SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTH DAY

(Monday, June 13, 2011)

The Senate met at 1:43 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

Father Albert Laforet, Jr., Saint Mary Cathedral, Austin, offered the invocation as follows:

> Almighty God, source of wisdom, knowledge, understanding, and truth, we come seeking Your gifts to aid this assembly in their work for the people of Texas. Protect and guide the people of our state that they might always enjoy Your abundant blessings. Provide for all of those in need, especially those who suffer violence and all those affected by the drought. We entrust to Your mercy and goodness all of our needs. May Your blessings come to all who work here and to all the people of the State of Texas. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of the previous day be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

SENATE BILL 1 WITH HOUSE AMENDMENTS

Senator Duncan called **SB 1** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 1** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to certain state fiscal matters; providing penalties.

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

ARTICLE 1. FOUNDATION SCHOOL PROGRAM PAYMENTS

SECTION 1.01. Subsections (c), (d), and (f), Section 42.259, Education Code, are amended to read as follows:

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) 22 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 18 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(3) 9.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of November;

(4) 7.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(5) five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of May;

(6) 10 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of June;

(7) 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of July; and

(8) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1) [~~on or before the 25th day of August~~].

(d) Payments from the foundation school fund to each category 3 school district shall be made as follows:

(1) 45 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 35 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October; and

(3) 20 percent of the yearly entitlement of the district shall be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1) [~~on or before the 25th day of August~~].

(f) Except as provided by Subsection (c)(8) or (d)(3), any [~~Any~~] previously unpaid additional funds from prior fiscal years owed to a district shall be paid to the district together with the September payment of the current fiscal year entitlement.

SECTION 1.02. Subsection (c), Section 466.355, Government Code, is amended to read as follows:

(c) Each August the comptroller shall:

(1) estimate the amount to be transferred to the foundation school fund on or before September 15; and

(2) notwithstanding Subsection (b)(4), transfer the amount estimated in Subdivision (1) to the foundation school fund before August 25 [~~installment payments are made under Section 42.259, Education Code~~].

SECTION 1.03. The changes made by this article to Section 42.259, Education Code, apply only to a payment from the foundation school fund that is made on or after the effective date of this Act. A payment to a school district from the foundation school fund that is made before that date is governed by Section 42.259, Education Code, as it existed before amendment by this article, and the former law is continued in effect for that purpose.

ARTICLE 2. FISCAL MATTERS REGARDING REGULATION AND TAXATION OF INSURERS

SECTION 2.01. Section 221.006, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) An insurer is not entitled to a credit under Subsection (a) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION 2.02. Section 222.007, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) An insurer or health maintenance organization is not entitled to a credit under Subsection (a) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION 2.03. Section 223.009, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) A title insurance company is not entitled to a credit under Subsection (a) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION 2.04. Section 401.151, Insurance Code, is amended by adding Subsection (f) to read as follows:

(f) An insurer is not entitled to a credit under Subsection (e) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION 2.05. Section 401.154, Insurance Code, is amended to read as follows:

Sec. 401.154. TAX CREDIT AUTHORIZED. (a) An insurer is entitled to a credit on the amount of premium taxes to be paid by the insurer for all examination fees paid under Section 401.153. The insurer may take the credit for the taxable year during which the examination fees are paid and may take the credit to the same extent the insurer may take a credit for examination fees paid when a salaried department examiner conducts the examination.

(b) An insurer is not entitled to a credit under Subsection (a) for an examination fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION 2.06. Section 463.160, Insurance Code, is amended to read as follows:

Sec. 463.160. PREMIUM TAX CREDIT FOR CLASS A ASSESSMENT. The amount of a Class A assessment paid by a member insurer in each taxable year shall be allowed as a credit on the amount of premium taxes due [~~in the same manner as a credit is allowed under Section 401.151(e)~~].

SECTION 2.07. The changes in law made by this article apply only to a tax credit for an examination or evaluation fee paid on or after January 1, 2012. Tax credits for examination or evaluation fees paid before January 1, 2012, are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

ARTICLE 3. TAX RECORDS

SECTION 3.01. Section 2153.201, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A record required under Subsection (a) must:

(1) be available at all times for inspection by the attorney general, the comptroller, or an authorized representative of the attorney general or comptroller as provided by Subsection (c);

(2) include information relating to:

(A) the kind of each machine;

(B) the date each machine is:

(i) acquired or received in this state; and

(ii) placed in operation;

(C) the location of each machine, including the:

(i) county;

(ii) municipality, if any; and

(iii) street or rural route number;

(D) the name and complete address of each operator of each machine;

(E) if the owner is an individual, the full name and address of the owner; and

(F) if the owner is not an individual, the name and address of each principal officer or member of the owner; and

(3) be maintained[~~:~~

[~~(A)~~] at a permanent address in this state designated on the application for a license under Section 2153.153[~~; and~~

[~~(B) until the second anniversary of the date the owner ceases ownership of the machine that is the subject of the record~~].

