necessary, to ensure the purses at the racetrack are the highest in the industry for that type of racetrack, and the period of time for which the percentage shall be in effect shall be not less than two years.

(c) A state breed registry may use a portion, not to exceed 10 percent, of the amount allocated for purses under this section for administration as determined reasonable by the commission.

(d) The commission shall adopt rules to administer this section. A matter considered by the commission under this section shall be a contested matter requiring a public hearing. ~~Unless otherwise agreed to under Subsection (c) by the pari mutuel license holder that owns or operates a horse racetrack at which video lottery games are conducted under this subchapter and the officially recognized horsemen's organization representing the horsemen at the racetrack, the license holder shall allocate 6.5 percent of the net terminal income generated from the operation of video lottery terminals at the racetrack to purses.~~

(e) Unless otherwise agreed to under Subsection (c) by the pari-mutuel license holder that owns or operates a greyhound racetrack at which video lottery games are conducted under this subchapter and the state breed registry representing the greyhound breeders at the racetrack, the license holder shall allocate 6.5 percent of the net terminal income generated from the operation of video lottery terminals at the racetrack to purses.

(f) The pari-mutuel license holder that owns or operates a racetrack at which video lottery games are conducted under this subchapter and the officially recognized horsemen's organization representing the horsemen at the racetrack or the state breed registry representing the greyhound breeders at the racetrack may enter into a written agreement to allocate a different percentage of net terminal income to be used for purses at that racetrack.

(g) A state breed registry may use a portion, not to exceed 10 percent, of the amount allocated for purses under this section for administration as determined reasonable by the commission.

(h) The Texas Racing Commission shall adopt rules to administer this section. A matter considered by the commission under this section is a contested case under Chapter 2001, Government Code, and requires a public hearing.

(i) The Texas Greyhound Association may allocate up to 50 percent of the amount in Subsection (b) for Texas breeder awards.

Sec. 466.561. LIABILITY OF VIDEO LOTTERY RETAILER AND VIDEO LOTTERY MANAGER. (a) A video lottery retailer, video lottery manager, or both, are jointly and severally liable to the commission for the state's share of net terminal income reported by the video lottery central system.

(b) Net terminal income received by the video lottery retailer or video lottery manager is held in trust for the benefit of this state before delivery of the state's share to the commission or electronic transfer to the state treasury, and the video lottery retailer or video lottery manager, or both, are jointly and severally liable to the commission for the full amount of the money held in trust.

(c) If the video lottery retailer or video lottery manager is not an individual, each officer, director, or owner of the video lottery retailer or video lottery manager is personally liable to the commission for the full amount of the money held in trust, except that shareholders of a publicly held corporation shall be liable in an amount not to exceed the value of their equity investment.

Sec. 466.562. PRIZE PAYMENT AND REDEMPTION. (a) Payment of prizes is the sole and exclusive responsibility of the video lottery retailer or video lottery manager. A prize may not be paid by the commission or this state except as otherwise authorized.

(b) Nothing in this subchapter limits the ability of a video lottery retailer or video lottery manager to provide promotional prizes in addition to prize payouts regulated by the commission.

(c) A video lottery ticket must be redeemed not later than the 180th day following the date of issuance. If a claim is not made for prize money on or before the 180th day after the date on which the video lottery ticket was issued, the prize money becomes the property of the video lottery terminal establishment.

(d) The commission shall enact rules consistent with this section governing the use and redemption of prizes and credits recorded on electronic player account records, such as players' club cards and smart cards.

Sec. 466.563. REVOCATION OF LICENSE, REGISTRATION, OR OTHER REGULATORY APPROVAL. (a) The commission shall revoke or suspend a license, registration, or other regulatory approval issued under this subchapter if the holder of the license, registration, or approval at any time fails to meet the eligibility requirements set forth in this subchapter.

(b) Failure to timely remit revenue generated by video lottery terminals to the commission or any tax or other fee owed to this state as demonstrated by report from the applicable taxing authority or to timely file any report or information required under this subchapter as a condition of any license, registration, or other approval issued under this subchapter may be grounds for suspension or revocation, or both, of a license, registration, or other approval issued under this subchapter.

Sec. 466.564. HEARING FOR REVOCATION OR SUSPENSION OF REGISTRATION OR LICENSE. (a) Before the commission revokes or suspends a video lottery terminal provider's registration or video lottery retailer's or video lottery manager's license, or imposes monetary penalties for a violation of this subchapter, the commission shall provide written notification to the license or registration holder of the revocation, the period of suspension, or the monetary penalty. The notice shall include:

(1) the effective date of the revocation or the period of suspension or the amount of the monetary penalty, as applicable;

(2) each reason for the revocation, suspension, or penalty;

(3) an explanation of the evidence supporting the reasons;

(4) an opportunity to present the license or registration holder's position in response on or before the 15th day after the effective date of the revocation; and

(5) a statement explaining the person's right to an administrative hearing to determine whether the revocation, suspension, or penalty is warranted.

(b) The notice required under Subsection (a) must be made by personal delivery or by mail to the person's mailing address as it appears on the commission's records.

(c) To obtain an administrative hearing on a suspension, revocation, or penalty under this section, a person must submit a written request for a hearing to the commission not later than the 20th day after the date notice is delivered personally or is mailed.

(d) If the commission receives a timely request under Subsection (c), the commission shall provide the person with an opportunity for a hearing as soon as practicable. If the commission does not receive a timely request under Subsection (c), the commission may impose the penalty, revoke or suspend a license or registration, or sustain the revocation or suspension without a hearing.

(e) Except as provided by Subsection (g), the hearing must be held not earlier than the 11th day after the date the written request is submitted to the commission.

(f) The commission may provide that a revocation or suspension takes effect on receipt of notice under Subsection (a) if the commission finds that the action is necessary to prevent or remedy a threat to public health, safety, or welfare. The commission by rule shall establish a nonexclusive list of violations that present a threat to the public health, safety, or welfare.

(g) A hearing on a revocation or suspension that takes effect on receipt of notice must be held not later than the 14th day after the date the commission receives the request for hearing under this section. The revocation or suspension continues in effect until the hearing is completed. If the hearing is continued, the revocation or suspension shall continue in effect beyond the 14-day period at the request of the license or registration holder or on a finding of good cause by the commission or administrative law judge.

(h) To prevail in a post-deprivation administrative hearing under this section, the license or registration holder must demonstrate by clear and convincing evidence that the deprivation or imposition of a penalty was unwarranted or otherwise unlawful. The post-deprivation hearing may be conducted by the commission or referred to the State Office of Administrative Hearings.

(i) The administrative record created by the hearing conducted by the State Office of Administrative Hearings shall be provided to the commission for review and determination on the revocation or suspension.

(j) If an administrative law judge of the State Office of Administrative Hearings conducts a hearing under this section and the proposal for decision supports the commission's position, the administrative law judge shall include in the proposal a finding of the costs, fees, expenses, and reasonable and necessary attorney's fees this state incurred in bringing the proceeding.

(k) The commission may adopt the findings for costs, fees, and expenses and make the finding a part of the final order entered in the proceeding. Proceeds collected from a finding made under this section shall be paid to the commission.

Sec. 466.565. JUDICIAL REVIEW OF REVOCATION, SUSPENSION, OR PENALTY IMPOSITION. (a) A person aggrieved by a final decision of the commission to revoke or suspend a registration or license or to impose any monetary penalty may obtain judicial review before a district court in Travis County.

(b) The judicial review must be instituted by serving on the commission and filing a petition not later than the 20th day after the effective date of the final decision and must identify the order appealed from and the grounds or reason why the petitioner contends the decision of the commission should be reversed or modified.

(c) The review must be conducted by the court sitting without jury, and must not be a trial de novo but be confined to the record on review. The reviewing court may only affirm the decision, remand the case for further proceedings, or reverse the decision if the substantial rights of the petitioner have been violated.

Sec. 466.566. LICENSE OR REGISTRATION: AGREEMENT TO WAIVE ENFORCEABILITY. A license or registration holder by virtue of accepting the license or registration agrees that the privilege of holding a license or registration under this subchapter is conditioned on the holder's agreement to Sections 466.563-466.565 and waives any right to challenge or otherwise appeal the enforceability of those sections.

Sec. 466.567. LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO LIABILITY OF STATE FOR ENFORCEMENT. (a) This state does not waive its sovereign immunity by negotiating gaming agreements with Indian tribes or other persons for the operation of video lottery terminals or other lottery games under this chapter. An actor or agent on behalf of this state does not have any authority to waive the state's sovereign immunity absent an express legislative grant of the authority. The only waiver of sovereign immunity relative to video lottery terminal operations is that expressly provided for in this section.

(b) With regard to video lottery terminal operations on Indian lands, this state consents to the jurisdiction of the district court of the United States with jurisdiction in the county where the Indian lands are located or, if the federal court lacks jurisdiction, to the jurisdiction of a district court in Travis County, solely for the purpose of resolving disputes arising from a gaming agreement authorized under this subchapter for declaratory or injunctive relief or contract damages of \$100,000 or more. Any disputes relating to damages or other awards valued at less than \$100,000 shall be arbitrated under the rules of the American Arbitration Association; provided, however, that application of the rules may not be construed as a waiver of sovereign immunity.

(c) All financial obligations of the commission are payable solely out of the income, revenues, and receipts of the commission and are subject to statutory restrictions and appropriations.

(d) This state and the commission are not liable if performance by the commission is compromised or terminated by acts or omissions of the legislature or the state or federal judiciary.

(e) This state and the commission are not liable related to any enforcement of this chapter.

Sec. 466.568. ABSOLUTE PRIVILEGE OF REQUIRED COMMUNICATIONS AND DOCUMENTS. (a) Any communication, document, or record of a video lottery central system provider, a video lottery terminal provider, a video lottery retailer, a video lottery manager, an applicant, or a license or registration holder or holder of a regulatory approval that is made or transmitted to the commission or any of its employees to comply with any law, including a rule of the commission, to comply with a subpoena issued by the commission, or to assist the commission or its designee in the performance of their respective duties is absolutely privileged, does not impose liability for defamation, and is not a ground for recovery in any civil action.

(b) If a communication, document, or record provided under Subsection (a) contains any information that is privileged under state law, that privilege is not waived or lost because the communication, document, or record is disclosed to the commission or any of the commission's employees.

(c) The commission shall maintain all privileged information, communications, documents, and records in a secure place as determined in the commission's sole discretion that is accessible only to members of the commission and authorized commission employees.

Sec. 466.569. INTELLECTUAL PROPERTY RIGHTS OF COMMISSION. The legislature finds and declares that the commission has the right to establish ownership of intellectual property rights for all lottery products, including video lottery terminals and related video lottery equipment.

Sec. 466.570. MODEL GAMING AGREEMENT. (a) The governor shall execute, at the governor's discretion as chief executive officer of this state and on behalf of this state, a gaming agreement with the Ysleta del Sur Pueblo Indian tribe, the Alabama-Coushatta Indian tribe, or the Kickapoo Traditional Tribe of Texas containing the terms set forth in Subsection (b), ~~as a ministerial act, without preconditions,~~ not later than the 60th ~~30th~~ day after the date the governor receives a request from the tribe, accompanied by or in the form of a duly enacted resolution of the tribe's governing body, to enter into the gaming agreement.

(b) A gaming agreement executed under Subsection (a) must contain substantially the terms set forth in a model gaming agreement approved ~~adopted~~ by the attorney general and filed with the secretary of state. The attorney general shall adopt a model gaming agreement for purposes of this section, consistent with the applicable provisions of this chapter, and shall file the agreement with the secretary of state.

(c) An Indian tribe may operate video lottery games and video lottery terminals in accordance with a gaming agreement entered into under this section.

(d) A governor of this state may not amend, alter, or otherwise modify an agreement under this section until after the 10th anniversary of the date the original agreement was signed by a governor of this state.

Sec. 466.571. VIDEO LOTTERY GAMES BY INDIAN TRIBES AUTHORIZED. (a) Notwithstanding any other law, an Indian tribe may operate video lottery games and video lottery terminals as authorized by this subchapter pursuant to a compact with the governor.

(b) To operate video lottery games under this section, an Indian tribe must be an Indian tribe as listed by the United States secretary of the interior under 25 U.S.C. Section 479a-1 on or before January 1, 1998, and must, on or before January 1, 1998, have had Indian lands within the boundaries of this state. At any time there may not be more than three Indian tribes operating video lottery games on Indian lands in this state.

(c) An Indian tribe may operate video lottery games under this section only on ~~or immediately adjacent to~~ Indian lands placed into trust by the United States for the benefit of the Indian tribe on or before January 1, 1998, that were held and occupied by the Indian tribe on or before January 1, 1998.

(d) A compact or agreement entered into under this section must contain provisions for the monitoring and auditing of the operation of video lottery games and any other gaming activity. The compact must:

(1) provide that the commission may inspect all public and nonpublic areas of the premises where the Indian tribe operates video lottery games or other gaming activity;

(2) require the conduct of an annual audit by the commission or an auditor selected by the commission of the Indian tribe's video lottery game operations; and

(3) provide that the commission may examine and review all financial records of the Indian tribe's video lottery game operations at any reasonable time.

(e) An agreement entered into under this section with a federally recognized Indian tribe, or an affiliated entity, to allow the tribe or entity to operate video lottery games must provide that the tribe agrees to collect and remit to the comptroller all state sales and use taxes for all taxable goods and services sold on the tribe's Indian lands in this state and all state taxes on motor fuels, alcoholic beverages, cigarettes and tobacco products, and hotel occupancy sold on the tribe's Indian lands. In the case of a federally recognized Indian tribe, the requirement to collect and remit these state taxes does not apply to taxes on the sale, use, or consumption of an item by a member of the tribe. The agreement shall provide a method to secure payment of these taxes to this state.

(f) The comptroller may adopt rules to ensure that the exemption from the collection and remission of state taxes under Subsection (e) applies only to members of the tribe owning that tribal land.

SUBCHAPTER L. REVENUE FROM VIDEO LOTTERY

Sec. 466.801. DIVISION OF NET INCOME FROM VIDEO LOTTERY GAMES. (a) At the times and in the manner prescribed by commission rule, a video lottery retailer shall transfer to the commission 30 percent of the net terminal income derived from video lottery games operated by the retailer.

(b) The remainder of the net terminal income shall be retained by the video lottery retailer.

Sec. 466.802. STATE VIDEO LOTTERY ACCOUNT; DISPOSITION OF REVENUE. (a) The state video lottery account is a special account in the general revenue fund. The account consists of all revenue received by the commission from video lottery, fees received under this chapter, and all money credited to the account from any other fund or source under law.

(b) Other than money appropriated to cover administrative costs, money in the state video lottery account shall be distributed at least monthly as determined by the comptroller as follows:

(1) 50 percent of the money shall be transferred to the foundation school fund for school district property tax relief as provided by Section 466A.153; and

(2) the remainder of the money shall be deposited in the general revenue fund.

Sec. 466.803. SCHOOL DISTRICT PROPERTY TAX RELIEF. Beginning with the state fiscal year ending August 31, 2008, the revenue transferred to the foundation school fund under Subsection (b)(1) for a state fiscal year shall be used to increase the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302, Education Code, in order to reduce school district rollback tax rates as provided by Section 26.08, Tax Code.

Sec. 466.804. STATE SALES TAX RATE REDUCTION. (a) Not later than October 1, 2008, the comptroller shall:

(1) determine the amount of video lottery revenue deposited in the general revenue fund under Section 466.802(b)(2) for the preceding state fiscal year; and

(2) calculate the reduction in the sales tax rate prescribed by Section 151.051, Tax Code, rounded to the nearest hundredth of one percent, that would result in a reduction in taxes estimated to be collected under Chapter 151, Tax Code, for the year beginning on that October 1 equal to 90 percent of the amount determined under Subdivision (1).

(b) Not later than October 1 of each year after 2008, the comptroller shall:

(1) determine the amount by which the amount of video lottery revenue deposited in the general revenue fund under Section 466.802(b)(2) in the preceding state fiscal year differs from the amount of video lottery revenue deposited in the general revenue fund under Section 466.802(b)(2) in the state fiscal year preceding the preceding fiscal year; and

(2) calculate the reduction or increase as appropriate in the sales tax rate prescribed by Section 151.051, Tax Code, rounded to the nearest hundredth of one percent, that would result in a reduction or increase in taxes estimated to be collected under Chapter 151, Tax Code, for the year beginning on that October 1 that would offset 90 percent of the amount determined under Subdivision (1).

(c) An reduction or increase in the sales tax rate calculated under this section takes effect on October 1 of the year in which the adjustment is calculated. In making an adjustment of the sales tax rate under this section, the comptroller shall take into account any difference in the actual taxes collected under Chapter 151, Tax Code, for the preceding year compared to the comptroller's estimate of those taxes made under this section in the preceding year.

(d) This section expires September 1, 2013.

Sec. 466.805. OFFSET FOR PAYMENT OF TERMINAL FEE. (a) A video lottery retailer that pays a terminal fee under Section 466.530 may offset one third of the amount of that fee from the net terminal income derived from video lottery games operated by the retailer that is transferred to the commission under Section 466.801 over a period of three years.

(b) The video lottery retailer may not make an offset described by Subsection (a) for a period of two years after paying the fee under Section 466.530.

SECTION 34. Section 467.001, Government Code, is amended by amending Subdivision (9) and adding Subdivision (12) to read as follows:

(9) "Person that has a significant financial interest in the lottery" means:

(A) a person or a board member, officer, trustee, or general partner of a person that manufactures, distributes, sells, or produces lottery equipment, video lottery equipment, video lottery games, video lottery central systems, supplies, services, or advertising;

(B) an employee of a video lottery terminal provider, video lottery central system provider, or person that manufactures, distributes, sells, or produces lottery equipment, supplies, services, or advertising or video lottery equipment or games and that employee is directly involved in the manufacturing, distribution, selling, or production of lottery equipment, supplies, services, or advertising or video lottery equipment or games;

(C) a person or a board member, officer, trustee, or general partner of a person that has made a bid to operate the lottery in the preceding two years or that intends to make a bid to operate the lottery or an employee of the person if the employee is directly involved in making the bid; or

(D) a sales agent, video lottery retailer, video lottery manager, video lottery terminal provider, or video lottery central system provider.

(12) "Video lottery central system," "video lottery equipment," "video lottery game," "video lottery manager," "video lottery retailer," and "video lottery terminal provider" have the meanings assigned by Section 466.002.

SECTION 35. Subsection (a), Section 467.027, Government Code, is amended to read as follows:

(a) A commission member is [~~not~~] entitled to compensation for serving on the commission. The annual salary of the commission members is set by legislative appropriation.

SECTION 36. Section 467.031, Government Code, is amended to read as follows:

Sec. 467.031. DIVISIONS. The commission shall establish separate divisions to oversee bingo and the state lottery. The commission may create a division to oversee video lottery and delegate responsibilities in the administration of Chapter 466 to the executive director, the director of the appropriate division, and the division's staff; provided, however, that the commission may not delegate the following actions:

(1) a final determination in any application or request for licensing or registration under Chapter 466;

(2) a final determination in any proceeding involving the suspension or revocation of a registration or license under Chapter 466;

(3) a final determination that Chapter 466 has been violated; or

(4) a final determination or imposition of an assessment of fines or penalties under a law administered by the commission.

SECTION 37. Subsection (a), Section 467.035, Government Code, is amended to read as follows:

(a) The commission may not employ or continue to employ a person who owns a financial interest in:

(1) a bingo commercial lessor, bingo distributor, or bingo manufacturer; or

(2) a lottery sales agency, [~~or~~] a lottery operator, a video lottery retailer, a video lottery manager, a video lottery terminal provider, a video lottery central system provider, or a manufacturer of video lottery games.

SECTION 38. Section 467.108, Government Code, is amended to read as follows:

Sec. 467.108. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE.

(a) A former commission member, former executive director, or former director may not:

(1) [~~for compensation,~~] represent a person, either with or without compensation, [that has made or intends to make a bid to operate the lottery] before the commission before the fifth [~~second~~] anniversary of the date that the person's service in office or employment with the commission ceases;

(2) represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of service or employment with the commission, either through personal involvement or because the matter was within the scope of the officer's or employee's official responsibility; or

(3) ~~[for compensation]~~ communicate on behalf of any person, whether compensated or not compensated, directly with a member of the legislative branch to influence legislation on behalf of a person that has any [a significant financial] interest in the lottery, before the fifth [second] anniversary of the date that the person's service in office or employment with the commission ceases.

(b) A person commits an offense if the person violates this section. An offense under this section is a felony of the third degree [Class A misdemeanor].

SECTION 39. Section 411.108, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The Texas Lottery Commission may obtain from the department, subject to an interagency agreement entered into under Section 466.020(d) or 466.206, criminal history record information maintained by the department that relates to any natural person, corporation, association, trust, partnership, limited partnership, joint venture, government, subsidiary, or other entity, regardless of its form, structure, or nature that the commission has the authority to investigate under Chapter 466 as related to the commission's operation and oversight of video lottery. Criminal history record information obtained by the commission under this subsection may be released or disclosed only as provided in Sections 466.022(d) and 466.206.

SECTION 40. Subdivision (4), Section 47.01, Penal Code, is amended to read as follows:

(4) "Gambling device" means any electronic, electromechanical, or mechanical contrivance not excluded under Paragraph (B) that for a consideration affords the player an opportunity to obtain anything of value, the award of which is determined solely or partially by chance, even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance. The term:

(A) includes, but is not limited to, gambling device versions of bingo, keno, blackjack, lottery, roulette, video poker, slot machines, or similar electronic, electromechanical, or mechanical games, or facsimiles thereof, that operate by chance or partially so, that as a result of the play or operation of the game award credits or free games, and that record the number of free games or credits so awarded and the cancellation or removal of the free games or credits; ~~[and]~~

(B) does not include any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if:

(i) the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less;

(ii) any merchandise or a representation of value received by a player may be exchanged only at the same business and business location at which the contrivance operated by the player is located and may not be exchanged for a gift certificate or similar conveyance that is redeemable at another business or business location; and

(iii) the contrivance or device does not resemble a slot machine or any other casino game; and

(C) does not include equipment, machines, technological aids, or other devices allowed in connection with the video lottery terminals authorized under Ch 466, Government Code.

SECTION 41. Subsection (e), Section 47.06, Penal Code, is amended to read as follows:

(e) An offense under this section is a felony of the third degree [~~Class A misdemeanor~~].

SECTION 42. Section 47.09, Penal Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (a)(3) applies to a person manufacturing, distributing, possessing, or operating a gambling device with the authorization of the Texas Lottery Commission under Subchapter K, Chapter 466, Government Code.

SECTION 43. Chapter 47, Penal Code, is amended by adding Section 47.095 to read as follows:

Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is a defense to prosecution under this chapter that a person sells, leases, transports, possesses, stores, or manufactures a gambling device with the authorization of the Texas Lottery Commission under Subchapter K, Chapter 466, Government Code, for transportation in interstate or foreign commerce.

SECTION 44. Section 151.051, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (b), the sales tax rate is the rate provided by Subsection (b) as adjusted under Section 466.804, Government Code. On or after the date that Section 466.804 expires, the sales tax rate is the rate in effect on that date.

SECTION 45. Article 6, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Sections 6.20, 6.21, and 6.22 to read as follows:

Sec. 6.20. LIVE RACING REQUIREMENT. (a) The commission by rule shall require a person that holds a horse racetrack license and operates a video lottery terminal establishment under Subchapter K, Chapter 466, Government Code, and that conducted live racing in 2002 to conduct at least the same number of live racing days in each calendar year after 2005 that the racetrack conducted in 2002.

(b) The commission by rule shall require a person that holds a greyhound racetrack license and operates a video lottery terminal establishment under Subchapter K, Chapter 466, Government Code, and that conducted live racing in 2004 to conduct not less than 420 live greyhound racing performances in each calendar year after 2005 unless otherwise agreed to by the official state breed registry.

(c) The commission by rule shall require a horse racetrack in this state that operates a video lottery terminal establishment under Subchapter K, Chapter 466, Government Code, to conduct at least 50 days of quarter horse racing unless otherwise agreed to by the state breed registry representing quarter horses in this state.

Sec. 6.21. TRANSFER FEE. The commission may not approve the sale, transfer, assignment, or other conveyance of any interest or control in a pari-mutuel license or the racetrack owned or managed by the license holder if the license holder holds a video lottery retailer license under Subchapter K, Chapter 466, Government Code, until the transfer fee required by Section 466.521, Government Code, is fully paid to this state.

Sec. 6.22. BREED SPLITS AT VIDEO LOTTERY TERMINAL ESTABLISHMENTS. The commission shall adopt rules to require a horse racetrack that holds a video lottery retailer license under Subchapter K, Chapter 466, Government Code, to allocate from the amount set aside for purses under Section 466.560(a) or (c), Government Code, the following amounts by breed of horse:

(1) Arabians - 2 percent;

(2) Paints - 1 percent;

(3) Quarter horses - 29.1 percent; and

(4) Thoroughbreds - 67.9 percent ~~30 percent to quarter horse purses and 70 percent to thoroughbred purses.~~

SECTION 46. Subsections (b) and (c), Section 6.14, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), are repealed.

SECTION 47. Notwithstanding Subsections (a) through (e) and (g), Section 6.02, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), a person described by Subdivisions (1) or (4), Subsection (a), Section 466.511, Government Code, as added by this Act, that has not conducted a live race by June 1, 2005, may conduct live racing according to the type and amount of fee paid under Subsection (e), Section 6.03, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

SECTION 48. REFERENDUM. At the general election for state and county officers to be held November 8, 2005, the voters shall be permitted to vote in a referendum on the question of whether the state should legalize state controlled video lottery terminals under the State Lottery Act (Chapter 466, Government Code).

SECTION 49. BALLOT PROPOSITION. The ballot shall be printed to provide for voting for or against the proposition: "The legalization of state controlled video lottery terminals under the State Lottery Act with all state proceeds used to reduce property taxes, reduce the state sales tax rate, or support public education."

SECTION 50. FORM OF BALLOT. The proposition shall be printed on the ballot beneath the proposed constitutional amendments under the heading: "Referendum Proposition."

SECTION 51. ELECTION PROCEDURE. (a) Notice of the election shall be given by inclusion of the proposition in the proclamation by the governor ordering the election on the proposed amendments to the state constitution and in the notice of that election given by each county judge.

(b) Returns of the votes cast on the proposition shall be prepared and canvassed in the same manner as the returns on the proposed constitutional amendments.

(c) Immediately after the results of the election are certified by the state board of canvassers, the secretary of state shall transmit a copy of the certification to the lieutenant governor and the speaker of the house of representatives.

SECTION 52. EFFECT OF ELECTION. State controlled video lottery terminals shall not be conducted under this Act if a majority of the votes cast in the referendum required by this Act are against the proposition.

SECTION 53. CONSTRUCTION OF ACT. (a) The rule of construction stated in Section 311.032, Code of Construction Act (Chapter 311, Government Code), applies to the construction of this Act.

(b) It is the legislature's strong intention that, though the legislature has rarely conducted a referendum on matters of statewide importance, the will of the people should be honored and take precedence over any prior constitutional rule of law given the nature of this particular issue in our state.

SECTION 54. 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, this Act takes effect on the 91st day after the last day of the legislative session.

The amendment was read.

Senator Armbrister withdrew Floor Amendment No. 35.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 36

Amend **CSHB 3** as follows:

Add the following SECTIONS, appropriately numbered, to read as follows:

SECTION _____. Section 466.002, Government Code, is amended by amending Subdivisions (2)-(10) and adding Subdivisions (11)-(36) to read as follows:

(2) "Communication technology" means the methods used and the components employed to facilitate the transmission of information, including transmission and reception systems that transmit information through wire, cable, radio, microwave, light, optics, or computer data networks.

(3) "Director" means a [the] director employed by the executive director under Section 467.033 [of the division].

(4) "Disable" with respect to video lottery terminals means the process that causes a video lottery terminal to cease functioning on issuance of a shutdown command from the video lottery central system.

(5) "Distribute," with respect to a video lottery terminal, an electronic computer component of a video lottery terminal, the cabinet in which a video lottery terminal is housed, video lottery equipment, or video lottery game software intended for use or play in this state, including on Indian lands in this state, means the sale, lease, marketing, offer, or other disposition of any of those items.

(6) ~~(3)~~ "Division" means the lottery division established by the commission under Chapter 467.

(7) "Electronic storage medium," with respect to video lottery, means the electronic medium on which the operation software for a game playable on a video lottery terminal is stored in the form of erasable programmable read only memory, compact disc-read only memory, flash random access memory, or other technology medium the commission approves for use in a video lottery terminal.

(8) [(4)] "Executive director" means the executive director of the commission.

(9) "Gaming agreement" means an agreement authorized under Subchapter K between this state and a federally recognized Indian tribe under which this state allows the tribe to conduct limited gaming activities authorized under this chapter or applicable federal law.

(10) "House-banked game" means a game of chance in which:

(A) the house plays as a participant;

(B) the house competes against all players, collects from all losers, and pays all winners; and

(C) the house has an opportunity to win.

(11) "Indian lands" means:

(A) land located within an Indian reservation and occupied by an Indian tribe on January 1, 1998; and

(B) land occupied by an Indian tribe on January 1, 1998, over which an Indian tribe exercises governmental power and the title to which is:

(i) held in trust by the United States for the benefit of an Indian tribe or individual member of an Indian tribe; or

(ii) held by an Indian tribe or an individual member of an Indian tribe and subject to restriction by the United States against alienation.

(12) "Institutional investor" means:

(A) a state or federal government pension plan; or

(B) any of the following that meets the requirements of a "qualified institutional buyer" as defined in Rule 144A, Securities Act of 1933 (15 U.S.C. Sections 77a-77aa), and the rules and regulations adopted under that rule by the United States Securities and Exchange Commission:

(i) a bank as defined by Section 3(a)(6), Securities Exchange Act of 1934 (15 U.S.C. Sections 78a-78kk), and the rules and regulations adopted under that act by the United States Securities and Exchange Commission;

(ii) an insurance company as defined by Section 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);

(iii) an investment company registered under Section 8, Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.);

(iv) an employee benefit plan or pension fund subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), excluding an employee benefit plan or pension fund sponsored by a publicly traded corporation registered with the Securities and Exchange Commission;

(v) a group composed entirely of persons specified by this subdivision; or

(vi) any other person the commission recognizes as an institutional investor for reasons consistent with the policies expressed in this chapter.

(13) ~~(5)~~ "Lottery" means the state lottery established and operated in accordance with the Texas Constitution under this chapter and includes the operation of a state-controlled video lottery system ~~[procedures operated by the state under this chapter through which prizes are awarded or distributed by chance among persons who have paid, or unconditionally agreed to pay, for a chance or other opportunity to receive a prize].~~

(14) ~~(6)~~ "Lottery game" means an activity conducted lawfully and in accordance with the Texas Constitution and this chapter that is controlled by this state as part of the lottery and through which prizes are awarded or distributed by chance to persons who have paid or unconditionally agreed to pay, or who otherwise participate in a game, for a chance or other opportunity to receive a prize ~~[includes a lottery activity].~~

(15) ~~(7)~~ "Lottery operator" means a person selected under Section 466.014(b) to operate a lottery game.

(16) "Manufacture," with respect to a video lottery terminal, an electronic computer component of a video lottery terminal, the cabinet in which a video lottery terminal is housed, video lottery equipment, or video lottery game software intended for use or play in this state, including on Indian lands in this state, means to design, assemble, fabricate, produce, program, or make modifications to any of those items.

(17) "Net terminal income" means the total amount of money paid to play video lottery games less the value of all credits redeemed for money, including any progressive prizes and bonuses, by the players of the video lottery games. Promotional prizes unrelated to video lottery game wagers that are offered by a video lottery retailer or video lottery manager may not be deducted or otherwise considered credits redeemed for money by players for the purpose of determining net terminal income.

(18) "Pari-mutuel license holder" means a person licensed to conduct wagering on a greyhound race or a horse race under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(19) "Person" means, for purposes of video lottery operations, any natural person, corporation, association, trust, partnership, limited partnership, joint venture, subsidiary, or other entity, regardless of its form, structure, or nature.

(20) ~~(8)~~ "Player" means a person who contributes any part of the consideration for a ticket or to play a video lottery game under this chapter.

(21) "Racetrack" means a racetrack as defined by Section 1.03(25), Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(22) ~~(9)~~ "Sales agent" or "sales agency" means a person licensed under this chapter to sell tickets.

(23) "Slot machine" means a mechanical, electrical, or other type of device, contrivance, or machine that plays or operates on insertion of a coin, currency, token, or similar object or on payment of any other consideration, and the play or operation of which, through the skill of the operator, by chance, or both, may deliver to the person playing or operating the machine, or entitle the person to receive, cash, premiums, merchandise, tokens, or any other thing of value, whether the payoff is

made automatically from the machine or in any other manner. The term does not include any equipment, machine, technological aid, or other device used or authorized in connection with the play of bingo under Chapter 2001, Occupations Code.

(24) "Substantial interest holder" means any of the following that is not a bona fide lender, bank, or other authorized or licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business or a vendor of the applicant or license holder that is not otherwise a substantial business holder:

(A) a person who directly, indirectly, or beneficially owns any interest in a privately owned corporation, association, trust, partnership, limited partnership, joint venture, subsidiary, or other entity, regardless of its form, structure, or nature;

(B) a person who directly, indirectly, or beneficially owns 10 percent or more of any publicly owned corporation, association, trust, partnership, limited partnership, joint venture, subsidiary, or other entity, regardless of its form, structure, or nature;

(C) a person associated with an applicant or license holder who the commission determines has the power or authority to:

(i) control the activities of the applicant or license holder; or

(ii) elect or select the executive director, the managers, the partners, or a majority of the board of directors of the applicant or license holder; and

(D) any key personnel of a video lottery retailer or video lottery manager, including an executive director, officer, director, manager, member, partner, limited partner, executive, employee, or agent, who the commission determines has the power to exercise significant influence over decisions concerning any part of the applicant's or license holder's business operation.

(25) ~~(40)~~ "Ticket" means any tangible evidence issued to provide participation in a lottery game authorized by this chapter other than a video lottery game.

(26) "Video lottery central system" means the system of procedures and facilities operated and controlled by the commission that is designed to link together all video lottery terminals operated in this state and allows the commission to continuously monitor the activity of each video lottery terminal and to disable any video lottery terminal in this state.

(27) "Video lottery central system provider" means a person that, under a contract with the commission, provides the video lottery central system.

(28) "Video lottery equipment" means:

(A) a video lottery terminal;

(B) equipment, a component, or a contrivance used remotely or directly in connection with a video lottery terminal to:

(i) affect the reporting of gross revenue and other accounting information, including a device for weighing and counting money;

(ii) connect video lottery terminals together for accounting or wide-area prize or progressive prize purposes;

(iii) monitor video lottery terminal operations; and

(iv) provide for the connection of video lottery terminals to the video lottery central system; or

(C) any other communications technology or equipment necessary for the operation of a video lottery terminal.

(29) "Video lottery game" means an electronically simulated game displayed on a video lottery terminal the outcome of which is determined solely by chance based on a computer-generated random selection of winning combinations of symbols or numbers other than roulette, dice, or baccarat game themes associated with casino gambling, except that game themes displaying symbols that appear to roll on drums to simulate a classic casino slot machine or themes of other card games and keno may be used.

(30) "Video lottery manager" means a person who:

(A) is licensed by the commission under this chapter to manage a video lottery terminal establishment at a racetrack; or

(B) provides management services for a video lottery terminal establishment on Indian lands.

(31) "Video lottery retailer" means a racetrack at which a video lottery terminal establishment is located and that holds a video lottery retailer license under Subchapter K.

(32) "Video lottery system" has the meaning assigned to that term by Section 47(f), Article III, Texas Constitution.

(33) "Video lottery terminal" means an interactive electronic device that is capable of displaying video lottery games.

(34) "Video lottery terminal establishment" means premises at which the operation of video lottery terminals is authorized by the commission under this chapter in accordance with a license or a gaming agreement.

(35) "Video lottery terminal provider" means a person in the business of manufacturing or distributing video lottery terminals in this state.

(36) "Video lottery ticket" means the tangible evidence issued by a video lottery terminal to reflect winnings from the play of a video lottery game.

SECTION 2.02. Section 466.003, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Any ~~▲~~ contract or authorized agreement between the division and a lottery operator, the video lottery central system provider, a video lottery terminal provider, or a manufacturer or distributor of video lottery games under Section 466.014(b) must contain a provision allowing the contract or authorized agreement to be terminated without penalty should the division be abolished unless another state agency is assigned to regulate all video lottery game activity as required by this chapter.

(c) Notwithstanding Subsection (a), if any gaming agreement that allows video lottery is in effect, the commission or another state agency designated by the legislature must regulate video lottery games as necessary to comply with a gaming agreement under this chapter.

SECTION 2.03. Section 466.004(a), Government Code, is amended to read as follows:

(a) A political subdivision of this state may not impose:

(1) a tax on the sale of a ticket;

(2) a tax on the payment of a prize under this chapter; ~~☞~~

(3) an ad valorem tax on tickets;

(4) a tax, fee, or other assessment on consideration paid to play a video lottery game; or

(5) a tax or fee for attendance or admission to a video lottery establishment or a racetrack at which a video lottery establishment is located unless specifically authorized by statute.