(c) A record required under Subsection (a) must be available for inspection under Subsection (b) for at least four years and as required by Section 111.0041, Tax Code.

SECTION 3.02. Section 111.0041, Tax Code, is amended to read as follows:

Sec. 111.0041. RECORDS; BURDEN TO PRODUCE AND SUBSTANTIATE CLAIMS. (a) Except as provided by Subsection (b), a [~~Any~~] taxpayer who is required by this title to keep records shall keep those records open to inspection by the comptroller, the attorney general, or the authorized representatives of either of them for at least four years.

(b) A taxpayer is required to keep records open for inspection under Subsection (a) for more than four years throughout any period when:

(1) any tax, penalty, or interest may be assessed, collected, or refunded by the comptroller; or

(2) an administrative hearing is pending before the comptroller, or a judicial proceeding is pending, to determine the amount of the tax, penalty, or interest that is to be assessed, collected, or refunded.

(c) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the period in question to substantiate and enable verification of the taxpayer's claim related to the amount of tax, penalty, or interest to be assessed, collected, or refunded in an administrative or judicial proceeding. Contemporaneous records and supporting documentation appropriate to the tax or fee include invoices, vouchers, checks, shipping records, contracts, and other equivalent records, such as electronically stored images of such documents, reflecting legal relationships and taxes collected or paid.

(d) Summary records submitted by the taxpayer, including accounting journals and ledgers, without supporting contemporaneous records and documentation for the period in question are not sufficient to substantiate and enable verification of the taxpayer's claim regarding the amount of tax, penalty, or interest that may be assessed, collected, or refunded.

(e) This section prevails over any other conflicting provision of this title.

SECTION 3.03. Section 112.052, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the period in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest that is to be assessed, collected, or refunded, as required by Section 111.0041.

SECTION 3.04. Section 112.151, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the period in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest that is to be assessed, collected, or refunded, as required by Section 111.0041.

SECTION 3.05. Subsection (b), Section 151.025, Tax Code, is amended to read as follows:

(b) A record required by Subsection (a) [~~of this section~~] shall be kept for not less than four years from the date [~~day~~] that it is made unless:

(1) the comptroller authorizes in writing its destruction at an earlier date; or

(2) Section 111.0041 requires that the record be kept for a longer period.

SECTION 3.06. Section 152.063, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) Section 111.0041 applies to a person required to keep records under this chapter.

SECTION 3.07. Section 152.0635, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) Section 111.0041 applies to a person required to keep records under this chapter.

SECTION 3.08. Subsection (a), Section 154.209, Tax Code, is amended to read as follows:

(a) Except as provided by Section 111.0041, each [~~Each~~] permit holder shall keep records available for inspection and copying by the comptroller and the attorney general for at least four years.

SECTION 3.09. Subsection (a), Section 155.110, Tax Code, is amended to read as follows:

(a) Except as provided by Section 111.0041, each [~~Each~~] permit holder shall keep records available for inspection and copying by the comptroller and the attorney general for at least four years.

SECTION 3.10. Section 160.046, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) A person required to keep records under this section shall also keep the records as required by Section 111.0041.

SECTION 3.11. Subchapter A, Chapter 162, Tax Code, is amended by adding Section 162.0125 to read as follows:

Sec. 162.0125. DUTY TO KEEP RECORDS. A person required to keep a record under this chapter shall also keep the record as required by Section 111.0041.

SECTION 3.12. This article takes 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, this article takes effect October 1, 2011.

ARTICLE 4. UNCLAIMED PROPERTY

SECTION 4.01. Subsection (a), Section 72.101, Property Code, is amended to read as follows:

(a) Except as provided by this section and Sections 72.1015, 72.1016, 72.1017, and 72.102, personal property is presumed abandoned if, for longer than three years:

(1) the existence and location of the owner of the property is unknown to the holder of the property; and

(2) according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.

SECTION 4.02. Subchapter B, Chapter 72, Property Code, is amended by adding Section 72.1017 to read as follows:

Sec. 72.1017. UTILITY DEPOSITS. (a) In this section:

(1) "Utility" has the meaning assigned by Section 183.001, Utilities Code.

(2) "Utility deposit" is a refundable money deposit a utility requires a user of the utility service to pay as a condition of initiating the service.

(b) Notwithstanding Section 73.102, a utility deposit is presumed abandoned on the latest of:

(1) the first anniversary of the date a refund check for the utility deposit was payable to the owner of the deposit;

(2) the first anniversary of the date the utility last received documented communication from the owner of the utility deposit; or

(3) the first anniversary of the date the utility issued a refund check for the deposit payable to the owner of the deposit if, according to the knowledge and records of the utility or payor of the check, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

SECTION 4.03. Subsection (c), Section 72.102, Property Code, is amended to read as follows:

(c) A money order to which Subsection (a) applies is presumed to be abandoned on the latest of:

(1) the third [~~seventh~~] anniversary of the date on which the money order was issued;

(2) the third [~~seventh~~] anniversary of the date on which the issuer of the money order last received from the owner of the money order communication concerning the money order; or

(3) the third [~~seventh~~] anniversary of the date of the last writing, on file with the issuer, that indicates the owner's interest in the money order.