SECTION 2.04. Section 466.014, Government Code, is amended to read as follows:

Sec. 466.014. POWERS AND DUTIES OF COMMISSION AND EXECUTIVE DIRECTOR; CONTRACT AUTHORITY. (a) The commission and executive director have broad authority and shall exercise strict control and close supervision over ~~[all]~~ lottery games ~~[conducted in this state]~~ to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery.

(b) The executive director may contract with or employ a person to perform a function, activity, or service in connection with the operation of the lottery as prescribed by the executive director. A contract relating to the operation of video lottery must be consistent with Subchapter K. Except as provided by this subsection, a [A] person with whom the executive director contracts to operate a lottery game must be eligible for a sales agent license under Section 466.155. A person with whom the executive director contracts to provide the video lottery central system must be eligible under the same standards as those applicable to the registration or approval by the commission of a video lottery terminal provider in accordance with Subchapter K.

(c) The executive director may award a contract for lottery supplies, equipment, or services, including a contract under Subsection (b), pending the completion of any investigation and licensing, registration, or other approval authorized or required by this chapter. A contract awarded under this subsection must include a provision permitting the executive director to terminate the contract without penalty if the investigation reveals that the person to whom the contract is awarded would not be eligible for a sales agent license under Section 466.155 or with regard to video lottery does not satisfy the applicable requirements for licensing, registration, or other approval under Subchapter K.

(e) In the acquisition or provision of facilities, supplies, equipment, materials, or services related to the implementation of video lottery, the commission is exempt from:

(1) procurement procedures prescribed under:

(A) Subtitle D, Title 10; and

(B) Section 466.101; and

(2) any bidding or contract requirements provided by any other law or by commission rules.

(f) Subsection (e) and this subsection expire January 1, 2008.

SECTION 2.05. Section 466.015(b), Government Code, is amended to read as follows:

(b) The commission shall adopt rules to the extent they are not inconsistent with Chapters 551 and 552 governing the:

(1) security for the lottery and the commission, including the development of an internal security plan;

(2) apportionment of the total revenues from the sale of tickets and from all other sources in the amounts provided by this chapter;

(3) enforcement of prohibitions on the sale of tickets to or by an individual younger than 18 years of age or the sale of a video lottery game to or by an individual younger than 21 years of age; ~~and~~

(4) enforcement of prohibitions on a person playing a lottery game by telephone; and

(5) enforcement of prohibitions provided by law on the sale of any purchase or play of a video lottery game.

SECTION 2.06. Section 466.017, Government Code, is amended to read as follows:

Sec. 466.017. AUDITS. (a) The commission ~~[executive director]~~ shall provide for a certified public accountant to conduct an independent audit of the commission's annual financial statements in accordance with generally accepted auditing standards that requires the accountant to express an opinion on the conformity of the financial statements with generally accepted accounting principles ~~[for each fiscal year of all accounts and transactions of the lottery]~~. The certified public accountant may not have ~~[, as determined by the executive director,]~~ a significant financial interest in a sales agent, lottery vendor, ~~[or]~~ lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider. The certified public accountant shall present an audit report to the executive director, the commission, the governor, the comptroller, and the legislature not later than the 30th day after the submission date for the annual financial report required by the General Appropriations Act. ~~[The report must contain recommendations to enhance the earnings capability of the lottery and improve the efficiency of lottery operations.]~~ The state auditor may review the results of and working papers related to the audit.

(b) The records of a [Each] lottery operator, sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider ~~[operator's and sales agent's records]~~ are subject to audit by the commission and the state auditor. For the purpose of carrying out this chapter, the executive director or state auditor may examine all books, records, papers, or other objects that the executive director or state auditor determines are necessary for conducting a complete examination under this chapter and may also examine under oath any officer, director, or employee of a lottery operator, ~~[or]~~ sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider. The executive director or state auditor may conduct an examination at the principal office or any other office of the person subject to the audit ~~[lottery operator or sales agent]~~ or may require the person ~~[lottery operator or sales agent]~~ to produce the records at the office of the commission or state auditor. If a sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider refuses to permit an examination or to answer any question authorized by this subsection, the executive director may summarily suspend the license or registration of the sales agent, video lottery manager, video lottery retailer, or video lottery terminal provider under Section 466.160 or Subchapter K

until the examination is completed as required. Section 321.013(h) does not apply to an audit of a lottery operator, ~~[or]~~ sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider.

SECTION 2.07. Section 466.018, Government Code, is amended to read as follows:

Sec. 466.018. INVESTIGATIONS. The attorney general, the district attorney for Travis County, or the district attorney, criminal district attorney, or county attorney performing the duties of district attorney for the county in which the violation or alleged violation occurred may investigate a violation or alleged violation of this chapter and of the penal laws of this state by the commission or its employees, a sales agent, a lottery vendor, ~~[or]~~ a lottery operator, a video lottery manager, a video lottery retailer, a video lottery terminal provider, or a video lottery central system provider.

SECTION 2.08. Sections 466.020(c), (d), and (e), Government Code, are amended to read as follows:

(c) A security officer or investigator employed by the department of security or a peace officer who is working in conjunction with the commission or the Department of Public Safety in the enforcement of this chapter may:

(1) ~~[]~~ without a search warrant, ~~[may]~~ search and seize a lottery vending machine, lottery computer terminal, video lottery terminal, or other lottery or gaming equipment that is located on premises for which a person holds a sales agent, video lottery retailer, or video lottery manager license issued under this chapter; or

(2) seize a lottery vending machine, lottery computer terminal, video lottery terminal, or other lottery or gaming equipment that is being used or is in the possession of any person in violation of this chapter.

(d) The Department of Public Safety or any other state or local law enforcement agency in this state, at the commission's request and in accordance with an interagency agreement, shall perform a full criminal background investigation of a prospective deputy or investigator of the department of security. The commission shall reimburse the agency ~~[Department of Public Safety]~~ for the actual costs of an investigation.

(e) At least once every two years, the executive director shall employ an independent firm that is experienced in security, including computer security and systems security, to conduct a comprehensive study of all aspects of lottery security, including:

- (1) lottery personnel security;
- (2) sales agent security;
- (3) lottery operator and vendor security;
- (4) security against ticket counterfeiting and alteration and other means of fraudulent winning;
- (5) security of lottery drawings;
- (6) lottery computer, data communications, database, and systems security;
- (7) lottery premises and warehouse security;
- (8) security of distribution of tickets;
- (9) security of validation and payment procedures;
- (10) security involving unclaimed prizes;
- (11) security aspects of each lottery game;

(12) security against the deliberate placement of winning tickets in lottery games that involve preprinted winning tickets by persons involved in the production, storage, transportation, or distribution of tickets; ~~[and]~~

(13) security of video lottery retailers, video lottery managers, video lottery terminal providers, and video lottery central system providers; and

(14) other security aspects of lottery operations, including video lottery game operations.

SECTION 2.09. Section 466.021(a), Government Code, is amended to read as follows:

(a) The executive director shall, every two years, employ an independent firm experienced in demographic analysis to conduct a demographic study of lottery players. The study must examine ~~[include]~~ the income, age, sex, race, education, and frequency of participation of players. The study must distinguish between players of traditional lottery games and video lottery games.

SECTION 2.10. Section 466.022, Government Code, is amended by amending Subsection (b) and adding Subsections (c), (d), (e), and (f) to read as follows:

(b) In addition to commission records excepted from disclosure under Chapter 552, the following information is confidential and is exempt from disclosure:

(1) security plans and procedures of the commission designed to ensure the integrity and security of the operation of the lottery;

(2) information of a nature that is designed to ensure the integrity and security of the selection of winning tickets or numbers in the lottery, other than information describing the general procedures for selecting winning tickets or numbers; ~~[and]~~

(3) the street address and telephone number of a prize winner, if the prize winner has not consented to the release of the information; and

(4) information relating to all system operations of video lottery games, including the operation of the video lottery system, security related to video lottery games, and commission plans and procedures intended to ensure the integrity and security of the operation of video lottery games.

(c) Information that is confidential under Subsection (b)(4) includes information and data that:

(1) are furnished to the commission under Subchapter K or that may be otherwise obtained by the commission from any source;

(2) pertain to an applicant's criminal record, antecedents, and background and are furnished to or obtained by the commission from any source, including information obtained by the commission under Section 411.108(d);

(3) are provided to the commission, a commission employee, or an investigator acting on behalf of the commission by a governmental agency or an informer or on the assurance that the information will be held in confidence and treated as confidential;

(4) are obtained by the commission from a video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider; or

(5) are prepared or obtained by an agent or employee of the commission relating to a license, registration, or renewal application, a finding of suitability, or any approval required under Subchapter K.

(d) Information that qualifies as confidential under Subsection (b)(4) may be disclosed in whole or in part only as necessary to administer this chapter or under a court order. The commission, subject to appropriate procedures, may disclose the information and data to an authorized agent of a political subdivision of this state, the United States, another state or a political subdivision of another state, a tribal law enforcement agency, or the government of a foreign country.

(e) For the annual report required under Section 466.016, the commission may disclose a compilation of statistical information that is otherwise confidential under Subsection (b)(4) if the compilation does not disclose the identity of an applicant, license or registration holder, or video lottery establishment.

(f) Notwithstanding any other provision of state law, the information provided under Subsection (d) or (e) may not otherwise be disclosed without specific commission authorization.

SECTION 2.11. Section 466.024, Government Code, is amended to read as follows:

Sec. 466.024. PROHIBITED GAMES. (a) The executive director, ~~or~~ a lottery operator, a video lottery manager, a video lottery retailer, a video lottery terminal provider, or a video lottery central system provider may not establish or operate a lottery game in which the winner is chosen on the basis of the outcome of a live sports event.

(b) The ~~[commission shall adopt rules prohibiting the]~~ operation of any game using a video lottery machine, slot ~~or~~ machine, or other gambling device that is not connected to the video lottery central system and regulated by this state as required by Section 47, Article III, Texas Constitution, and this chapter is prohibited.

(c) In this section, "sports~~[-~~

~~[(1) "Sports] event" means a football, basketball, baseball, or similar game, or a horse or dog race on which pari-mutuel wagering is allowed.~~

~~[(2) "Video lottery machine" or "machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including video poker, keno, and blackjack, using a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash, coins, or tokens, or that directly dispenses cash, coins, or tokens.]~~

SECTION 2.12. Section 466.025, Government Code, is amended to read as follows:

Sec. 466.025. REPORTS OF TICKETS SOLD, NET TERMINAL INCOME, AND PRIZES AWARDED. For each lottery game, other than a video lottery game, after the last date on which a prize may be claimed under Section 466.408(d), the director shall prepare a report that shows the total number of tickets sold and the number and amounts of prizes awarded in the game. The report must be available for public inspection. For video lottery games, the director shall prepare a weekly report that shows net terminal income for the preceding week.

SECTION 2.13. Section 466.103(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), the executive director may not award a contract for the purchase or lease of facilities, goods, or services related to lottery operations to a person who:

(1) would be denied a license as a sales agent under Section 466.155; or

(2) with regard to video lottery equipment:

(A) is not a registered video lottery terminal provider if registration is required; or

(B) would be deemed unsuitable to be a video lottery terminal provider under Subchapter K.

SECTION 2.14. Section 466.110, Government Code, is amended to read as follows:

Sec. 466.110. PROHIBITED ADVERTISEMENTS. The legislature intends that advertisements or promotions sponsored by the commission or the division for the lottery not be of a nature that unduly influences any person to purchase a lottery ticket or number or play a video lottery game.

SECTION 2.15. Section 466.151(b), Government Code, is amended to read as follows:

(b) The executive director may establish a provisional license or other classes of licenses necessary to regulate and administer the quantity and type of lottery games provided at each licensed location of a sales agent.

SECTION 2.16. Section 466.158(a), Government Code, is amended to read as follows:

(a) Unless suspended or revoked, a license issued under this subchapter expires on the date specified in the license, which may not be later than the fifth ~~second~~ anniversary of its date of issuance.

SECTION 2.17. Section 466.201(a), Government Code, is amended to read as follows:

(a) The commission is entitled to conduct an investigation of and is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation Identification Division, or another law enforcement agency to assist in the investigation of:

(1) a sales agent or an applicant for a sales agent license;

(2) a person required to be named in a license application;

(3) a lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider, or prospective lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider;

(4) an employee of a lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider or prospective lottery operator, video lottery manager, video lottery retailer, video lottery terminal provider, or video lottery central system provider, if the employee is or will be directly involved in lottery operations;

(5) a person who manufactures or distributes lottery equipment or supplies, or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;

(6) a person who has submitted a written bid or proposal to the commission in connection with the procurement of goods or services by the commission, if the amount of the bid or proposal exceeds \$500;

(7) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license;

(8) a person who proposes to enter into or who has a contract with the commission to supply goods or services to the commission; or

(9) if a person described in Subdivisions (1) through (8) is not an individual, an individual who:

(A) is an officer or director of the person;

(B) holds more than 10 percent of the stock in the person;

(C) holds an equitable interest greater than 10 percent in the person;

(D) is a creditor of the person who holds more than 10 percent of the person's outstanding debt;

(E) is the owner or lessee of a business that the person conducts or through which the person will conduct lottery-related activities;

(F) shares or will share in the profits, other than stock dividends, of the person;

(G) participates in managing the affairs of the person; or

(H) is an employee of the person who is or will be involved in:

(i) selling tickets; or

(ii) handling money from the sale of tickets.

SECTION 2.18. Subchapter E, Chapter 466, Government Code, is amended by adding Section 466.206 to read as follows:

Sec. 466.206. CRIMINAL HISTORY INVESTIGATION FOR VIDEO LOTTERY. (a) Except as otherwise provided by this section, Sections 466.020 and 466.201, and Subchapter K, a criminal history investigation of a video lottery retailer, video lottery manager, video lottery terminal provider, or video lottery central system provider is governed by commission rules adopted under Subchapter K, which may consider a criminal history investigation conducted under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(b) The Department of Public Safety or a state or local law enforcement agency in this state, in accordance with an interagency agreement with the commission, shall provide any assistance requested by the commission in the administration and enforcement of this chapter, including conducting background investigations of a person seeking a license, registration, or other commission authorization required under Subchapter K or of any person required to be named in an application for a license, registration, or other commission authorization under that subchapter.

(c) This section does not limit the commission's right to obtain criminal history record information from any other local, state, or federal agency. The commission may enter into a confidentiality agreement with the agency as necessary and proper.

(d) Except as otherwise provided by Section 411.108(d) or another provision of this chapter, criminal history record information obtained by the commission under this section may be disclosed only:

(1) to another law enforcement agency to assist in or further an investigation related to the commission's operation and oversight of video lottery; or

(2) under a court order.

SECTION 2.19. Section 466.252, Government Code, is amended to read as follows:

Sec. 466.252. PLAYER [PURCHASE OF TICKET] AGREEMENT TO ABIDE BY RULES AND INSTRUCTIONS. (a) By purchasing a ticket in a particular lottery game or participating as a player in a lottery game, a player agrees to abide by and be bound by the commission's rules and instructions, including the rules or instructions applicable to the particular lottery game involved. The player also acknowledges that the determination of whether the player is a valid winner is subject to:

(1) the commission's rules, instructions, and claims procedures, including those developed for the particular lottery game involved; ~~and~~

(2) any validation tests established by the commission for the particular lottery game involved; and

(3) the limitations and other provisions prescribed by this chapter.

(b) If the lottery uses tickets, an abbreviated form of the rules or a reference to the rules may appear on the tickets.

SECTION 2.20. Section 466.3011, Government Code, is amended to read as follows:

Sec. 466.3011. VENUE. Venue is proper in Travis County or any county in which venue is proper under Chapter 13, Code of Criminal Procedure, for:

(1) an offense under this chapter;

(2) an offense under the Penal Code, if the accused:

(A) is a lottery operator, lottery vendor, sales agent, video lottery manager, video lottery retailer, video lottery terminal provider, video lottery central system provider, or employee of the division; and

(B) is alleged to have committed the offense while engaged in lottery activities, including video lottery activities; or

(3) an offense that involves property consisting of or including lottery tickets under Title 7 or 11, Penal Code.

SECTION 2.21. Subchapter G, Chapter 466, Government Code, is amended by adding Section 466.3031 to read as follows:

Sec. 466.3031. UNAUTHORIZED OPERATION, USE, OR POSSESSION OF VIDEO LOTTERY TERMINAL. (a) A person may not operate, use, or possess a video lottery terminal unless the operation, use, or possession is expressly authorized by this chapter or other law.

(b) Except for transport to or from a video lottery establishment and as provided by this chapter, a person commits an offense if the person operates, uses, or possesses any video lottery terminal that is not at all times connected to the video lottery central system or that does not generate revenue for this state, except funds retained by the commission to pay administrative costs. An offense under this subsection is a felony of the third degree.

(c) Notwithstanding Subsection (b), a video lottery retailer, video lottery manager, or registered or approved video lottery terminal provider may store or possess a video lottery terminal as authorized by the commission, and the commission may possess video lottery terminals for study and evaluation.

(d) Nothing in this section shall be construed to prohibit the operation, use, or possession of equipment, machines, technological aids, or other devices allowed in connection with the play of bingo under Chapter 2001, Occupations Code.

SECTION 2.22. Section 466.305(a), Government Code, is amended to read as follows:

(a) A sales agent, video lottery manager, or video lottery retailer, or an employee of a sales agent, video lottery manager, or video lottery retailer, commits an offense if the person intentionally or knowingly sells a ticket to another person or allows the person to play or conduct a game on a video lottery terminal by extending credit or lending money to the person to enable the person to purchase the ticket or play the game.

SECTION 2.23. The heading to Section 466.3051, Government Code, is amended to read as follows:

Sec. 466.3051. SALE ~~[OF TICKET]~~ TO OR PURCHASE OF LOTTERY TICKET BY PERSON YOUNGER THAN 18; PLAY OF LOTTERY GAME BY PERSON YOUNGER THAN 21 [YEARS OF AGE].

SECTION 2.24. Section 466.3051, Government Code, is amended by adding Subsections (a-1) and (b-1) and amending Subsections (b)-(f) to read as follows:

(a-1) A video lottery manager, a video lottery retailer, or an employee of a video lottery manager or video lottery retailer commits an offense if the person intentionally or knowingly allows a person younger than 21 years of age to play a video lottery game.

(b) An individual who is younger than 18 years of age commits an offense if the individual:

(1) purchases a lottery ticket; or

(2) falsely represents the individual to be 18 years of age or older by displaying evidence of age that is false or fraudulent or misrepresents in any way the individual's age in order to purchase a lottery ticket.

(b-1) An individual who is younger than 21 years of age commits an offense if the individual:

(1) plays a video lottery game; or

(2) falsely represents the individual to be 21 years of age or older by displaying evidence of age that is false or fraudulent or misrepresents in any way the individual's age in order to play a video lottery game.