SECTION 4.04. Section 72.103, Property Code, is amended to read as follows:

Sec. 72.103. PRESERVATION OF PROPERTY. Notwithstanding any other provision of this title except a provision of this section or Section 72.1016 relating to a money order or a stored value card, a holder of abandoned property shall preserve the property and may not at any time, by any procedure, including a deduction for service, maintenance, or other charge, transfer or convert to the profits or assets of the holder or otherwise reduce the value of the property. For purposes of this section, value is determined as of the date of the last transaction or contact concerning the property, except that in the case of a money order, value is determined as of the date the property is presumed abandoned under Section 72.102(c). If a holder imposes service, maintenance, or other charges on a money order prior to the time of presumed abandonment, such charges may not exceed the amount of $1 [~~50 cents~~] per month for each month the money order remains uncashed prior to the month in which the money order is presumed abandoned.

SECTION 4.05. Section 73.101, Property Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) An account or safe deposit box is presumed abandoned if:

(1) except as provided by Subsection (c), the account or safe deposit box has been inactive for at least five years as determined under Subsection (b);

(2) the location of the depositor of the account or owner of the safe deposit box is unknown to the depository; and

(3) the amount of the account or the contents of the box have not been delivered to the comptroller in accordance with Chapter 74.

(c) If the account is a checking or savings account or is a matured certificate of deposit, the account is presumed abandoned if the account has been inactive for at least three years as determined under Subsection (b)(1).

SECTION 4.06. Subsection (a), Section 74.101, Property Code, is amended to read as follows:

(a) Each holder who on March 1 [~~June 30~~] holds property that is presumed abandoned under Chapter 72, 73, or 75 of this code or under Chapter 154, Finance Code, shall file a report of that property on or before the following July [~~November~~] 1. The comptroller may require the report to be in a particular format, including a format that can be read by a computer.

SECTION 4.07. Subsection (a), Section 74.1011, Property Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a holder who on March 1 [~~June 30~~] holds property valued at more than $250 that is presumed abandoned under Chapter 72, 73, or 75 of this code or Chapter 154, Finance Code, shall, on or before the following May [~~August~~] 1, mail to the last known address of the known owner written notice stating that:

(1) the holder is holding the property; and

(2) the holder may be required to deliver the property to the comptroller on or before July [~~November~~] 1 if the property is not claimed.

SECTION 4.08. Subsections (a) and (c), Section 74.301, Property Code, are amended to read as follows:

(a) Except as provided by Subsection (c), each holder who on March 1 [~~June 30~~] holds property that is presumed abandoned under Chapter 72, 73, or 75 shall deliver the property to the comptroller on or before the following July [~~November~~] 1 accompanied by the report required to be filed under Section 74.101.

(c) If the property subject to delivery under Subsection (a) is the contents of a safe deposit box, the comptroller may instruct a holder to deliver the property on a specified date before July [~~November~~] 1 of the following year.

SECTION 4.09. Subsection (e), Section 74.601, Property Code, is amended to read as follows:

(e) The comptroller on receipt or from time to time may [~~from time to time~~] sell securities, including stocks, bonds, and mutual funds, received under this chapter or any other statute requiring the delivery of unclaimed property to the comptroller and use the proceeds to buy, exchange, invest, or reinvest in marketable securities. When making or selling the investments, the comptroller shall exercise the judgment and care of a prudent person.

SECTION 4.10. Section 74.708, Property Code, is amended to read as follows:

Sec. 74.708. PROPERTY HELD IN TRUST. A holder who on March 1 [~~June 30~~] holds property presumed abandoned under Chapters 72-75 holds the property in trust for the benefit of the state on behalf of the missing owner and is liable to the state for the full value of the property, plus any accrued interest and penalty. A holder is not required by this section to segregate or establish trust accounts for the property provided the property is timely delivered to the comptroller in accordance with Section 74.301.

SECTION 4.11. (a) Except as provided by Subsection (b) of this section, this article takes effect on the 91st day after the last day of the legislative session.

(b) Sections 74.101(a), 74.1011(a), 74.301(a) and (c), and 74.708, Property Code, as amended by this article, take effect January 1, 2013.

SECTION 4.12. A charge imposed on a money order under Section 72.103, Property Code, by a holder before the effective date of this article is governed by the law applicable to the charge immediately before the effective date of this article, and the holder may retain the charge.

ARTICLE 5. CLASSIFICATION OF JUDICIAL AND COURT PERSONNEL TRAINING FUND

SECTION 5.01. Section 56.001, Government Code, is amended to read as follows:

Sec. 56.001. JUDICIAL AND COURT PERSONNEL TRAINING FUND. (a) The judicial and court personnel training fund is an account in the general revenue fund. Money in the judicial and court personnel training fund may be appropriated only to [~~created in the state treasury and shall be administered by~~] the court of criminal appeals for the uses authorized in Section 56.003.

(b) [~~(1)~~] On requisition of the court of criminal appeals, the comptroller shall draw a warrant on the fund for the amount specified in the requisition for a use authorized in Section 56.003. A warrant may not exceed the amount appropriated for any one fiscal year. [~~At the end of each state fiscal year, any unexpended balance in the fund in excess of $500,000 shall be transferred to the general revenue fund.~~]

ARTICLE 6. FISCAL MATTERS REGARDING PETROLEUM INDUSTRY REGULATION

SECTION 6.01. Section 26.3574, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

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

(1) not more than $3.125 [~~$3.75~~] for each delivery into a cargo tank having a capacity of less than 2,500 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(2) not more than $6.25 [~~$7.50~~] for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(3) not more than $9.37 [~~$11.75~~] for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(4) not more than $12.50 [~~$15.00~~] for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~]; and

(5) not more than $6.25 [~~$7.50~~] for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~].

(b-1) The commission by rule shall set the amount of the fee in Subsection (b) in an amount not to exceed the amount necessary to cover the agency's costs of administering this subchapter, as indicated by the amount appropriated by the legislature from the petroleum storage tank remediation account for that purpose.

SECTION 6.02. The fee applicable to a delivery is the maximum amount of the fee applicable to that delivery as provided by Section 26.3574(b), Water Code, as amended by this article, until the Texas Commission on Environmental Quality adopts and implements a fee applicable to that delivery under Section 26.3574(b-1), Water Code, as added by this article.

ARTICLE 7. REMITTANCE AND ALLOCATION OF CERTAIN MOTOR FUELS TAXES

SECTION 7.01. Section 162.113, Tax Code, is amended by adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a-1) On August 28, 2013, each licensed distributor and licensed importer shall remit to the supplier or permissive supplier, as applicable, a tax prepayment in an amount equal to 25 percent of the tax imposed by Section 162.101 for gasoline removed at the terminal rack during July 2013 by the licensed distributor or licensed importer, without accounting for any credit or allowance to which the licensed distributor or licensed importer is entitled. The supplier or permissive supplier shall remit the tax prepayment received under this subsection to the comptroller by electronic funds transfer on August 30, 2013, without accounting for any credit or allowance to which the supplier or permissive supplier is entitled. Subsections (c)-(e) do not apply to the tax prepayment under this subsection.

(a-2) A licensed distributor or licensed importer may take a credit against the amount of tax imposed by Section 162.101 for gasoline removed at a terminal rack during August 2013 that is required to be remitted to the supplier or permissive supplier, as applicable, under Subsection (a) in September 2013. The amount of the credit is equal to the amount of any tax prepayment remitted by the licensed distributor or licensed importer as required by Subsection (a-1).

(a-3) Subsections (a-1) and (a-2) apply to a supplier or an affiliate of a supplier who removes gasoline at the terminal rack for distribution to the same extent and in the same manner that those subsections apply to a licensed distributor or licensed importer.

(a-4) Subsections (a-1), (a-2), and (a-3) and this subsection expire September 1, 2015.

SECTION 7.02. Section 162.214, Tax Code, is amended by adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a-1) On August 28, 2013, each licensed distributor and licensed importer shall remit to the supplier or permissive supplier, as applicable, a tax prepayment in an amount equal to 25 percent of the tax imposed by Section 162.201 for diesel fuel removed at the terminal rack during July 2013 by the licensed distributor or licensed importer, without accounting for any credit or allowance to which the licensed distributor or licensed importer is entitled. The supplier or permissive supplier shall remit the tax prepayment received under this subsection to the comptroller by

electronic funds transfer on August 30, 2013, without accounting for any credit or allowance to which the supplier or permissive supplier is entitled. Subsections (c)-(e) do not apply to the tax prepayment under this subsection.

(a-2) A licensed distributor or licensed importer may take a credit against the amount of tax imposed by Section 162.201 for diesel fuel removed at a terminal rack during August 2013 that is required to be remitted to the supplier or permissive supplier, as applicable, under Subsection (a) in September 2013. The amount of the credit is equal to any tax prepayment remitted by the licensed distributor or licensed importer as required by Subsection (a-1).

(a-3) Subsections (a-1) and (a-2) apply to a supplier or an affiliate of a supplier who removes diesel fuel at the terminal rack for distribution to the same extent and in the same manner that those subsections apply to a licensed distributor or licensed importer.

(a-4) Subsections (a-1), (a-2), and (a-3) and this subsection expire September 1, 2015.