(c) A person 18 years of age or older may purchase a lottery ticket to give as a gift to another person, including an individual younger than 18 years of age.

(d) It is a defense to the application of Subsection (b) that the individual younger than 18 years of age is participating in an inspection or investigation on behalf of the commission or other appropriate governmental entity regarding compliance with this section. It is a defense to the application of Subsection (b-1) that the individual younger than 21 years of age is participating in an inspection or investigation on behalf of the commission or other appropriate governmental entity regarding compliance with this section.

(e) An offense under Subsection (a) or (a-1) is a Class C misdemeanor.

(f) An offense under Subsection (b) or (b-1) is punishable by a fine not to exceed \$250.

SECTION 2.25. Section 466.3053, Government Code, is amended to read as follows:

Sec. 466.3053. PURCHASE OF TICKET OR VIDEO LOTTERY GAME WITH PROCEEDS OF AFDC CHECK OR FOOD STAMPS. (a) A person commits an offense if the person intentionally or knowingly purchases a ticket or plays a video lottery game with:

(1) the proceeds of a check issued as a payment under the Aid to Families with Dependent Children program administered under Chapter 31, Human Resources Code; or

(2) a food stamp coupon issued under the food stamp program administered under Chapter 33, Human Resources Code.

(b) An offense under this section is a Class C misdemeanor.

SECTION 2.26. Section 466.306, Government Code, is amended to read as follows:

Sec. 466.306. FORGERY; ALTERATION OF TICKET. (a) A person commits an offense if the person intentionally or knowingly alters or forges a ticket or video lottery ticket.

(b) An offense under this section is a felony of the third degree unless it is shown on the trial of the offense that the prize alleged to be authorized by the ticket or video lottery ticket forged or altered is greater than \$10,000, in which event the offense is a felony of the second degree.

SECTION 2.27. Section 466.309(a), Government Code, is amended to read as follows:

(a) A person commits an offense if the person intentionally or knowingly tampers with, damages, defaces, or renders inoperable any vending machine, electronic computer terminal, video lottery terminal or other video lottery equipment, or other mechanical device used in a lottery game.

SECTION 2.28. The heading to Section 466.317, Government Code, is amended to read as follows:

Sec. 466.317. PROHIBITION AGAINST SALE OF CERTAIN LOTTERY TICKETS OR OPERATION OF CERTAIN VIDEO LOTTERY SYSTEMS.

SECTION 2.29. Section 466.317, Government Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:

(a-1) A person may not control or operate a video lottery system in this state except as provided by this chapter.

(b) The state may enter into a compact with another state or state government [~~or an Indian tribe or tribal government~~] to permit the sale of lottery tickets of this state in the state's[~~tribe's,~~] or government's jurisdiction and to allow the sale of the state's[~~tribe's,~~] or government's lottery tickets in this state.

(c) A person commits an offense if the person violates this section. An offense under this section is a felony of the third degree [~~Class A misdemeanor~~].

SECTION 2.30. Section 466.355(a), Government Code, is amended to read as follows:

(a) The state lottery account is a special account in the general revenue fund. The account consists of all revenue received from the sale of tickets, license and application fees under this chapter, other than Subchapter K, and all money credited to

the account from any other fund or source under law. Interest earned by the state lottery account shall be deposited in the unobligated portion of the general revenue fund.

SECTION 2.31. Subchapter H, Chapter 466, Government Code, is amended by adding Section 466.360 to read as follows:

Sec. 466.360. VIDEO LOTTERY TERMINAL REVENUE. Revenue generated from the operation of video lottery terminals is governed by Subchapter K and commission rules.

SECTION 2.32. Section 466.402, Government Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to the payment of prizes for video lottery games governed by Subchapter K.

SECTION 2.33. Chapter 466, Government Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. VIDEO LOTTERY

Sec. 466.501. LEGISLATIVE FINDINGS AND DECLARATIONS. The legislature finds and declares the following:

(1) The purpose and intent of this chapter is to carry out the intent of the voters as established by the approval of Section 47(f), Article III, Texas Constitution, to expand the revenue-generating ability of the state lottery by authorizing this state to operate a video lottery system consistent with public policy strictly limiting the expansion of gambling in this state.

(2) Except for the operation of video lottery terminals on certain Indian lands as defined by the Texas Constitution, the people of this state intend to allow only state-controlled video lottery games to be conducted in this state and only in locations at which pari-mutuel wagering is conducted at racetracks.

(3) This state has the authority and responsibility to control the proliferation of gambling by:

(A) limiting the total number of video lottery terminals permitted at authorized locations in this state;

(B) limiting video lottery licensing to specific licensed racetracks;

(C) extending strict and exclusive state oversight and supervision to all persons, locations, practices, and associations related to the operation of video lottery games; and

(D) providing comprehensive law enforcement supervision of video lottery game activities.

(4) This state's ability to monitor and control the operation of all video lottery terminals ensures the integrity of the system and provides for the most efficient oversight and supervision. Costs incurred for oversight and supervision of gambling will be significantly less than if video lottery terminals were not operated as part of the video lottery system. In addition, providing for the state-controlled system will defend against criminal infiltration of gambling operations.

(5) The video lottery games operated at racetracks under this chapter are controlled by this state in a manner that allows this state to continuously monitor all video lottery terminals and to disable any video lottery terminal for the protection of the public and this state.

(6) Through the video lottery system this state will monitor the network of video lottery terminals to ensure maximum security unique to state-operated gambling. Except as may otherwise be required by federal law governing Indian lands, each operating video lottery terminal in this state will be connected to a video lottery central system.

(7) The authorization for state-controlled video lottery terminals to fund governmental programs is consistent with this state's public policy prohibiting gambling provided the gambling is not, in any way, expanded beyond that directly controlled by this state. Expanded gambling beyond this limited form of state-controlled gambling would compromise the public safety, law, and long-standing policy against gambling in this state. In addition, such expanded gambling could impose prohibitive cost on this state's regulatory system and, therefore, defeat the effort to raise revenue for state governmental programs through authorized video lottery terminals. For these reasons, any interpretation that allows for casino gaming of the type operating in Nevada and New Jersey in 2005 to be conducted in this state at racetracks or on Indian lands as a result of the authorization of video lottery terminals would have severe adverse consequences on this state's efforts to raise revenue to fund governmental programs through the operation of video lottery terminals and would violate the public policy against gambling in such a way that would clearly outweigh any potential positive economic consequences.

(8) In authorizing only a state-controlled and state-operated video lottery system and state-controlled video lottery terminals in limited locations and continuing the general prohibition on gambling in this state as a matter of public policy, this state is protecting the state's legitimate interests by restricting such vice activity. By limiting the operation of video lottery terminals to those connected to the state-controlled video lottery system and to certain lands and certain types of games, the legislature seeks to foster this state's legitimate sovereign interest in regulating the growth of gambling activities in this state. Historically, this state has banned commercial gambling altogether and, therefore, it is in this state's best interest to limit the placement of commercial gambling operations to certain locations. Limiting video lottery terminals to those controlled by this state and located on racetracks where regulated gambling occurs is reasonably designed to defend against the criminal infiltration of gambling operations and adverse impacts on communities statewide. By restricting gambling such as video lottery terminals to carefully limited locations and video lottery terminals controlled by this state that may be disabled by this state if necessary to protect the public, this state furthers the state's purpose of ensuring that such gambling activities are free from criminal and undesirable elements.

(9) This chapter is game-specific and may not be construed to allow the operation of any other form of gambling unless specifically allowed by this chapter. This chapter does not allow the operation of slot machines, dice games, roulette wheels, house-banked games, including house-banked card games, or games in which winners are determined by the outcome of a sports contest that are expressly prohibited under other state law.

(10) In considering limitations on expanded gambling in this state, it is a critical factor to effectuate the will of the voters that any gaming on lands of the Ysleta del Sur Pueblo and Alabama-Coushatta Indian tribes must be in strict

compliance with state law. The Kickapoo Traditional Tribe of Texas is only entitled to operate video lottery terminals in strict compliance with state law, unless otherwise required by federal law, and in accordance with a gaming agreement negotiated with the governor and ratified by the legislature. A tribe may not under any circumstances operate Class III gaming as defined by federal law other than video lottery terminals connected to a video lottery central system controlled and operated by this state.

(11) The voters have conferred a substantial economic benefit on federally recognized Indian tribes by allowing operation of video lottery terminals on lands held in trust by the Ysleta del Sur Pueblo and Alabama-Coushatta Indian tribes at the time of the ratification and approval of Section 47(f), Article III, Texas Constitution, and on Indian lands of the Kickapoo Traditional Tribe of Texas on which gaming is allowed under applicable federal law. These tribes have the exclusive right to operate video lottery terminals at locations on the Indian lands in this state without incurring the investment necessary to construct, maintain, and operate racetracks for live racing, and through revenue-sharing both the policy of self-governance for the tribes and this state's interests in generating additional revenue to fund governmental programs can be promoted.

(12) The public has an interest in video lottery game operations, and lottery operations conducted under Section 47(f), Article III, Texas Constitution, and this chapter represent an exception to the general policy of this state prohibiting wagering for private gain. Therefore, participation in a video lottery game by a holder of a license, registration, or approval under this chapter is considered a privilege conditioned on the proper and continued qualification of the holder and on the discharge of the affirmative responsibility of each holder to provide to the commission or other regulatory and investigatory authorities established by this chapter any assistance and information necessary to assure that the policies declared by this chapter are achieved. Consistent with this policy, the legislature intends this chapter to:

(A) preclude the creation of any property right in any license, registration, or approval issued or granted by this state under this chapter, the accrual of any value to the privilege of participation in any video lottery game operation, or the transfer of a license or permit; and

(B) require that participation in video lottery game operations be solely conditioned on the individual qualifications of persons seeking this privilege.

(13) Only video lottery terminals lawfully operated in connection with a video lottery system authorized by this subchapter may be lawfully operated on Indian lands under the Johnson Act (15 U.S.C. Section 1175).

Sec. 466.502. CONSTRUCTION; APPLICABILITY OF OTHER LAWS. (a) This subchapter applies uniformly throughout this state and all political subdivisions of this state.

(b) To the extent of any inconsistency between Chapter 2003 and this subchapter or a commission rule governing video lottery terminals, this subchapter or the commission rule controls in all matters related to video lottery terminals, including hearings before the State Office of Administrative Hearings.

(c) Video lottery equipment operated under commission authority and this chapter is exempt from 15 U.S.C. Section 1172.

Sec. 466.505. AUTHORITY TO OPERATE VIDEO LOTTERY SYSTEM. (a) The commission may implement and operate a video lottery system and regulate the operation of video lottery terminals at racetracks in accordance with this chapter and the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes). This chapter supersedes any conflicting or inconsistent provision of the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) or other state law.

(b) The commission may allow the operation of video lottery terminals pursuant to this chapter at locations on Indian lands in accordance with an effective gaming agreement and in compliance with applicable federal law.

Sec. 466.506. VIDEO LOTTERY GAMES; STATE OWNERSHIP AND PROPRIETARY INTEREST. (a) This state owns all video lottery games, regardless of ownership of the video lottery terminal. This state possesses a proprietary interest in:

(1) the main logic boards and any electronic storage medium used in video lottery equipment or games; and

(2) software consisting of computer programs, documentation, and other related materials necessary for the operation of the video lottery system.

(b) For purposes of this chapter, this state may acquire a proprietary interest in video lottery game software through:

(1) ownership of the software; or

(2) an exclusive product license agreement with a provider in which the provider retains copyrighted ownership of the software but the license granted to this state is nontransferable and authorizes this state to operate the software program, solely for the state's own use, on the video lottery central system and video lottery terminals connected to the video lottery central system.

Sec. 466.507. STATE CONTROL OF VIDEO LOTTERY SYSTEM. (a) In accordance with Section 47(f), Article III, Texas Constitution, the commission shall control and regulate the video lottery system and the video lottery central system through which this state has the exclusive and unilateral ability to monitor activity of video lottery terminals and remotely disable video lottery terminals for the public safety, health, and welfare or the preservation of the integrity of the lottery and to prevent any financial loss to this state.

(b) This section does not affect or restrict the ability of a video lottery manager or video lottery retailer to monitor activity of video lottery terminals and to disable video lottery terminals in accordance with commission rules.

(c) The commission may disable a video lottery terminal if a video lottery retailer's or video lottery manager's license is revoked, surrendered, or summarily suspended under this subchapter and to prevent any financial loss to this state.

Sec. 466.510. VIDEO LOTTERY CENTRAL SYSTEM. (a) The commission shall establish or cause to be established a video lottery central system to link all video lottery terminals in the video lottery system. The video lottery central system must provide the auditing and other information required by the commission.

(b) The commission shall provide to a registered video lottery terminal provider or an applicant applying for registration as a video lottery terminal provider the protocol documentation data necessary to enable the provider's or applicant's video

lottery terminals to communicate with the commission's video lottery central system for transmission of auditing program information and for activation and disabling of video lottery terminals.

(c) The video lottery central system may not limit or preclude potential providers from providing the video lottery terminals, except providers that fail to meet specifications established by the commission.

(d) The commission shall determine whether a video lottery central system provider may sell or distribute video lottery terminals in this state as the commission considers appropriate to ensure the efficiency, integrity, and security of the video lottery system.

(e) The commission may contract with a video lottery central system provider to establish the video lottery central system.

Sec. 466.511. VIDEO LOTTERY TERMINAL PROVIDER: REGISTRATION OR APPROVAL REQUIRED. (a) A person may not manufacture or distribute video lottery equipment for use or play in this state unless the person is registered as a video lottery terminal provider or is otherwise approved by the commission to manufacture or distribute video lottery equipment in this state.

(b) Unless suspended or revoked, the registration or approval expires on the date specified by the commission, which may not be later than the fifth anniversary of the date of the registration or approval. A person may renew an unexpired registration or approval by paying the required renewal fee and complying with the requirements of this subchapter and commission rule.

(c) To be eligible for registration or commission approval as required by this section, an applicant must satisfy all applicable requirements under this subchapter.

Sec. 466.512. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION; CHANGE IN INFORMATION. (a) The commission shall adopt rules governing the registration or approval of video lottery terminal providers. The rules must require the application and any other form or document submitted to the commission by or on behalf of the applicant to determine the applicant's qualification under this section to be sworn to or affirmed before an officer qualified to administer oaths.

(b) An applicant for a video lottery terminal provider registration or approval must provide the following information:

(1) the full name and address of the applicant;

(2) the full name and address of each location at which video lottery equipment is or will be manufactured or stored in this state;

(3) the name, home address, and share of ownership of the applicant's substantial interest holders;

(4) a full description of each separate type of video lottery equipment that the applicant seeks to manufacture or distribute in this state;

(5) the brand name under which each type of video lottery equipment is to be distributed;

(6) if the applicant is incorporated under law other than the laws of this state, the applicant's irrevocable designation of the secretary of state as the applicant's resident agent for service of process and notice in accordance with the law of this state;

(7) a list of all businesses or organizations in this state in which the applicant has any financial interest and the details of that financial interest, including all arrangements through which a person directly or indirectly receives any portion of the profits of the video lottery terminal provider and indebtedness between the license holder and any other person, other than a regulated financial institution, in excess of \$5,000;

(8) a list of all affiliated businesses or corporations in which the applicant or an officer, director, or substantial interest-holder of the applicant, either directly or indirectly, owns or controls as a sole proprietor or partner more than 10 percent of the voting stock of a publicly traded corporation;

(9) a list of all businesses or corporations licensed to conduct gambling activities or to supply gambling-related equipment, supplies, or services in which the applicant or an officer, director, or substantial interest-holder of the applicant has any interest;

(10) a list of all jurisdictions in which the applicant or an officer, director, or substantial interest-holder of the applicant has been licensed, registered, qualified, or otherwise approved to conduct gambling-related activities during the 10 years preceding the date of the filing of the application;

(11) a statement, including all related details, indicating whether the applicant or an officer, director, or substantial interest-holder of the applicant has ever had a license, registration, qualification, or other approval for gambling-related activities denied, revoked, or suspended by any jurisdiction or has been fined or otherwise required to pay penalties or monetary forfeitures for gambling-related activities in any jurisdiction; and

(12) a statement acknowledging that the applicant will make available for review at the time and place requested by the commission all records related to the ownership or operation of the business.

(c) The commission may require the following information from an applicant:

(1) personal financial and personal history records of all substantial interest-holders;

(2) all records related to the scope of activity, including sales of product, purchases of raw materials and parts, and any contracts, franchises, patent agreements, or similar contracts or arrangements related to manufacturing or distributing video lottery terminals; and

(3) records related to any financial or management control of or by customers and suppliers.

(d) The applicant must demonstrate the ability to comply with all manufacturing, quality control, and operational restrictions imposed on authorized video lottery equipment, patented or otherwise restricted video lottery games, or other video lottery equipment that the applicant seeks to manufacture or distribute for use in this state. The registration or approval process must include an on-site review of the applicant's manufacturing equipment and process for each separate type of authorized video lottery equipment to ensure compliance with the requirements of this chapter and commission rules.

(e) Not later than the 10th day after the date of any change in the information submitted on or with the application form, the applicant shall notify the commission of the change, including a change that occurs after the registration or other commission approval has been granted.

(f) The applicant shall comply with all federal and state laws, local ordinances, and rules.

Sec. 466.513. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION FEE. (a) An applicant seeking registration or approval or renewal of registration or approval as a video lottery terminal provider must pay a nonrefundable application fee in the amount prescribed by commission rule that is sufficient to pay the costs to the commission of administering and licensing video lottery terminals.

(b) Application fees paid under this section shall be retained by the commission to defray costs incurred in the administration and enforcement of this chapter relating to the operation of video lottery terminals.

(c) The commission may not issue a video lottery terminal provider registration or approval to a person that on January 1, 2005, owned any interest in a racetrack or pari-mutuel license in this state.

Sec. 466.520. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER LICENSE REQUIRED. Except as provided by a gaming agreement, a person may not own or operate a video lottery terminal if the person does not satisfy the requirements of this subchapter and is not licensed by the commission to act as a video lottery retailer or video lottery manager.

Sec. 466.521. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER: APPLICATION AND QUALIFICATION. (a) An applicant for a video lottery retailer or video lottery manager license must apply to the commission under rules adopted by the commission, provide the information necessary to determine the applicant's eligibility for a license, and provide other information considered necessary by the commission. The applicant must:

(1) hold a valid pari-mutuel license granted by the Texas Racing Commission under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes);

(2) have a valid and executed contract with a racetrack that satisfies the requirements of Subdivision (1) to act as a video lottery manager for the racetrack subject to licensing under this chapter; or

(3) demonstrate to the commission's satisfaction that the applicant seeks to act as a video lottery manager for a federally recognized Indian tribe that has entered into a gaming agreement with this state that is in effect and governs the regulation of video lottery terminals on Indian lands in this state.

(b) Each officer, partner, director, key employee, substantial interest-holder, video lottery game operation employee, and owner of video lottery game operations must be eligible and maintain eligibility in accordance with this subchapter to be involved in video lottery games in this state.

(c) An applicant for a video lottery retailer or video lottery manager license has the burden of proving qualification for a license by clear and convincing evidence. In addition to satisfying minimum requirements established by commission rules, an applicant for a video lottery retailer or video lottery manager license must:

(1) be a person of good character, honesty, and integrity;

(2) be a person whose background and prior activities, including criminal record, reputation, habits, and associations, do not pose a threat to the security and integrity of video lottery or to the public interest of this state or to the effective operation and control of video lottery, or do not create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of video lottery or in the carrying on of the business and financial arrangements incidental to video lottery;

(3) if applying for a new license, provide fingerprints for a criminal records evaluation by the Texas Department of Public Safety or other law enforcement agency, including fingerprints for each person required to be named in an application, accompanied by a signed authorization for the release of information to the commission by the department of public safety and the Federal Bureau of Investigation;

(4) not have been convicted of an offense under this chapter or of any crime related to theft, bribery, or gambling or involving moral turpitude;

(5) demonstrate adequate business probity, competence, experience, and financial stability as defined by the commission;

(6) demonstrate adequate financing for the operation of the facility at which the video lottery terminals will be operated from a source that meets the requirements of this subchapter and is adequate to support the successful performance of the duties and responsibilities of the license holder and disclose all financing or refinancing arrangements for the purchase, lease, or other acquisition of video lottery equipment in the degree of detail requested by the commission;

(7) when applying for a new license or renewing a license under this chapter, present evidence to the commission of the existence and terms of any agreement regarding the proceeds from the operation of video lottery terminals;

(8) demonstrate that each substantial interest-holder in the applicant meets all applicable qualifications under this subchapter;

(9) provide all information, including financial data and documents, consents, waivers, identification of surety and insurance providers, and any other materials, requested by the commission for purposes of determining qualifications for a license; and

(10) as part of its application, expressly waive any and all claims against the commission, this state, and a member, officer, employee, or authorized agent of the commission or this state for damages resulting from any background investigation, disclosure, or publication relating to an application for a video lottery retailer or video lottery manager license.

(d) An application or disclosure form and any other document submitted to the commission by or on behalf of the applicant for purposes of determining qualification for a video lottery retailer or video lottery manager license must be sworn to or affirmed before an officer qualified to administer oaths.

(e) An applicant who knowingly fails to reveal any fact material to qualification for a license, finding of suitability, or other approval or who knowingly submits false or misleading material information is ineligible for a video lottery retailer or video lottery manager license.

(f) An applicant for a license or renewal of a license as a video lottery retailer or video lottery manager shall notify the commission of any change in the application information for a license or renewal of a license not later than the 10th day after the date of the change, except that a publicly traded corporation or other business association or entity applicant is not required to notify the commission of a transfer by which any person directly or indirectly becomes the beneficial owner of less than 10 percent of the stock of the corporation or association.

(g) Except as provided by Section 466.525(e), the commission shall deny an application for a license or shall suspend or revoke a license if the commission finds that the applicant would be subject to denial or revocation of a sales agent license under Section 466.155.

Sec. 466.522. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER: APPLICATION FEE. (a) An applicant for a video lottery retailer or video lottery manager license shall submit a nonrefundable application processing fee in the amount prescribed by commission rule that is sufficient and reasonable to pay the costs of determining the applicant's eligibility, not to exceed \$50,000.

(b) An application may not be processed until the applicant pays the application fee. If the application fee is not received by the 30th day after the date the commission notifies the applicant of the amount of the fee, the application is considered withdrawn and may not be considered by the commission.

Sec. 466.525. VIDEO LOTTERY TERMINAL ESTABLISHMENT LICENSE: REQUIREMENTS; LOCATION. (a) An applicant for a video lottery terminal establishment license must ensure that the facility for the establishment will comply with all applicable building codes and rules of the commission. The rules adopted by the commission relating to facilities for video lottery establishments must relate solely to this state's interest in the operation of video lottery terminals.

(b) A video lottery terminal establishment shall provide office space for the commission sufficient for at least one commission employee.

(c) An applicant for a video lottery terminal establishment license or a license holder shall provide the information required by commission rule relating to the applicant's or license holder's video lottery terminal establishment and update the information at least annually.

(d) The commission may not issue a video lottery terminal establishment license to a racetrack if as of January 1, 2005, a property line of the licensed premises of the racetrack is located within one-half mile of the property line of a public school.

(e) Notwithstanding Section 466.155, the commission may not deny, suspend, or revoke a license under this subchapter based on the fact that a video lottery terminal establishment or a proposed video lottery terminal establishment is a location for which a person holds a wine and beer retailer's permit, mixed beverage permit, mixed beverage late hours permit, private club registration permit, or private club late hours permit, issued under Chapter 25, 28, 29, 32, or 33, Alcoholic Beverage Code.

Sec. 466.526. LICENSE HOLDER AS SALES AGENT. The holder of a video lottery retailer or video lottery manager license may operate as a sales agent for lottery tickets in accordance with this chapter.

Sec. 466.527. LICENSE TERM; RENEWAL ELIGIBILITY. (a) Unless suspended or revoked, a license issued under this subchapter, other than a video lottery retailer license, expires on the date specified in the license, which may not be later than the fifth anniversary of the date of issuance.

(b) A video lottery retailer license is valid for the same term as a pari-mutuel license and until suspended or revoked. The commission may charge an annual fee not to exceed \$50,000 to the holder of a video lottery retailer license.

(c) To be eligible for renewal of a license, an applicant must satisfy all applicable licensing requirements under this subchapter.

Sec. 466.528. RULES FOR ADDITIONAL LICENSE QUALIFICATIONS. The commission by rule may establish other license qualifications the commission determines are in the public interest and consistent with the declared policy of this state.

Sec. 466.529. APPLICATION AS REQUEST FOR CHARACTER DETERMINATION. An application under this subchapter to receive or renew a license, registration, or approval or to be found suitable constitutes a request for a determination of the applicant's general character, integrity, and ability to participate or engage in or be associated with the operation of video lottery terminals.

Sec. 466.530. IMMUNITY FOR STATEMENT MADE IN PROCEEDING OR INVESTIGATION. Any written or oral statement made in the course of an official commission proceeding or investigative activities related to an application for commission licensing, registration, or other approval under this subchapter, by any member or agent or any witness testifying under oath that is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

Sec. 466.531. SUITABILITY FINDING. To promote the integrity and security of the lottery, the commission in its discretion may require a suitability finding for any person doing business with or in relation to the operation of video lottery terminals who is not otherwise required to obtain a license, registration, or approval from the commission for the person's video lottery-related operations.

Sec. 466.532. SUMMARY SUSPENSION OF VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER LICENSE; TERMINAL DISABLED. (a) The commission may summarily suspend the license of a video lottery retailer or video lottery manager without notice or hearing if the commission finds the action is necessary to maintain the integrity, security, honesty, or fairness of the operation or administration of the lottery or to prevent financial loss to this state and:

(1) the license holder fails to deposit money received from video lottery terminal operations as required by this chapter or commission rule;

(2) an event occurs that would render the license holder ineligible for a license under this subchapter;

(3) the license holder refuses to allow the commission, the commission's agents, or the state auditor, or their designees, to examine the license holder's books, records, papers, or other objects under Section 466.017; or

(4) the executive director learns the license holder failed to disclose information that would, if disclosed, render the video lottery retailer or video lottery manager ineligible for a license under this subchapter.

(b) A summary suspension under this section must comply with the notice and procedure requirements provided by Section 466.160.

(c) The commission may disable a video lottery terminal operated by a license holder under this subchapter at the time:

(1) a proceeding to summarily suspend the license is initiated;

(2) the commission discovers the license holder failed to deposit money received from video lottery terminal operation as required if the license is being summarily suspended under this section; or

(3) an act or omission occurs that, under commission rules, justifies the termination of video lottery terminal operations to:

(A) protect the integrity of the lottery or the public health, welfare, or safety; or

(B) prevent financial loss to this state.

(d) The commission shall immediately disable a video lottery terminal if necessary to protect the public health, welfare, or safety.

Sec. 466.5321. TRANSFER RESTRICTIONS. (a) A video lottery retailer or video lottery manager license is not transferable.

(b) A pari-mutuel license holder that sells, transfers, assigns, or otherwise conveys any interest or control in the pari-mutuel license or the racetrack owned or managed by the license holder before video lottery operations begin at the racetrack or before the third anniversary of the commencement of video lottery operations shall remit to this state a transfer fee equal to 75 percent of the sales, transfer, assignment, or other conveyance price or other consideration received by the pari-mutuel license holder. A transfer or conveyance of an interest or control under this subsection is subject to Section 6.21, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(c) A sale, transfer, assignment, or conveyance of interest or control to which Subsection (b) applies may not be approved by the commission until this state receives the transfer fee.

(d) This section does not apply to a transfer or assignment the commission determines is necessary to secure financing for the construction or operation of the racetrack. The commission may adopt rules to implement this section.

Sec. 466.533. LICENSING, REGISTRATION, SUITABILITY, AND REGULATORY APPROVAL AS REVOCABLE PERSONAL PRIVILEGES. (a) An applicant for a license, registration, suitability, or other affirmative regulatory approval under this subchapter does not have any right to the license, registration, suitability, or approval sought.

(b) Any license, registration, or suitability or other regulatory approval granted under this subchapter is a revocable privilege, and a holder of the privilege does not acquire any vested right in or under the privilege.

(c) The courts of this state do not have jurisdiction to review a decision to deny, limit, or condition the license, registration, suitability, or approval unless the judicial review is sought on the ground that the denial, limitation, or condition is based on a suspect classification, such as race, color, religion, sex, or national origin, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States

Constitution. If a state court has jurisdiction over a claim under this section, then this state's sovereign immunity is waived only to the extent expressly provided by Section 466.601.

(d) A license, registration, suitability, or regulatory approval granted or renewed under this subchapter may not be transferred or assigned to another person, and a license, registration, suitability, or approval may not be pledged as collateral. The purchaser or successor of a person who has been granted a license, registration, suitability, or regulatory approval must independently qualify for a license, registration, suitability, or approval required by this subchapter.

(e) The following acts void the license, registration, suitability, or other regulatory approval of the holder unless approved in advance by the commission:

(1) the transfer, sale, or other disposition of an interest in the holder that results in a change in the identity of a substantial interest holder; or

(2) the sale of the assets of the holder, other than assets bought and sold in the ordinary course of business, or any interest in the assets, to any person not already determined to have met the applicable qualifications of this subchapter.

Sec. 466.535. CAPITAL INVESTMENTS AND IMPROVEMENT REQUIREMENTS FOR VIDEO LOTTERY TERMINAL ESTABLISHMENT. A video lottery retailer or video lottery manager shall provide all necessary capital investments and required improvements at a video lottery terminal establishment operated by the retailer or manager.

Sec. 466.536. VIDEO LOTTERY TERMINAL. The commission shall provide all video lottery retailers or video lottery managers with a list of registered video lottery terminal providers, video lottery games, and video lottery terminals authorized for operation under this subchapter.

Sec. 466.537. VIDEO LOTTERY TERMINAL: DISTRIBUTION AND COMMISSION APPROVAL. (a) A video lottery terminal provider may not distribute a video lottery terminal or other video lottery equipment for placement at a video lottery terminal establishment in this state unless the video lottery terminal has been approved by the commission.

(b) Only a video lottery terminal provider registered with or approved by the commission may apply for approval of a video lottery terminal or other video lottery equipment.

(c) Not later than the 10th day before the date of shipment to a location in this state, a video lottery terminal provider shall file a report with the commission itemizing all video lottery terminals and other video lottery equipment to be provided to a video lottery retailer or video lottery manager in the shipment.

Sec. 466.538. VIDEO LOTTERY TERMINAL: TESTING; REPORT. (a) A video lottery terminal provider shall submit two copies of terminal illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, and any other information requested by the commission for the purpose of analyzing and testing the video lottery terminal or other video lottery equipment.

(b) The commission may require a working model of a video lottery terminal to be provided to the commission unless the video lottery terminal provider provides a certification from an independent, commission-approved testing laboratory that the video lottery terminal is compatible with the state's video lottery system and functions as required by the commission.

Sec. 466.539. VIDEO LOTTERY TERMINAL: INSTALLATION; MODIFICATION REQUEST. (a) A video lottery terminal provider is responsible for the assembly and installation of all video lottery terminals and other video lottery equipment.

(b) A video lottery terminal provider or a video lottery retailer or video lottery manager may not change the assembly or operational functions of a video lottery terminal authorized by the commission for placement in this state unless a request for modification of an existing video lottery terminal prototype is approved by the commission. The request must contain:

- (1) a detailed description of the type of change;
- (2) a detailed description of the reasons for the change; and
- (3) technical documentation of the change.

(c) A video lottery terminal approved by the commission for placement at a video lottery terminal establishment must conform to the specifications of the video lottery terminal prototype tested or approved by the commission.

Sec. 466.540. VIDEO LOTTERY TERMINAL REMOVAL. (a) If any video lottery terminal that has not been approved by the commission is distributed by a video lottery terminal provider or operated by a video lottery retailer or video lottery manager or if an approved video lottery terminal malfunctions, the commission shall require the terminal to be removed from use and play.

(b) The commission may order that an unapproved terminal be seized and destroyed.

(c) The commission may suspend or revoke the license of a video lottery retailer or video lottery manager or the registration of a video lottery terminal provider for the distribution, possession, or operation of an unauthorized video lottery terminal.

(d) A video lottery retailer or video lottery manager may retain on the premises of a video lottery establishment a number of machines that the retailer or manager determines is necessary for spare parts or repair purposes or as replacements. The retailer or manager must provide to the commission each month a list of the terminals retained under this subsection.

Sec. 466.541. VIDEO LOTTERY TERMINAL SPECIFICATIONS. (a) The commission shall adopt rules for approval of video lottery terminals, including requirements for video lottery game tickets, maximum and minimum payout, and maximum wagers.

(b) A commission-approved video lottery terminal must meet the following minimum specifications:

- (1) the terminal must:

(A) operate through a player's insertion of a coin, currency, voucher, or token into the video lottery terminal that causes the video lottery terminal to display credits that entitle the player to select one or more symbols or numbers or cause the video lottery terminal to randomly select symbols or numbers;

(B) allow the player to win additional game play credits, coins, or tokens based on game rules that establish the random selection of winning combinations of symbols or numbers and the number of free play credits, coins, or tokens to be awarded for each winning combination; and

(C) allow the player at any time to clear all game play credits and receive a video lottery ticket entitling the player to receive the cash value of those credits;

(2) a surge protector must be installed on the electrical power supply line to each video lottery terminal, a battery or equivalent power backup for the electronic meters must be capable of maintaining the accuracy of all accounting records and video lottery terminal status reports for a period of 180 days after power is disconnected from the video lottery terminal, and the power backup device must be in the compartment specified in Subdivision (4);

(3) the operation of each video lottery terminal may not be adversely affected by any static discharge or other electromagnetic interference;

(4) the main logic boards of all electronic storage mediums must be located in a separate compartment in the video lottery terminal that is locked and sealed by the commission;

(5) the instructions for play of each game must be displayed on the video lottery terminal face or screen, including a display detailing the credits awarded for the occurrence of each possible winning combination of numbers or symbols;

(6) communication equipment and devices must be installed to enable each video lottery terminal to communicate with the video lottery central system through the use of a communications protocol provided by the commission to each registered video lottery terminal provider, which must include information retrieval and programs to activate and disable the terminal; and

(7) a video lottery terminal may be operated only if connected to the video lottery central system, and play on the terminal may not be conducted unless the terminal is connected to the video lottery central system.

(c) The commission may reject any instructions for play required under Subsection (b)(5) that the commission determines to be incomplete, confusing, or misleading.

Sec. 466.542. VIDEO LOTTERY TERMINALS: HOURS OF OPERATION; COMMUNICATION; LOCATION. (a) Except as otherwise provided by the commission, the hours of operation for video lottery terminals are subject to restrictions only as provided by commission rules.

(b) The commission by rule may prescribe restrictions on the hours of video lottery terminal operations for purposes determined by the commission, including accounting for and collecting revenue generated by video lottery terminal operations and performing other operational services on the video lottery system.

(c) Communication between the video lottery central system and each video lottery terminal must be continuous and on a real-time basis as prescribed by the commission.

(d) Except as provided by a gaming agreement or commission rule, placement or movement of video lottery terminals in a video lottery terminal establishment must be consistent with a video lottery terminal establishment floor plan filed with the commission.

Sec. 466.543. VIDEO LOTTERY TERMINAL: TRANSPORT; DISPOSITION OF OBSOLETE TERMINAL. (a) The transportation and movement of video lottery terminals into or within this state is prohibited, except as permitted by this subchapter and approved by the commission.

(b) An obsolete video lottery terminal or a video lottery terminal that is no longer in operation must be promptly reported to the commission.

Sec. 466.545. TRAVEL AND INVESTIGATION COSTS. The commission shall pay the travel and investigative expenses incurred under this chapter from money appropriated to the commission.

Sec. 466.546. CONSENT TO COMMISSION DETERMINATION. (a) An application for a license, registration, finding of suitability, or other approval under this chapter constitutes a request to the commission for a decision on the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with the lottery in the manner or position sought.

(b) By filing an application with the commission, the applicant specifically consents to the commission's decision at the commission's election when the application, after filing, becomes moot for any reason other than death.

Sec. 466.547. ABSOLUTE AUTHORITY OF COMMISSION. To protect the integrity of the lottery or the public health, welfare, or safety, or to prevent financial loss to this state, the commission has full and absolute power and authority to:

(1) deny any application or limit, condition, restrict, revoke, or suspend any license, registration, or finding of suitability or approval; and

(2) fine any person licensed, registered, found suitable, or approved for any cause deemed reasonable by the commission.

Sec. 466.548. WAIVER OF REQUIREMENTS. (a) The commission may waive, either selectively or by general rule, one or more of the requirements of Sections 466.512 and 466.521 if the commission makes a written finding that the waiver is consistent with the policy of this state, the public health, safety, and welfare, and the integrity of the lottery.

(b) The commission may waive any requirement under this chapter for a finding of suitability of an institutional investor that is a substantial interest holder with respect to the beneficial ownership of the voting securities of a publicly traded corporation if the institutional investor holds the securities for investment purposes only and applies for a waiver in compliance with Section 466.549 and commission rules.

(c) An institutional investor is not eligible for the waiver, except as otherwise provided by Subsection (f), if the institutional investor beneficially owns, directly or indirectly, more than 15 percent of the voting securities and if any of the voting securities were acquired other than through a debt restructuring.