SECTION 7.03. Section 162.503, Tax Code, is amended to read as follows:

Sec. 162.503. ALLOCATION OF GASOLINE TAX. (a) On or before the fifth workday after the end of each month, the comptroller, after making all deductions for refund purposes and for the amounts allocated under Sections 162.502 and 162.5025, shall allocate the net remainder of the taxes collected under Subchapter B as follows:

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

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

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

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

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

(b) Notwithstanding Subsection (a), the comptroller may not allocate revenue otherwise required to be allocated under Subsection (a) during July and August 2013 before the first workday of September 2013. The revenue shall be allocated as otherwise provided by Subsection (a) not later than the fifth workday of September 2013. This subsection expires September 1, 2015.

SECTION 7.04. Section 162.504, Tax Code, is amended to read as follows:

Sec. 162.504. ALLOCATION OF DIESEL FUEL TAX. (a) On or before the fifth workday after the end of each month, the comptroller, after making deductions for refund purposes, for the administration and enforcement of this chapter, and for the amounts allocated under Section 162.5025, shall allocate the remainder of the taxes collected under Subchapter C as follows:

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

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

(b) Notwithstanding Subsection (a), the comptroller may not allocate revenue otherwise required to be allocated under Subsection (a) during July and August 2013 before the first workday of September 2013. The revenue shall be allocated as otherwise provided by Subsection (a) not later than the fifth workday of September 2013. This subsection expires September 1, 2015.

SECTION 7.05. The expiration of the amendments made to the Tax Code in accordance with this article does not affect tax liability accruing before the expiration of those amendments. That liability continues in effect as if the amendments had not expired, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 7.06. This article takes effect October 1, 2011.

ARTICLE 8. REMITTANCE OF MIXED BEVERAGE TAXES AND TAXES AND FEES ON CERTAIN ALCOHOLIC BEVERAGES

SECTION 8.01. Section 34.04, Alcoholic Beverage Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) In August 2013, a permittee shall remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the permittee is otherwise required to remit during August 2013 under the reporting system prescribed by the commission. The prepayment is in addition to the amount the permittee is otherwise required to remit during August. The permittee shall remit the additional payment in conjunction with the report and payment otherwise required during that month.

(d) A permittee who remits the additional payment as required by Subsection (c) may take a credit in the amount of the additional payment against the next payment due under the reporting system prescribed by the commission.

(e) Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 8.02. Section 48.04, Alcoholic Beverage Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) In August 2013, a permittee shall remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the permittee is otherwise required to remit during August 2013 under the reporting system prescribed by the commission. The prepayment is in addition to the amount the permittee is otherwise required to remit during August. The permittee shall remit the additional payment in conjunction with the report and payment otherwise required during that month.

(d) A permittee who remits the additional payment as required by Subsection (c) may take a credit in the amount of the additional payment against the next payment due under the reporting system prescribed by the commission.

(e) Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 8.03. Section 201.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 201.07. DUE DATE. (a) The tax on liquor is due and payable on the 15th of the month following the first sale, together with a report on the tax due.

(b) In August 2013, each permittee who is liable for the taxes imposed by this subchapter shall remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the permittee is otherwise required to remit during August 2013 under Subsection (a). The prepayment is in addition to the amount the permittee is otherwise required to remit during August. The permittee shall remit the additional payment in conjunction with the report and payment otherwise required during that month.

(c) A permittee who remits the additional payment as required by Subsection (b) may take a credit in the amount of the additional payment against the next payment due under Subsection (a).

(d) Subsections (b) and (c) and this subsection expire September 1, 2015.

SECTION 8.04. Section 201.43, Alcoholic Beverage Code, is amended by amending Subsection (b) and adding Subsections (c), (d), and (e) to read as follows:

(b) The tax is due and payable on the 15th day of the month following the month in which the taxable first sale occurs, together with a report on the tax due.

(c) In August 2013, each permittee who is liable for the tax imposed by this subchapter shall remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the permittee is otherwise required to remit during August 2013 under Subsection (b). The prepayment is in addition to the amount the permittee is otherwise required to remit during August. The permittee shall remit the additional payment in conjunction with the report and payment otherwise required during that month.

(d) A permittee who remits the additional payment as required by Subsection (c) may take a credit in the amount of the additional payment against the next payment due under Subsection (b).

(e) Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 8.05. Section 203.03, Alcoholic Beverage Code, is amended by amending Subsection (b) and adding Subsections (c), (d), and (e) to read as follows:

(b) The tax is due and payable on the 15th day of the month following the month in which the taxable first sale occurs, together with a report on the tax due.

(c) Each licensee who is liable for the tax imposed by this chapter shall remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the licensee is otherwise required to remit during August 2013 under Subsection (b). The prepayment is in addition to the amount the licensee is otherwise required to remit during August. The licensee shall remit the additional payment in conjunction with the report and payment otherwise required during that month.