(d) Voting securities acquired before a debt restructuring and retained after a debt restructuring or as a result of an exchange, exercise, or conversion after a debt restructuring, or any securities issued to the institutional investor through a debt restructuring, are considered to have been acquired through a debt restructuring.

(e) A waiver granted under Subsection (b) is effective only as long as the institutional investor's direct or indirect beneficial ownership interest in the voting securities meets the limitations set forth in this section, and if the institutional investor's interest exceeds the limitation at any time, the investor is subject to the suitability findings required under this subchapter.

(f) An institutional investor that has been granted a waiver under Subsection (b) may beneficially own more than 15 percent, but not more than 19 percent, of the voting securities of a publicly traded corporation registered with or licensed by the commission only:

(1) if the additional ownership results from a stock repurchase program conducted by the publicly traded corporation; and

(2) on the conditions that:

(A) the institutional investor does not purchase or otherwise acquire any additional voting securities of the publicly traded corporation that would result in an increase in the institutional investor's ownership percentage; and

(B) the institutional investor reduces its ownership percentage of the publicly traded corporation to 15 percent or less before the first anniversary of the date the institutional investor receives constructive notice that it exceeded the 15 percent threshold, based on any public filing by the corporation with the United States Securities and Exchange Commission.

(g) The one-year time period under Subsection (f)(2)(B) may be extended for a reasonable time on commission approval.

(h) An institutional investor may not be considered to hold voting securities of a publicly traded corporation for investment purposes only unless the voting securities were acquired and are held in the ordinary course of business as an institutional investor and not for the purpose of causing, directly or indirectly, the election of a majority of the members of the board of directors, any change in the corporate charter, bylaws, management, policies, or operations of the corporation registered with or licensed by the commission or any of its gaming affiliates, or any other action which the commission finds to be inconsistent with investment purposes only. The following activities may not be considered to be inconsistent with holding voting securities for investment purposes only:

(1) voting, directly or indirectly through the delivery of a proxy furnished by the board of directors, on all matters voted on by the holders of the voting securities;

(2) serving as a member of any committee of creditors or security holders formed in connection with a debt restructuring;

(3) nominating any candidate for election or appointment to the board of directors in connection with a debt restructuring;

(4) accepting appointment or election as a member of the board of directors in connection with a debt restructuring and serving in that capacity until the conclusion of the member's term;

(5) making financial and other inquiries of management of the type normally made by securities analysts for information purposes and not to cause a change in management, policies, or operations; and

(6) any other activity the commission determines to be consistent with the investment intent.

(i) For purposes of this section, "debt restructuring" means:

(1) a proceeding under the United States Bankruptcy Code; or

(2) any out-of-court reorganization of a person that is insolvent or generally unable to pay the person's debts as they become due.

Sec. 466.549. WAIVER APPLICATION REQUIREMENTS. An application for a waiver under Section 466.548(b) must include:

(1) a description of the institutional investor's business and a statement as to why the institutional investor meets the definition of an institutional investor set forth in this chapter;

(2) a certification, made under oath and penalty of perjury, that:

(A) states that the voting securities were acquired and are held for investment purposes only in accordance with Section 466.548;

(B) provides that the applicant agrees to be bound by and comply with this chapter and the rules adopted under this chapter, to be subject to the jurisdiction of the courts of this state, and to consent to this state as the choice of forum in the event any dispute, question, or controversy arises regarding the application or any waiver granted under Section 466.548(b); and

(C) includes a statement by the signatory explaining the basis of the signatory's authority to sign the certification and bind the institutional investor to its terms;

(3) a description of all actions, if any, taken or expected to be taken by the institutional investor related to the activities described in Section 466.548(f);

(4) the names, addresses, telephone numbers, dates of birth, and social security numbers of:

(A) the officers and directors of the institutional investor or the officers' and directors' equivalents; and

(B) the persons that have direct control over the institutional investor's holdings of voting securities of the publicly traded corporation registered with or licensed by the commission;

(5) the name, address, telephone number, date of birth, and social security number or federal tax identification number of each person who has the power to direct or control the institutional investor's exercise of its voting rights as a holder of voting securities of the publicly traded corporation registered with or licensed by the commission;

(6) the name of each person that beneficially owns more than five percent of the institutional investor's voting securities or other equivalent;

(7) a list of the institutional investor's affiliates;

(8) a list of all securities of the publicly traded corporation registered with or licensed by the commission that are or were beneficially owned by the institutional investor or its affiliates in the preceding year, including a description of the securities, the amount of the securities, and the date of acquisition or sale of the securities;

(9) a list of all regulatory agencies with which the institutional investor or any affiliate that beneficially owns voting securities of the publicly traded corporation registered with or licensed by the commission files periodic reports, and the name, address, and telephone number of the person, if known, to contact at each agency regarding the institutional investor;

(10) a disclosure of all criminal or regulatory sanctions imposed during the preceding 10 years and of any administrative or court proceedings filed by any regulatory agency during the preceding five years against the institutional investor, its affiliates, any current officer or director, or any former officer or director whose tenure ended within the preceding 12 months, except that for a former officer or director, the information need be provided only to the extent that it relates to actions arising out of or during the person's tenure with the institutional investor or its affiliates;

(11) a copy of the institutional investor's most recent Schedule 13D or 13G and any amendments to that schedule filed with the United States Securities and Exchange Commission concerning any voting securities of the publicly traded corporation registered with or licensed by the commission;

(12) a copy of any filing made under the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) with respect to the acquisition or proposed acquisition of voting securities of the publicly traded corporation registered with or licensed by the commission; and

(13) any additional information the commission may request.

Sec. 466.550. CHANGE IN INVESTMENT FOLLOWING WAIVER; NOTICE. (a) An institutional investor that has been granted a waiver of a finding of suitability under Section 466.548 and that subsequently intends not to hold the investor's voting securities of the publicly traded corporation for investment purposes only or that intends to take any action inconsistent with the investor's prior intent shall, not later than the second business day after the date of the decision, deliver notice to the commission in writing of the change in the investor's investment intent. The commission may then take any action the commission deems appropriate.

(b) If the commission finds that an institutional investor has failed to comply with this chapter or should be subject to a finding of suitability to protect the public interest, the commission may require the institutional investor to apply for a finding of suitability.

(c) Any publicly traded corporation registered with or licensed by the commission shall immediately notify the commission of any information about, fact concerning, or actions of an institutional investor holding any of its voting securities that may materially affect the institutional investor's eligibility to hold a waiver under Section 466.548.

Sec. 466.551. EFFECT OF DENIAL OF LICENSE OR REGISTRATION. (a) A person whose application for a license or registration has been denied may not have any interest in or association with a video lottery retailer or video lottery manager or any other business conducted in connection with video lottery without prior approval of the commission.

(b) Any contract between a person holding a license or registration and a person denied a license or registration must be terminated immediately on receipt of notice from the commission. If the person denied a license or registration has previously been granted a temporary license or registration, the temporary license or registration expires immediately on denial of the permanent license or registration.

(c) Except as otherwise authorized by the commission, a person denied a license or registration may not reapply for any license or registration before the second anniversary of the date of the denial.

Sec. 466.553. PRACTICE BY VIDEO LOTTERY RETAILER OR VIDEO LOTTERY MANAGER. A video lottery retailer or video lottery manager must:

(1) be aware of patron conditions and prohibit play by visibly intoxicated patrons;

(2) comply with state alcoholic beverage control laws;

(3) at all times maintain sufficient change and cash in denominations accepted by video lottery terminals;

(4) promptly report all video lottery terminal malfunctions and down-time;

(5) install, post, and display prominently any material required by the commission;

(6) prohibit illegal gambling and any related paraphernalia;

(7) except as otherwise provided by this subchapter, at all times prohibit money lending or other extensions of credit at the video lottery terminal establishment;

(8) supervise employees and activities to ensure compliance with all commission rules and this chapter;

(9) maintain continuous camera coverage of all aspects of video lottery game operations, including video lottery terminals; and

(10) maintain an entry log for each video lottery terminal on the premises of the video lottery terminal establishment and maintain and submit complete records on receipt of each video lottery terminal on the premises as determined by the commission.

Sec. 466.554. RACETRACK REQUIREMENTS. (a) A video lottery retailer at all times must hold a valid pari-mutuel wagering license, except that the commission may allow a video lottery retailer whose pari-mutuel wagering license has lapsed or been revoked, suspended, or surrendered to reapply for a license in order to operate the video lottery terminal establishment or by rule may establish a period not to exceed two years during which time the video lottery terminal establishment may be operated pending acquisition by a person qualified and licensed under this chapter to operate video lottery terminals.

(b) If a video lottery retailer is not licensed as required by Subsection (a) before the second anniversary of the date a license lapses or is revoked, suspended, or surrendered or a new video lottery manager or video lottery retailer is not licensed and authorized to operate the facility before the second anniversary, the pari-mutuel license holder shall permanently lose eligibility under this subchapter to operate video lottery terminals.

(c) Subject to the commission's discretion, a video lottery retailer may continue to operate the video lottery terminal establishment after the second anniversary of the date a license lapses or is revoked, suspended, or surrendered only to satisfy the establishment's existing outstanding debt attributable to video lottery operation.

Sec. 466.556. PRIZE RULES. The commission shall adopt rules governing:

(1) the range of amounts a player may be charged to play each video lottery game; and

(2) the range of prizes and credits that may be awarded to the player of a video lottery game.

Sec. 466.557. VIDEO LOTTERY CENTRAL SYSTEM: COMMUNICATION TECHNOLOGY. The video lottery central system provider shall pay for the installation and operation of commission-approved communication technology to provide real-time communication between each video lottery terminal and the video lottery central system.

Sec. 466.558. RESPONSIBILITY FOR VIDEO LOTTERY GAME OPERATIONS. (a) A video lottery retailer or a video lottery manager, if applicable, is responsible for the management of video lottery game operations, including:

(1) the validation and payment of prizes; and

(2) the management of cashiers, food and beverage workers, floor workers, security personnel, the security system, building completion, janitorial services, landscaping design, and maintenance.

(b) Nothing in Subsection (a) limits the authority of the commission, the Department of Public Safety, or another law enforcement agency to administer and enforce this chapter as related to video lottery.

(c) In addition to other requirements under this chapter relating to video lottery, a video lottery retailer or a video lottery manager at all times shall:

(1) operate only video lottery terminals that are distributed by a registered video lottery terminal provider and provide a secure location for the placement, operation, and play of the video lottery terminals;

(2) prevent any person from tampering with or interfering with the operation of a video lottery terminal;

(3) ensure that communication technology from the video lottery central system to the video lottery terminals is connected at all times and prevent any person from tampering or interfering with the operation of the connection;

(4) ensure that video lottery terminals are in the sight and control of designated employees of the video lottery retailer or video lottery manager and in the sight of video cameras as required under this subchapter;

(5) ensure that video lottery terminals are placed and remain placed in the locations in the video lottery terminal establishment that are consistent with the retailer's or manager's floor plan;

(6) monitor video lottery terminals to prevent access to or play by persons who are under 21 years of age or who are visibly intoxicated;

(7) refuse to accept a credit card payment from a player for the exchange or purchase of video lottery game credits or for an advance of coins, currency, vouchers, or tokens to be used by a player to play video lottery games, refuse to extend credit, in any manner, to a player that enables the player to play a video lottery game, and

ensure that any person doing business at the video lottery terminal establishment, including a person operating or managing an auxiliary service such as a restaurant, refuses to accept a credit card payment or to extend credit to a person to play a video lottery game in a manner prohibited by this subdivision, except that:

(A) a license holder may cash a check for a player if the license holder exercises reasonable caution cashing the check and does not cash checks for any player in an amount not to exceed \$1,000 in any 24-hour period; and

(B) automated teller machines may be located at a video lottery terminal establishment in compliance with the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) or an effective gaming agreement;

(8) pay all credits won by a player on presentation of a valid winning video lottery game ticket;

(9) conduct only the video lottery game advertising and promotional activities consistent with criteria prescribed by the commission, which must prohibit undue influence, offensive language, and anything that would affect the integrity of video lottery operation;

(10) install, post, and display prominently at the licensed location redemption information and other informational or promotional materials as required by the commission;

(11) maintain general liability insurance coverage for the video lottery terminal establishment and all video lottery terminals in the amounts required by the commission;

(12) assume liability for money lost or stolen from any video lottery terminal; and

(13) annually submit an audited financial statement to the commission in accordance with generally accepted accounting principles.

Sec. 466.560. TECHNICAL STANDARDS FOR VIDEO LOTTERY EQUIPMENT. The commission by rule shall establish minimum technical standards for video lottery equipment that may be operated in this state.

Sec. 466.561. INCIDENT REPORTS. (a) A video lottery retailer or video lottery manager shall record all unusual occurrences related to gaming activity in a video lottery terminal establishment operated by the retailer or manager.

(b) A video lottery retailer or video lottery manager shall assign each material incident, without regard to materiality, a sequential number and, at a minimum, provide the following information in a permanent record prepared in accordance with commission rules to ensure the integrity of the record:

(1) the number assigned to the incident;

(2) the date and time of the incident;

(3) the nature of the incident;

(4) each person involved in the incident; and

(5) the name of the employee or other agent of the video lottery retailer or video lottery manager who investigated the incident.

Sec. 466.562. EXCLUSION OF PERSONS. (a) The commission shall compile a list of persons that a video lottery retailer or video lottery manager must bar from a video lottery terminal establishment based on a person's criminal history or association with criminal offenders or because the person poses a threat to the integrity of the lottery.

(b) A video lottery retailer or video lottery manager shall employ the retailer's or manager's best efforts to exclude such persons from entry into the establishment.

(c) A video lottery retailer or video lottery manager may exclude a person for any reason not related to the person's race, sex, national origin, physical disability, or religion.

(d) A person who believes the person may be playing video lottery games on a compulsive basis may request that the person's name be placed on the list compiled by the commission under Subsection (a).

(e) All video lottery game employees shall receive training in identifying players with a compulsive playing problem. Signs and other materials shall be readily available to direct compulsive players to agencies that offer appropriate counseling.

Sec. 466.563. REPORT ON LITIGATION. (a) A video lottery retailer or video lottery manager shall report to the commission any litigation relating to the retailer's or manager's video lottery terminal establishment, including a criminal proceeding, a proceeding involving an issue related to racing activities that impact video lottery operations, or a matter related to character or reputation relevant to a person's suitability under this subchapter.

(b) The report required under Subsection (a) must be filed not later than the fifth day after acquiring knowledge of the litigation.

Sec. 466.564. COMMISSION APPROVAL REQUIRED FOR PROCEDURES AND ADMINISTRATIVE AND ACCOUNTING CONTROLS. (a) The commission's approval is required for all internal procedures and administrative and accounting controls of a video lottery retailer or video lottery manager.

(b) The commission by rule shall establish general accounting and auditing requirements and internal control standards for video lottery retailers and video lottery managers.

Sec. 466.566. VIDEO LOTTERY TERMINAL EVENTS. A video lottery retailer or video lottery manager shall keep a database of video lottery terminal events. The commission by rule shall determine what constitutes a video lottery terminal event for purposes of this section.

Sec. 466.567. EMPLOYEE REPORTING. (a) On or before the 15th day of each month, a video lottery retailer or video lottery manager shall submit to the commission an employee report for the video lottery terminal establishment operated by the retailer or manager. For each employee of the retailer or manager, the report must provide the employee's name, job title, date of birth, and social security number.

(b) The employee report is confidential and may not be disclosed except under commission order or in accordance with Section 466.022(d).

(c) The commission may conduct criminal history investigations for employees of video lottery retailers and video lottery managers.

(d) The commission may prohibit an employee from performing any act relating to video lottery terminals if the commission finds that an employee has:

(1) committed, attempted, or conspired to commit any act prohibited by this chapter;

(2) concealed or refused to disclose any material fact in any commission investigation;

(3) committed, attempted, or conspired to commit larceny or embezzlement;

(4) been convicted in any jurisdiction of an offense involving or relating to gambling;

(5) accepted employment in a position for which commission approval is required after commission approval was denied for a reason involving personal unsuitability or after failing to apply for a license or approval on commission request;

(6) been prohibited under color of governmental authority from being present on the premises of any gaming establishment or any establishment where pari-mutuel wagering is conducted for any reason relating to improper gambling activity or for any illegal act;

(7) wilfully defied any legislative investigative committee or other officially constituted body acting on behalf of the United States or any state, county, or municipality that sought to investigate alleged or potential crimes relating to gaming, corruption of public officials, or any organized criminal activities; or

(8) been convicted of any felony or any crime involving moral turpitude.

(e) The commission may prohibit an employee from performing any act relating to video lottery terminals based on a revocation or suspension of any gaming or wagering license, permit, or approval or for any other reason the commission finds appropriate, including a refusal by a regulatory authority to issue a license, permit, or other approval for the employee to engage in or be involved with the lottery or with regulated gaming or pari-mutuel wagering in any jurisdiction.

(f) In this section, "employee" includes any person connected directly with or compensated by an applicant or license holder as an agent, personal representative, consultant, or independent contractor for activities directly related to video lottery operations.

Sec. 466.568. REPORT OF VIOLATIONS. A person who holds a license or registration under this subchapter shall immediately report a violation or suspected violation of this chapter or a rule adopted under this chapter by any license or registration holder, by an employee of a license or registration holder, or by any person on the premises of a video lottery terminal establishment, whether or not associated with the license or registration holder.

Sec. 466.569. SECURITY. (a) In addition to the security provisions applicable under Section 466.020, a video lottery retailer or video lottery manager shall comply with the following security procedures:

(1) all video lottery terminals must be continuously monitored through the use of a closed-circuit television system that records activity for a continuous 24-hour period and all video tapes or other media used to store video images shall be retained for at least 30 days and made available to the commission on request;

(2) access to video lottery terminal areas shall be restricted to persons who are at least 21 years of age;

(3) the video lottery retailer or video lottery manager must submit for commission approval a security plan that includes a floor plan of the area where video lottery terminals are to be operated showing video lottery terminal locations and security camera mount locations; and

(4) each license holder shall employ at least the minimum number of private security personnel the commission determines is necessary to provide for safe and approved operation of the video lottery terminal establishment and the safety and well-being of the players.

(b) Private security personnel must be present during all hours of operation at each video lottery terminal establishment.

(c) An agent or employee of the commission or the Department of Public Safety or other law enforcement personnel may be present at a video lottery terminal establishment at any time.

(d) The commission may adopt rules to impose additional surveillance and security requirements related to video lottery terminal establishments and the operation of video lottery terminals.

Sec. 466.570. VIDEO LOTTERY TERMINAL ESTABLISHMENT: COMMISSION RIGHT TO ENTER. The commission, the commission's representative, the Texas Racing Commission, or a representative of the Texas Racing Commission, after displaying appropriate identification and credentials, has the free and unrestricted right to enter the premises of a video lottery terminal establishment and to enter any other locations involved in operation or support of video lottery at all times to examine the systems and to inspect and copy the records of a video lottery retailer or video lottery manager pertaining to the operation of video lottery.

Sec. 466.587. INDEMNIFICATION, INSURANCE, AND BONDING REQUIREMENTS. (a) A license or registration holder shall indemnify and hold harmless this state, the commission, and all officers and employees of this state and the commission from any and all claims which may be asserted against a license or registration holder, the commission, this state, and the members, officers, employees, and authorized agents of this state or the commission arising from the license or registration holder's participation in the video lottery system authorized under this subchapter.

(b) Surety and insurance required under this subchapter shall be issued by companies or financial institutions financially rated "A" or better as rated by A.M. Best Company or other rating organization designated by the commission and duly licensed, admitted, and authorized to conduct business in this state, or by other surety approved by the commission.

(c) The commission shall be named as the obligee in each required surety and as an additional insured in each required insurance contract.

(d) A video lottery retailer or video lottery manager may not be self-insured with regard to video lottery terminal operations under this section.

(e) The commission by rule shall establish minimum insurance coverage requirements for a video lottery retailer, video lottery manager, or video lottery terminal provider.

Sec. 466.588. LIABILITY FOR CREDIT AWARDED OR DENIED; PLAYER DISPUTE. (a) This state and the commission are not liable for any video lottery terminal malfunction or error by a video lottery retailer, video lottery manager, or video lottery terminal provider that causes credit to be wrongfully awarded or denied to players.

(b) Any dispute arising between a player and a video lottery retailer or video lottery manager shall be resolved by the commission as follows:

(1) if the fair market value of the prize is less than \$1,000, the dispute shall be resolved in accordance with the commission-approved written policies of the video lottery retailer or video lottery manager and without any relief available from the commission or this state; or

(2) if the fair market value of the prize is \$1,000 or more, the dispute shall be resolved by the commission in the commission's sole discretion in accordance with commission rules.

(c) A court of this state does not have jurisdiction to review the decision of the commission resolving a dispute between a player and a video lottery retailer, video lottery manager, or video lottery terminal provider.

Sec. 466.589. STATE VIDEO LOTTERY ACCOUNT. (a) The commission shall deposit funds received under this subchapter to the state video lottery account. The state video lottery account is a special account in the general revenue fund. The account consists of all revenue received by this state from the operation of video lottery terminals.

(a-1) Except as provided by Subsection (b), all revenue received by this state from the operation of the video lottery system shall be distributed solely to reimburse the commission until the \$5 million authorized under this subsection is repaid to the state lottery account. From funds previously appropriated to the commission for the state fiscal biennium ending August 31, 2007, and notwithstanding Section 466.355(b), the commission is authorized to expend an amount not to exceed \$5 million from the state lottery account during that biennium to establish the video lottery system in accordance with this chapter. From revenue deposited in the state video lottery account during that biennium, the commission is hereby appropriated the amount necessary to reimburse the state lottery account for the total amount of funds expended to establish the video lottery system from the appropriation to the state lottery account, and the commission shall deposit that amount to the state lottery account. This subsection expires January 1, 2009.

(b) Two percent of the net terminal income received by this state under Section 466.590 shall be allocated to the commission to defray expenses incurred in administering this chapter related to video lottery, including expenses incurred to operate the video lottery central system. All money allocated to the commission under this subsection may be retained by the commission to defray expenses of administering this chapter related to video lottery and shall be deposited in the state video lottery account.

Sec. 466.590. ALLOCATION OF NET TERMINAL INCOME; TRANSFER OF MONEY. (a) Net terminal income derived from the operation of video lottery games in this state is allocated as follows:

(1) a portion of the net terminal income generated in each calendar year shall be remitted to this state by the video lottery retailer or video lottery manager in an amount equal to 30 percent of the net terminal income for that year; and

(2) the remainder shall be retained by the video lottery retailer or video lottery manager.

(b) Net terminal income derived from the operation of video lottery terminals on Indian lands under a gaming agreement authorized under this subchapter shall be distributed as set forth in the gaming agreement, provided that the agreement must provide that this state shall receive no more than 25 percent of the net terminal income.

(c) One-quarter of one percent of the net terminal income received by this state under Subsections (a) and (b) shall be transferred to the Texas Commission on Alcohol and Drug Abuse for use in the compulsive gambling program under Section 461.018, Health and Safety Code, if that program is in operation.

(d) One-quarter of one percent of the net terminal income received by this state under Subsections (a) and (b) shall be transferred to the Equine Research Program at the College of Veterinary Medicine at Texas A&M University for use in equine research under Subchapter F, Chapter 88, Education Code.

(e) The commission shall require a video lottery retailer or video lottery manager to establish a separate electronic funds transfer account for depositing money from video lottery terminal operations, making payments to the commission or its designee, and receiving payments from the commission or its designee.

(f) A video lottery retailer or video lottery manager may not make payments to the commission in cash. As authorized by the commission, a video lottery retailer or video lottery manager may make payments to the commission by cashier's check.

(g) The commission at least weekly shall transfer this state's share of net terminal income of a video lottery retailer or video lottery manager to the commission through the electronic transfer of the money.

(h) The commission by rule shall establish the procedures for:

(1) depositing money from video lottery terminal operations into electronic funds transfer accounts; and

(2) handling money from video lottery terminal operations.

(i) Unless otherwise directed by the commission, a video lottery retailer or a video lottery manager shall maintain in its account this state's share of the net terminal income from the operation of video lottery terminals, to be electronically transferred by the commission on dates established by the commission. On a license holder's failure to maintain this balance, the commission may disable all of a license holder's video lottery terminals until full payment of all amounts due is made. Interest shall accrue on any unpaid balance at a rate consistent with the amount charged under Section 111.060, Tax Code. The interest shall begin to accrue on the date payment is due to the commission.

(j) In the commission's sole discretion, rather than disable a license holder's video lottery terminals under Subsection (i), the commission may elect to impose a fine on a license holder in an amount determined by the commission not to exceed \$250,000 for each violation. If the license holder fails to remedy the violation,

including payment of any amounts assessed by or due to this state, within 10 days, the commission may disable the license holder's video lottery terminals or use any other means for collection as provided by the penalty chart established by the commission.

(k) A video lottery retailer or video lottery manager is solely responsible for resolving any income discrepancies between actual money collected and the net terminal income reported by the video lottery central system. Unless an accounting discrepancy is resolved in favor of the video lottery retailer or video lottery manager, the commission may not make any credit adjustments. Any accounting discrepancies which cannot otherwise be resolved shall be resolved in favor of the commission.

(l) A video lottery retailer and video lottery manager shall remit payment as directed by the commission if the electronic transfer of money is not operational or the commission notifies the license holder that other remittance is required. The license holder shall report this state's share of net terminal income, and remit the amount generated from the terminals during the reporting period.

Sec. 466.591. COMMISSION EXAMINATION OF FINANCIAL RECORDS. The commission may examine all accounts, bank accounts, financial statements, and records in the possession or control of a person licensed under this subchapter or in which the license holder has an interest. The license holder must authorize and direct all third parties in possession or in control of the accounts or records to allow examination of any of those accounts or records by the commission.

Sec. 466.592. FINANCIAL INFORMATION REQUIRED. (a) A video lottery retailer or video lottery manager shall furnish to the commission all information and bank authorizations required to facilitate the timely transfer of money to the commission.

(b) A video lottery retailer or video lottery manager must provide the commission advance notice of any proposed account changes in information and bank authorizations to assure the uninterrupted electronic transfer of money.

(c) The commission is not responsible for any interruption or delays in the transfer of money. The video lottery retailer or video lottery manager is responsible for any interruption or delay in the transfer of money.

Sec. 466.593. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT RACETRACKS. (a) Unless otherwise agreed to under Subsection (c) by the pari-mutuel license holder that owns or operates a horse racetrack at which video lottery games are conducted under this subchapter and the officially recognized horsemen's organization representing the horsemen at the racetrack, the license holder shall allocate 6.5 percent of the net terminal income generated from the operation of video lottery terminals at the racetrack to purses.

(b) Unless otherwise agreed to under Subsection (c) by the pari-mutuel license holder that owns or operates a greyhound racetrack at which video lottery games are conducted under this subchapter and the state breed registry representing the greyhound breeders at the racetrack, the license holder shall allocate 6.5 percent of the net terminal income generated from the operation of video lottery terminals at the racetrack to purses.

(c) The pari-mutuel license holder that owns or operates a racetrack at which video lottery games are conducted under this subchapter and the officially recognized horsemen's organization representing the horsemen at the racetrack or the state breed

registry representing the greyhound breeders at the racetrack may enter into a written agreement to allocate a different percentage of net terminal income to be used for purses at that racetrack.

(d) A state breed registry may use a portion, not to exceed 10 percent, of the amount allocated for purses under this section for administration as determined reasonable by the commission.

(e) The commission shall adopt rules to administer this section. A matter considered by the commission under this section is a contested case under Chapter 2001, Government Code, and requires a public hearing.

Sec. 466.595. LIABILITY OF VIDEO LOTTERY RETAILER AND VIDEO LOTTERY MANAGER. (a) A video lottery retailer, video lottery manager, or both, are jointly and severally liable to the commission for the state's share of net terminal income reported by the video lottery central system.

(b) Net terminal income received by the video lottery retailer or video lottery manager is held in trust for the benefit of this state before delivery of the state's share to the commission or electronic transfer to the state treasury, and the video lottery retailer or video lottery manager, or both, are jointly and severally liable to the commission for the full amount of the money held in trust.

(c) If the video lottery retailer or video lottery manager is not an individual, each officer, director, or owner of the video lottery retailer or video lottery manager is personally liable to the commission for the full amount of the money held in trust, except that shareholders of a publicly held corporation shall be liable in an amount not to exceed the value of their equity investment.

Sec. 466.596. PRIZE PAYMENT AND REDEMPTION. (a) Payment of prizes is the sole and exclusive responsibility of the video lottery retailer or video lottery manager. A prize may not be paid by the commission or this state except as otherwise authorized.

(b) Nothing in this subchapter limits the ability of a video lottery retailer or video lottery manager to provide promotional prizes in addition to prize payouts regulated by the commission.

(c) A video lottery ticket must be redeemed not later than the 180th day following the date of issuance. If a claim is not made for prize money on or before the 180th day after the date on which the video lottery ticket was issued, the prize money becomes the property of the video lottery terminal establishment.

(d) The commission shall enact rules consistent with this section governing the use and redemption of prizes and credits recorded on electronic player account records, such as players' club cards and smart cards.

Sec. 466.597. REVOCATION OF LICENSE, REGISTRATION, OR OTHER REGULATORY APPROVAL. (a) The commission shall revoke or suspend a license, registration, or other regulatory approval issued under this subchapter if the holder of the license, registration, or approval at any time fails to meet the eligibility requirements set forth in this subchapter.

(b) Failure to timely remit revenue generated by video lottery terminals to the commission or any tax or other fee owed to this state as demonstrated by report from the applicable taxing authority or to timely file any report or information required

under this subchapter as a condition of any license, registration, or other approval issued under this subchapter may be grounds for suspension or revocation, or both, of a license, registration, or other approval issued under this subchapter.

Sec. 466.598. HEARING FOR REVOCATION OR SUSPENSION OF REGISTRATION OR LICENSE. (a) Before the commission revokes or suspends a video lottery terminal provider's registration or video lottery retailer's or video lottery manager's license, or imposes monetary penalties for a violation of this subchapter, the commission shall provide written notification to the license or registration holder of the revocation, the period of suspension, or the monetary penalty. The notice shall include:

(1) the effective date of the revocation or the period of suspension or the amount of the monetary penalty, as applicable;

(2) each reason for the revocation, suspension, or penalty;

(3) an explanation of the evidence supporting the reasons;

(4) an opportunity to present the license or registration holder's position in response on or before the 15th day after the effective date of the revocation; and

(5) a statement explaining the person's right to an administrative hearing to determine whether the revocation, suspension, or penalty is warranted.

(b) The notice required under Subsection (a) must be made by personal delivery or by mail to the person's mailing address as it appears on the commission's records.

(c) To obtain an administrative hearing on a suspension, revocation, or penalty under this section, a person must submit a written request for a hearing to the commission not later than the 20th day after the date notice is delivered personally or is mailed.

(d) If the commission receives a timely request under Subsection (c), the commission shall provide the person with an opportunity for a hearing as soon as practicable. If the commission does not receive a timely request under Subsection (c), the commission may impose the penalty, revoke or suspend a license or registration, or sustain the revocation or suspension without a hearing.

(e) Except as provided by Subsection (g), the hearing must be held not earlier than the 11th day after the date the written request is submitted to the commission.

(f) The commission may provide that a revocation or suspension takes effect on receipt of notice under Subsection (a) if the commission finds that the action is necessary to prevent or remedy a threat to public health, safety, or welfare. The commission by rule shall establish a nonexclusive list of violations that present a threat to the public health, safety, or welfare.

(g) A hearing on a revocation or suspension that takes effect on receipt of notice must be held not later than the 14th day after the date the commission receives the request for hearing under this section. The revocation or suspension continues in effect until the hearing is completed. If the hearing is continued, the revocation or suspension shall continue in effect beyond the 14-day period at the request of the license or registration holder or on a finding of good cause by the commission or administrative law judge.

(h) To prevail in a post-deprivation administrative hearing under this section, the license or registration holder must demonstrate by clear and convincing evidence that the deprivation or imposition of a penalty was unwarranted or otherwise unlawful. The post-deprivation hearing may be conducted by the commission or referred to the State Office of Administrative Hearings.

(i) The administrative record created by the hearing conducted by the State Office of Administrative Hearings shall be provided to the commission for review and determination on the revocation or suspension.

(j) If an administrative law judge of the State Office of Administrative Hearings conducts a hearing under this section and the proposal for decision supports the commission's position, the administrative law judge shall include in the proposal a finding of the costs, fees, expenses, and reasonable and necessary attorney's fees this state incurred in bringing the proceeding.

(k) The commission may adopt the findings for costs, fees, and expenses and make the finding a part of the final order entered in the proceeding. Proceeds collected from a finding made under this section shall be paid to the commission.

Sec. 466.599. JUDICIAL REVIEW OF REVOCATION, SUSPENSION, OR PENALTY IMPOSITION. (a) A person aggrieved by a final decision of the commission to revoke or suspend a registration or license or to impose any monetary penalty may obtain judicial review before a district court in Travis County.

(b) The judicial review must be instituted by serving on the commission and filing a petition not later than the 20th day after the effective date of the final decision and must identify the order appealed from and the grounds or reason why the petitioner contends the decision of the commission should be reversed or modified.

(c) The review must be conducted by the court sitting without jury, and must not be a trial de novo but is confined to the record on review. The reviewing court may only affirm the decision, remand the case for further proceedings, or reverse the decision if the substantial rights of the petitioner have been violated.

Sec. 466.600. LICENSE OR REGISTRATION: AGREEMENT TO WAIVE ENFORCEABILITY. A license or registration holder by virtue of accepting the license or registration agrees that the privilege of holding a license or registration under this subchapter is conditioned on the holder's agreement to Sections 466.597-466.599 and waives any right to challenge or otherwise appeal the enforceability of those sections.

Sec. 466.601. LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO LIABILITY OF STATE FOR ENFORCEMENT. (a) This state does not waive its sovereign immunity by negotiating gaming agreements with Indian tribes or other persons for the operation of video lottery terminals or other lottery games under this chapter. An actor or agent on behalf of this state does not have any authority to waive the state's sovereign immunity absent an express legislative grant of the authority. The only waiver of sovereign immunity relative to video lottery terminal operations is that expressly provided for in this section.

(b) With regard to video lottery terminal operations on Indian lands, this state consents to the jurisdiction of the District Court of the United States with jurisdiction in the county where the Indian lands are located, or if the federal court lacks jurisdiction, to the jurisdiction of a district court in Travis County, solely for the

purpose of resolving disputes arising from a gaming agreement authorized under this subchapter for declaratory or injunctive relief or contract damages of \$100,000 or more. Any disputes relating to damages or other awards valued at less than \$100,000 shall be arbitrated under the rules of the American Arbitration Association, provided, however, that application of the rules may not be construed as a waiver of sovereign immunity.

(c) All financial obligations of the commission are payable solely out of the income, revenues, and receipts of the commission and are subject to statutory restrictions and appropriations.

(d) This state and the commission are not liable if performance by the commission is compromised or terminated by acts or omissions of the legislature or the state or federal judiciary.

(e) This state and the commission are not liable related to any enforcement of this chapter.

Sec. 466.602. ABSOLUTE PRIVILEGE OF REQUIRED COMMUNICATIONS AND DOCUMENTS. (a) Any communication, document, or record of a video lottery central system provider, video lottery terminal provider, video lottery retailer, or video lottery manager, an applicant, or a license or registration holder or holder of a regulatory approval that is made or transmitted to the commission or any of its employees to comply with any law, including a rule of the commission, to comply with a subpoena issued by the commission, or to assist the commission or its designee in the performance of their respective duties is absolutely privileged, does not impose liability for defamation, and is not a ground for recovery in any civil action.

(b) If a communication, document, or record provided under Subsection (a) contains any information that is privileged under state law, that privilege is not waived or lost because the communication, document, or record is disclosed to the commission or any of the commission's employees.

(c) The commission shall maintain all privileged information, communications, documents, and records in a secure place as determined in the commission's sole discretion that is accessible only to members of the commission and authorized commission employees.

Sec. 466.603. INTELLECTUAL PROPERTY RIGHTS OF COMMISSION. The legislature finds and declares that the commission has the right to establish ownership of intellectual property rights for all lottery products, including video lottery terminals and related video lottery equipment.

Sec. 466.604. MODEL GAMING AGREEMENT. (a) The governor shall execute, at the governor's discretion as chief executive officer of this state and on behalf of this state, a gaming agreement with the Ysleta del Sur Pueblo Indian tribe, the Alabama-Coushatta Indian tribe, or the Kickapoo Traditional Tribe of Texas containing the terms set forth in Subsection (b), as a ministerial act, without preconditions, not later than the 30th day after the date the governor receives a request from the tribe, accompanied by or in the form of a duly enacted resolution of the tribe's governing body, to enter into the gaming agreement.

(b) A gaming agreement executed under Subsection (a) must contain substantially the terms set forth in a model gaming agreement adopted by the attorney general and filed with the secretary of state. The attorney general shall adopt a model gaming agreement for purposes of this section, consistent with the applicable provisions of this chapter, and shall file the agreement with the secretary of state.

(c) An Indian tribe may operate video lottery games and video lottery terminals in accordance with a gaming agreement entered into under this section.

(d) The governor may not amend, alter, or otherwise modify an agreement under this section until after the 10th anniversary of the date the governor signed the original agreement.