(d) A licensee who remits the additional payment as required by Subsection (c) may take a credit in the amount of the additional payment against the next payment due under Subsection (b).

(e) Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 8.06. Section 183.023, Tax Code, is amended to read as follows:

Sec. 183.023. PAYMENT. (a) The tax due for the preceding month shall accompany the return and shall be payable to the state.

(b) The comptroller shall deposit the revenue received under this section in the general revenue fund.

(c) In August 2013, each permittee who is liable for the tax imposed by this subchapter shall remit a tax prepayment of taxes due to be remitted in September 2013 that is equal to 25 percent of the amount the permittee is otherwise required to remit during August 2013 under Subsection (a). The prepayment is in addition to the amount the permittee is otherwise required to remit during August. The permittee shall remit the additional payment in conjunction with the return and payment otherwise required during that month.

(d) A permittee who remits the additional payment as required by Subsection (c) may take a credit in the amount of the additional payment against the next payment due under Subsection (a).

(e) Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 8.07. The expiration of the amendments made to the Alcoholic Beverage Code and Tax Code in accordance with this article does not affect tax liability accruing before the expiration of those amendments. That liability continues in effect as if the amendments had not expired, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

ARTICLE 9. CIGARETTE TAX STAMPING ALLOWANCE

SECTION 9.01. Subsection (a), Section 154.052, Tax Code, is amended to read as follows:

(a) A distributor is, subject to the provisions of Section 154.051, entitled to 2.5 [~~three~~] percent of the face value of stamps purchased as a stamping allowance for providing the service of affixing stamps to cigarette packages, except that an out-of-state distributor is entitled to receive only the same percentage of stamping allowance as that given to Texas distributors doing business in the state of the distributor.

SECTION 9.02. This article applies only to cigarette stamps purchased on or after the effective date of this article. Cigarette stamps purchased before the effective date of this article are governed by the law in effect on the date the cigarette stamps were purchased, and that law is continued in effect for that purpose.

SECTION 9.03. This article takes effect October 1, 2011.

ARTICLE 10. SALES FOR RESALE

SECTION 10.01. Section 151.006, Tax Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) "Sale for resale" means a sale of:

(1) tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of reselling it with or as a taxable item as defined by Section 151.010 in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business in the form or condition in which it is acquired or as an attachment to or integral part of other tangible personal property or taxable service;

(2) tangible personal property to a purchaser for the sole purpose of the purchaser's leasing or renting it in the United States of America or a possession or territory of the United States of America or in the United Mexican States in the normal course of business to another person, but not if incidental to the leasing or renting of real estate;

(3) tangible personal property to a purchaser who acquires the property for the purpose of transferring it in the United States of America or a possession or territory of the United States of America or in the United Mexican States as an integral part of a taxable service; [~~or~~]

(4) a taxable service performed on tangible personal property that is held for sale by the purchaser of the taxable service; or

(5) except as provided by Subsection (c), tangible personal property to a purchaser who acquires the property for the purpose of transferring it as an integral part of performing a contract, or a subcontract of a contract, with the federal government only if the purchaser:

(A) allocates and bills to the contract the cost of the property as a direct or indirect cost; and

(B) transfers title to the property to the federal government under the contract and applicable federal acquisition regulations.

(c) A sale for resale does not include the sale of tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of performing a service that is not taxed under this chapter, regardless of whether title transfers to the service provider's customer, unless the tangible personal property or taxable service is purchased for the purpose of reselling it to the United States in a contract, or a subcontract of a contract, with any branch of the Department of Defense, Department of Homeland Security, Department of Energy, National Aeronautics and Space Administration, Central Intelligence Agency, National Security Agency, National Oceanic and Atmospheric Administration, or National Reconnaissance Office to the extent allocated and billed to the contract with the federal government.

SECTION 10.02. This article takes 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, this article takes effect October 1, 2011.

ARTICLE 11. REMITTANCE OF SALES AND USE TAXES

SECTION 11.01. Section 151.401, Tax Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) In August 2013, a taxpayer who is required to pay the taxes imposed by this chapter on or before the 20th day of that month under Subsection (a), who pays the taxes imposed by this chapter by electronic funds transfer, and who does not prepay as provided by Section 151.424 shall remit to the comptroller a tax prepayment that is equal to 25 percent of the amount the taxpayer is otherwise required to remit during August 2013 under Subsection (a). The prepayment is in addition to the amount the taxpayer is otherwise required to remit during August. The taxpayer shall remit the additional payment in conjunction with the payment otherwise required during that month. Section 151.424 does not apply with respect to the additional payment required by this subsection.

(d) A taxpayer who remits the additional payment as required by Subsection (c) may take a credit in the amount of the additional payment against the next payment due under Subsection (a).

(e) Subsections (c) and (d) and this subsection expire September 1, 2015.

SECTION 11.02. Section 151.402, Tax Code, is amended to read as follows:

Sec. 151.402. TAX REPORT DATES. (a) A [~~Except as provided by Subsection (b) of this section, a~~] tax report required by this chapter for a reporting period is due on the same date that the tax payment for the period is due as provided by Section 151.401.

(b) A taxpayer may report a credit in the amount of any tax prepayment remitted to the comptroller as required by Section 151.401(c) on the tax report required by this chapter that is otherwise due in September 2013 [~~for taxes required by Section 151.401(a) to be paid on or before August 20 is due on or before the 20th day of the following month~~]. This subsection expires September 1, 2015.

SECTION 11.03. The expiration of the amendments made to the Tax Code in accordance with this article does not affect tax liability accruing before the expiration of those amendments. That liability continues in effect as if the amendments had not expired, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

ARTICLE 12. PENALTIES FOR FAILURE TO REPORT OR REMIT CERTAIN TAXES OR FEES

SECTION 12.01. Subsection (b), Section 111.00455, Tax Code, is amended to read as follows:

(b) The following are not contested cases under Subsection (a) and Section 2003.101, Government Code:

(1) a show cause hearing or any hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount, except for a hearing under Section 151.157(f), 151.1575(c), 151.712(g), 154.1142, or 155.0592;

(2) a property value study hearing under Subchapter M, Chapter 403, Government Code;

(3) a hearing in which the issue relates to:

(A) Chapters 72-75, Property Code;

(B) forfeiture of a right to do business;

(C) a certificate of authority;

(D) articles of incorporation;

(E) a penalty imposed under Section 151.703(d) [~~151.7031~~];

(F) the refusal or failure to settle under Section 111.101; or

(G) a request for or revocation of an exemption from taxation; and

(4) any other hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount.

SECTION 12.02. Subsection (a), Section 151.468, Tax Code, as effective September 1, 2011, is amended to read as follows:

(a) If a person fails to file a report required by this subchapter or fails to file a complete report, the comptroller may impose a civil or criminal penalty, or both, under Section 151.703(d) [~~151.7031~~] or 151.709.

SECTION 12.03. Section 151.703, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to any other penalty authorized by this section, a person who fails to file a report as required by this chapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 12.04. Section 152.045, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to any other penalty provided by law, the owner of a motor vehicle subject to the tax on gross rental receipts who is required to file a report as provided by this chapter and who fails to timely file the report shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 12.05. Section 152.047, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) In addition to any other penalty provided by law, the seller of a motor vehicle sold in a seller-financed sale who is required to file a report as provided by this chapter and who fails to timely file the report shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 12.06. Section 156.202, Tax Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The minimum penalty under Subsections (a) and (b) [~~this section~~] is $1.

(d) In addition to any other penalty authorized by this section, a person who fails to file a report as required by this chapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 12.07. Section 162.401, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to any other penalty authorized by this section, a person who fails to file a report as required by this chapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 12.08. Section 171.362, Tax Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) The minimum penalty under Subsections (a) and (b) [~~this section~~] is $1.

(f) In addition to any other penalty authorized by this section, a taxable entity who fails to file a report as required by this chapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxable entity subsequently files the report or whether any taxes were due from the taxable entity for the reporting period under the required report.

SECTION 12.09. Subchapter B, Chapter 183, Tax Code, is amended by adding Section 183.024 to read as follows:

Sec. 183.024. FAILURE TO PAY TAX OR FILE REPORT. (a) A permittee who fails to file a report as required by this chapter or who fails to pay a tax imposed by this chapter when due shall pay five percent of the amount due as a penalty, and if the permittee fails to file the report or pay the tax within 30 days after the day the tax or report is due, the permittee shall pay an additional five percent of the amount due as an additional penalty.

(b) The minimum penalty under Subsection (a) is $1.

(c) A delinquent tax draws interest beginning 60 days from the due date.

(d) In addition to any other penalty authorized by this section, a permittee who fails to file a report as required by this chapter shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the permittee subsequently files the report or whether any taxes were due from the permittee for the reporting period under the required report.

SECTION 12.10. Section 771.0712, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A seller who fails to file a report or remit a fee collected or payable as provided by this section and comptroller rules shall pay five percent of the amount due and payable as a penalty, and if the seller fails to file the report or remit the fee within 30 days after the day the fee or report is due, the seller shall pay an additional five percent of the amount due and payable as an additional penalty.

(d) In addition to any other penalty authorized by this section, a seller who fails to file a report as provided by this section shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the seller subsequently files the report or whether any taxes were due from the seller for the reporting period under the required report.

SECTION 12.11. Section 151.7031, Tax Code, is repealed.

SECTION 12.12. The change in law made by this article applies only to a report due or a tax or fee due and payable on or after the effective date of this article. A report due or a tax or fee due and payable before the effective date of this article is governed by the law in effect at that time, and that law is continued in effect for that purpose.

SECTION 12.13. This article takes 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, this article takes effect October 1, 2011.