Sec. 466.605. VIDEO LOTTERY GAMES BY INDIAN TRIBES AUTHORIZED. (a) Notwithstanding any other law, an Indian tribe may operate video lottery games and video lottery terminals as authorized by this subchapter pursuant to a compact with the governor.

(b) To operate video lottery games under this section, an Indian tribe must be an Indian tribe as listed by the United States secretary of the interior under 25 U.S.C. Section 479a-1 on or before January 1, 1998, and must, on or before January 1, 1998, have had Indian lands within the boundaries of this state. At any time there may not be more than three Indian tribes operating video lottery games on Indian lands in this state.

(c) An Indian tribe may operate video lottery games under this section only on or immediately adjacent to Indian lands placed into trust by the United States for the benefit of the Indian tribe on or before January 1, 1998, that were held and occupied by the Indian tribe on or before January 1, 1998.

(d) A compact or agreement entered into under this section must contain provisions for the monitoring and auditing of the operation of video lottery games and any other gaming activity. The compact must:

(1) provide that the commissioner may inspect all public and nonpublic areas of the premises where the Indian tribe operates video lottery games or other gaming activity;

(2) require the conduct of an annual audit by the commission or an auditor selected by the commission of the Indian tribe's video lottery game operations; and

(3) provide that the commission may examine and review all financial records of the Indian tribe's video lottery game operations at any reasonable time.

(e) An agreement entered into under this section with a federally recognized Indian tribe, or an affiliated entity, to allow the tribe or entity to operate video lottery games must provide that the tribe agrees to collect and remit to the comptroller all state sales and use taxes for all taxable goods and services sold on the tribe's Indian lands in this state and all state taxes on motor fuels, alcoholic beverages, cigarettes and tobacco products, and hotel occupancy sold on the tribe's Indian lands. In the case of a federally recognized Indian tribe, the requirement to collect and remit these state taxes does not apply to taxes on the sale, use, or consumption of an item by a member of the tribe. The agreement shall provide a method to secure payment of these taxes to this state.

(f) The comptroller may adopt rules to ensure that the exemption from the collection and remission of state taxes under Subsection (e) applies only to members of the tribe owning that tribal land.

SECTION 2.34. Section 467.001, Government Code, is amended by amending Subdivision (9) and adding Subdivision (12) to read as follows:

(9) "Person that has a significant financial interest in the lottery" means:

(A) a person or a board member, officer, trustee, or general partner of a person that manufactures, distributes, sells, or produces lottery equipment, video lottery equipment, video lottery games, video lottery central systems, supplies, services, or advertising;

(B) an employee of a video lottery terminal provider, video lottery central system provider, or person that manufactures, distributes, sells, or produces lottery equipment, supplies, services, or advertising or video lottery equipment or games and that employee is directly involved in the manufacturing, distribution, selling, or production of lottery equipment, supplies, services, or advertising or video lottery equipment or games;

(C) a person or a board member, officer, trustee, or general partner of a person that has made a bid to operate the lottery in the preceding two years or that intends to make a bid to operate the lottery or an employee of the person if the employee is directly involved in making the bid; or

(D) a sales agent, video lottery retailer, video lottery manager, video lottery terminal provider, or video lottery central system provider.

(12) "Video lottery central system," "video lottery equipment," "video lottery game," "video lottery manager," "video lottery retailer," and "video lottery terminal provider" have the meanings assigned by Section 466.002.

SECTION 2.35. Section 467.027(a), Government Code, is amended to read as follows:

(a) A commission member is [~~not~~] entitled to compensation for serving on the commission. The annual salary of the commission members is set by legislative appropriation.

SECTION 2.36. Section 467.031, Government Code, is amended to read as follows:

Sec. 467.031. DIVISIONS. The commission shall establish separate divisions to oversee bingo and the state lottery. The commission may create a division to oversee video lottery and delegate responsibilities in the administration of Chapter 466 to the executive director, the director of the appropriate division, and the division's staff; provided, however, that the commission may not delegate the following actions:

(1) a final determination in any application or request for licensing or registration under Chapter 466;

(2) a final determination in any proceeding involving the suspension or revocation of a registration or license under Chapter 466;

(3) a final determination that Chapter 466 has been violated; or

(4) a final determination or imposition of an assessment of fines or penalties under a law administered by the commission.

SECTION 2.37. Section 467.035(a), Government Code, is amended to read as follows:

(a) The commission may not employ or continue to employ a person who owns a financial interest in:

- (1) a bingo commercial lessor, bingo distributor, or bingo manufacturer; or
- (2) a lottery sales agency, ~~or~~ a lottery operator, a video lottery retailer, a video lottery manager, a video lottery terminal provider, a video lottery central system provider, or a manufacturer of video lottery games.

SECTION 2.38. Section 467.108, Government Code, is amended to read as follows:

Sec. 467.108. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE. (a) A former commission member, former executive director, or former director may not:

(1) ~~[for compensation,]~~ represent a person, either with or without compensation, [that has made or intends to make a bid to operate the lottery] before the commission before the fifth [second] anniversary of the date that the person's service in office or employment with the commission ceases;

(2) represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of service or employment with the commission, either through personal involvement or because the matter was within the scope of the officer's or employee's official responsibility; or

(3) ~~[for compensation]~~ communicate on behalf of any person, whether compensated or not compensated, directly with a member of the legislative branch to influence legislation on behalf of a person that has any [a significant financial] interest in the lottery, before the fifth [second] anniversary of the date that the person's service in office or employment with the commission ceases.

(b) A person commits an offense if the person violates this section. An offense under this section is a felony of the third degree [Class A misdemeanor].

SECTION 2.39. Section 411.108, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The Texas Lottery Commission may obtain from the department, subject to an interagency agreement entered into under Section 466.020(d) or 466.206, criminal history record information maintained by the department that relates to any natural person, corporation, association, trust, partnership, limited partnership, joint venture, government, subsidiary, or other entity, regardless of its form, structure, or nature that the commission has the authority to investigate under Chapter 466 as related to the commission's operation and oversight of video lottery. Criminal history record information obtained by the commission under this subsection may be released or disclosed only as provided in Sections 466.022(d) and 466.206.

SECTION 2.40. Section 47.01(4), Penal Code, is amended to read as follows:

(4) "Gambling device" means any electronic, electromechanical, or mechanical contrivance not excluded under Paragraph (B) that for a consideration affords the player an opportunity to obtain anything of value, the award of which is determined solely or partially by chance, even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance. The term:

(A) includes, but is not limited to, gambling device versions of bingo, keno, blackjack, lottery, roulette, video poker, slot machines, or similar electronic, electromechanical, or mechanical games, or facsimiles thereof, that operate by chance or partially so, that as a result of the play or operation of the game award credits or free games, and that record the number of free games or credits so awarded and the cancellation or removal of the free games or credits; and

(B) does not include any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if:

(i) the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less;

(ii) any merchandise or a representation of value received by a player may be exchanged only at the same business and business location at which the contrivance operated by the player is located and may not be exchanged for a gift certificate or similar conveyance that is redeemable at another business or business location; and

(iii) the contrivance or device does not resemble a slot machine or any other casino game.

SECTION 2.41. Section 47.06(e), Penal Code, is amended to read as follows:

(e) An offense under this section is a felony of the third degree [~~Class A misdemeanor~~].

SECTION 2.42. Section 47.09, Penal Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (a)(3) applies to a person manufacturing, distributing, possessing, or operating a gambling device with the authorization of the Texas Lottery Commission under Subchapter K, Chapter 466, Government Code.

SECTION 2.43. Chapter 47, Penal Code, is amended by adding Section 47.095 to read as follows:

Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is a defense to prosecution under this chapter that a person sells, leases, transports, possesses, stores, or manufactures a gambling device with the authorization of the Texas Lottery Commission under Subchapter K, Chapter 466, Government Code, for transportation in interstate or foreign commerce.

SECTION 2.44. Article 6, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), is amended by adding Sections 6.20-6.22 to read as follows:

Sec. 6.20. LIVE RACING REQUIREMENT. (a) The commission by rule shall require a person who holds a horse racetrack license and operates a video lottery terminal establishment under Subchapter K, Chapter 466, Government Code, and that conducted live racing in 2002 to conduct at least the same number of live racing days in each calendar year after 2005 that the racetrack conducted in 2002.

(b) The commission by rule shall require a person who holds a greyhound racetrack license and operates a video lottery terminal establishment under Subchapter K, Chapter 466, Government Code, and that conducted live racing in 2004 to conduct not less than 420 live greyhound racing performances in each calendar year after 2005 unless otherwise agreed to by the official state breed registry.

Sec. 6.21. TRANSFER FEE. The commission may not approve the sale, transfer, assignment, or other conveyance of any interest or control in a pari-mutuel license or the racetrack owned or managed by the license holder if the license holder holds a video lottery retailer license under Subchapter K, Chapter 466, Government Code, until the transfer fee required by Section 466.5321, Government Code, is fully paid to this state.

Sec. 6.22. BREED SPLITS AT VIDEO LOTTERY TERMINAL ESTABLISHMENTS. The commission shall adopt rules to require a horse racetrack that holds a video lottery retailer license under Subchapter K, Chapter 466, Government Code, to allocate from the amount set aside for purses under Section 466.593(a) or (c), Government Code, 30 percent to quarter horse purses and 70 percent to thoroughbred purses.

SECTION 2.45. The Legislature finds and declares the following:

(1) Contingent on the approval of the voters, a limited and narrow exception to the constitutional prohibition on lotteries has been proposed to authorize a state-controlled and state-operated video lottery system in accordance with this article.

(2) In light of the financial emergency faced by the state, in the event the voters approve this limited state-controlled and state-operated video lottery system, the Texas Lottery Commission must be authorized to commence operation of the video lottery system in accordance with this article at the earliest possible date, consistent with the intent of the voters and legislative directive.

(3) The implementation of the video lottery system will require significant time for application investigations and determinations and for video lottery terminal and video lottery central system providers and manufacturers of video lottery games to develop prototypes for testing for the video lottery central system and video lottery terminals and games.

(4) The state's budget crisis constitutes an imminent peril to the public welfare, requiring the adoption of rules and authorization for the Texas Lottery Commission to conduct certain limited pre-implementation activities related to the establishment of the video lottery system to promote and ensure the integrity, security, honesty, and fairness of the operation and administration of the video lottery system.

(5) In order to commence operation of the video lottery system at the earliest possible date and to maintain the integrity of state-controlled and state-operated video lottery established by this article, the Texas Lottery Commission may conduct limited pre-implementation acts before the constitutional amendment proposed by the 79th Legislature, Regular Session, 2005, to authorize the state video lottery system is submitted to the voters for approval.

SECTION 2.46. (a) As soon as practicable after the constitutional amendment to authorize the state video lottery system proposed by the 79th Legislature, Regular Session, 2005, is approved by the voters and becomes effective, the Texas Lottery Commission shall adopt the rules necessary to implement video lottery in accordance with Subchapter K, Chapter 466, Government Code, as added by this article.

(b) Before the proposed constitutional amendment is submitted to the voters, the Texas Lottery Commission may expend money from the commission's appropriation for the 2006-2007 biennium for purposes of conducting pre-implementation activities to establish the state video lottery system in accordance with Subchapter K, Chapter 466, Government Code, as added by this article. Notwithstanding Section 466.355, Government Code, the money authorized to be expended under this section may be withdrawn from the state lottery account and considered a part of the transfer of funds from the state lottery account authorized under Section 466.589, Government Code, as added by this article, to fund the establishment of the state video lottery system.

(c) Before the proposed constitutional amendment is submitted to the voters, the Texas Lottery Commission may develop and approve forms for applications for licensing and registration required under Subchapter K, Chapter 466, Government Code, as added by this article.

(c-1) Not later than July 1, 2005, or as soon after the effective date of this section as practicable and before the proposed constitutional amendment is submitted to the voters, the attorney general shall adopt and file a model gaming agreement with the secretary of state as described by Section 466.604, Government Code, as added by this article.

(d) Before the proposed constitutional amendment is submitted to the voters, the Texas Lottery Commission may accept pre-implementation applications for video lottery retailers and video lottery managers under Subchapter K, Chapter 466, Government Code, as added by this article. On receipt of a complete application, completion of all investigations, and submittal of the nonrefundable investigatory fees the commission requires consistent with Subchapter K, Chapter 466, Government Code, as added by this article, the commission may make preliminary findings of suitability for an applicant and location of a video lottery terminal establishment. If the commission determines that all the requirements under Subchapter K, Chapter 466, Government Code, have been satisfied, the commission may issue a letter advising the applicant of the status of approval of the application pending approval by the voters of the proposed constitutional amendment. If the commission determines that any requirements under Subchapter K, Chapter 466, Government Code, have not been satisfied, the commission may request additional information or conduct further investigations the commission considers necessary and may issue a letter advising the applicant of the status of the application.

(e) Before the proposed constitutional amendment is submitted to the voters, the Texas Lottery Commission may request and receive information related to applications for licensing and registration under Subchapter K, Chapter 466, Government Code, as added by this article. An applicant's failure to comply with any requests made by the Texas Lottery Commission under this subsection may be considered grounds for denial of an application.

(f) The Texas Lottery Commission may not issue any license, registration, or temporary license related to the state video lottery system under Subchapter K, Chapter 466, Government Code, as added by this article, unless and until the constitutional amendment is approved by the voters and becomes effective.

(g) Before the proposed constitutional amendment is submitted to the voters, the Texas Lottery Commission may conduct investigations and collect investigative fees related to information requested and received for pre-implementation applications under this section and necessary for the commission's evaluation and determination of an application for any licensing, registration, or commission approval required under Subchapter K, Chapter 466, Government Code, as added by this article.

(h) Before the proposed constitutional amendment is submitted to the voters, the Texas Lottery Commission may conduct preregistration of potential video lottery terminal providers. To qualify for preregistration under this subsection, an applicant must satisfy the minimum application requirements under Section 466.512, Government Code, as added by this article, except that the application fee required under Section 466.513(a), Government Code, as added by this article, is not due until the applicant files an application for registration under Subchapter K, Chapter 466, Government Code, as added by this article. A preregistration application must be accompanied by a nonrefundable deposit to the Texas Lottery Commission in the amount of \$25,000. A preregistration applicant shall submit additional money not later than the 10th day after the date the applicant receives notice from the commission that it has incurred actual costs for the preregistration investigation in excess of the initial deposit required under this subsection. If the commission does not receive the additional money from the applicant on or before the 15th day after the date the applicant receives the commission's notice, the commission shall suspend the application until the money is received by the commission. Any deposit or other nonrefundable money provided under this subsection shall be credited toward an application fee required under Section 466.513(a), Government Code, as added by this article.

(i) The Texas Lottery Commission may not register any video lottery terminal providers unless and until the constitutional amendment is approved by the voters and becomes effective.

(j) Notwithstanding Section 466.513, Government Code, as added by this article, a video lottery terminal provider that has been preregistered by the Texas Lottery Commission in accordance with this section, a video lottery central system provider, or a manufacturer of video lottery games, under a contract with the commission, may manufacture and test prototypes of or existing video lottery equipment for a video lottery central system, video lottery terminals, and video lottery games for the commission's consideration.

(k) Before the proposed constitutional amendment is submitted to the voters, the Texas Lottery Commission may negotiate contracts with preregistered video lottery terminal providers. The commission may enter into contracts with preregistered video lottery terminal providers, video lottery central system providers, and manufacturers of video lottery games as required for the creation and testing of a video lottery central system, video lottery terminals, and video lottery games for the commission's consideration.

(l) Before the proposed constitutional amendment is submitted to the voters, the Texas Lottery Commission may negotiate and enter contracts as necessary to establish the video lottery system. The commission is exempt from the procurement procedures prescribed under Subtitle D, Title 10, Government Code; Section 466.101, Government Code; Chapter 2161, Government Code; and any and all bidding requirements or contract requirements provided by any other law or by rules of the commission for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the implementation of video lottery under this section.

(m) Before the proposed constitutional amendment is submitted to the voters, the Texas Lottery Commission may employ additional full-time equivalent employees to administer this article and establish the video lottery system.

SECTION 2.47. The change in law made by this article applies only to an offense committed on or after the effective date of this article. An offense committed before the effective date of this article is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this article if any element of the offense was committed before that date.

SECTION 2.48. Sections 2.1 through 2.44 and 2.47 of this article take effect on the date the amendment to Section 47, Article III, Texas Constitution, authorizing a state video lottery system proposed by the 79th Legislature, Regular Session, 2005, becomes effective. Sections 2.45 and 2.46 of this article and this section take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Sections 2.45 and 2.46 of this article and this section take effect on the 91st day after the last day of the legislative session. Sections 2.45 and 2.46(m) of this article expire March 1, 2006.

The amendment was read.

Senator Ogden moved to table Floor Amendment No. 36 to **CSHB 3**.

The motion was lost by the following vote: Yeas 13, Nays 15.

Yeas: Deuell, Duncan, Eltife, Estes, Fraser, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Williams.

Nays: Armbrister, Averitt, Barrientos, Brimer, Ellis, Gallegos, Harris, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, Wentworth, Whitmire, Zaffirini.

Absent: West.

Absent-excused: Carona, Staples.

(President in Chair)

Question recurring on the adoption of Floor Amendment No. 36 to **CSHB 3**, the amendment failed of adoption by the following vote: Yeas 14, Nays 14.

Yeas: Armbrister, Barrientos, Brimer, Ellis, Gallegos, Harris, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, Wentworth, Whitmire, Zaffirini.

Nays: Averitt, Deuell, Duncan, Eltife, Estes, Fraser, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Williams.

Absent: West.

Absent-excused: Carona, Staples.

Senator Shapiro again offered the following amendment to the bill:

Floor Amendment No. 15

Amend **CSHB 3** as follows:

On page 3, after line 63, insert a new SECTION 2A.07 as follows, and renumber subsequent SECTIONS accordingly:

SECTION 2A.07. Section 171.109, Tax Code, is amended by adding a new Subsection (o) to read as follows:

(o) Notwithstanding any other subsection in this section, there shall be excluded from the taxable capital of a parent or investor corporation the direct or indirect investment by that parent or investor corporation in one or more other corporations in which that parent or investor corporation has a "controlling interest" as that term is defined in Section 171.1001. In the event a partnership becomes subject to tax under this chapter, the term corporation shall include a partnership for purposes of this subsection.

The amendment to **CSHB 3** was again read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 15 except as follows:

Absent: West.

Absent-excused: Carona, Staples.

On motion of Senator Ogden and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3 as amended was passed to third reading by the following vote: Yeas 19, Nays 10.

Yeas: Armbrister, Averitt, Brimer, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hinojosa, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Wentworth.

Nays: Barrientos, Ellis, Gallegos, Jackson, Shapleigh, Van de Putte, West, Whitmire, Williams, Zaffirini.

Absent-excused: Carona, Staples.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 3:25 a.m. Monday, July 11, 2005, adjourned until 3:27 a.m. today.