ARTICLE 13. FISCAL MATTERS RELATED TO VOTER REGISTRATION

SECTION 13.01. Subsections (b), (c), and (d), Section 18.065, Election Code, are amended to read as follows:

(b) On determining that a registrar is not in substantial compliance, the secretary shall deliver written notice of the noncompliance to[~~:~~

[~~(1)~~] the registrar and include[~~, including~~] in the notice a description of the violation and an explanation of the action necessary for substantial compliance and of the consequences of noncompliance[~~; and~~

[~~(2) the comptroller of public accounts, including in the notice the identity of the noncomplying registrar~~].

(c) On determining that a noncomplying registrar has corrected the violation and is in substantial compliance, the secretary shall deliver written notice to the registrar [~~and to the comptroller~~] that the registrar is in substantial compliance.

(d) [~~The comptroller shall retain a notice received under this section on file until July 1 following the voting year in which it is received.~~] The secretary shall retain a copy of each notice the secretary delivers under this section for two years after the date the notice is delivered.

SECTION 13.02. Subsection (a), Section 19.001, Election Code, is amended to read as follows:

(a) Before May 15 of each year, the registrar shall prepare and submit to the secretary of state [~~comptroller of public accounts~~] a statement containing:

(1) the total number of initial registrations for the previous voting year;

(2) the total number of registrations canceled under Sections 16.031(a)(1), 16.033, and 16.0332 for the previous voting year; and

(3) the total number of registrations for which information was updated for the previous voting year.

SECTION 13.03. The heading to Section 19.002, Election Code, is amended to read as follows:

Sec. 19.002. PAYMENTS [~~ISSUANCE OF WARRANTS BY COMPTROLLER~~].

SECTION 13.04. Subsections (b) and (d), Section 19.002, Election Code, are amended to read as follows:

(b) After June 1 of each year, the secretary of state [~~comptroller of public accounts~~] shall make payments [~~issue warrants~~] pursuant to vouchers submitted by the registrar and approved by the secretary of state in amounts that in the aggregate do not exceed the registrar's entitlement. The secretary of state shall prescribe the procedures necessary to implement this subsection.

(d) The secretary of state [~~comptroller~~] may not make a payment under Subsection (b) [~~issue a warrant~~] if on June 1 of the year in which the payment [~~warrant~~] is to be made [~~issued the most recent notice received by the comptroller from the secretary of state under Section 18.065 indicates that~~] the registrar is not in substantial compliance with Section 15.083, 16.032, 18.042, or 18.065 or with rules implementing the registration service program.

SECTION 13.05. The heading to Section 19.0025, Election Code, is amended to read as follows:

Sec. 19.0025. ELECTRONIC ADMINISTRATION OF VOUCHERS AND PAYMENTS [~~WARRANTS~~].

SECTION 13.06. Subsection (a), Section 19.0025, Election Code, is amended to read as follows:

(a) The secretary of state shall establish and maintain an online electronic system for administering vouchers submitted and payments made [~~warrants issued~~] under Section 19.002.

SECTION 13.07. Subsection (c), Section 19.002, Election Code, is repealed.

ARTICLE 14. CERTAIN POWERS AND DUTIES OF THE COMPTROLLER OF PUBLIC ACCOUNTS

SECTION 14.01. Subsection (d), Section 403.0551, Government Code, is amended to read as follows:

(d) This section does not authorize the comptroller to deduct the amount of a state employee's indebtedness to a state agency from any amount of compensation owed by the agency to the employee, the employee's successor, or the assignee of the employee or successor. In this subsection, "compensation" has the meaning assigned by Section 403.055 and [~~"compensation,"~~] "indebtedness," "state agency," "state employee," and "successor" have the meanings assigned by Section 666.001.

SECTION 14.02. Subsection (h), Section 404.022, Government Code, is amended to read as follows:

(h) The comptroller may execute a simplified version of a depository agreement with an eligible institution desiring to hold [~~$98,000 or less in~~] state deposits that are fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

SECTION 14.03. Subsection (d), Section 403.0551, Government Code, as amended by this article, applies to a deduction made on or after the effective date of this Act for an indebtedness to a state agency regardless of:

(1) the date the indebtedness accrued; or

(2) the dates of the pay period for which the compensation from which the indebtedness is deducted is earned.

ARTICLE 15. PREPARATION AND PUBLICATION OF CERTAIN REPORTS AND OTHER MATERIALS

SECTION 15.01. Subsection (c), Section 61.539, Education Code, is amended to read as follows:

(c) As soon as practicable after each state fiscal year, the board [~~comptroller~~] shall prepare a report for that fiscal year of the number of students registered in a medical branch, school, or college, the total amount of tuition charges collected by each institution, the total amount transferred to the comptroller under this section, and the total amount available in the physician education loan repayment program account for the repayment of student loans of physicians under this subchapter. The board [~~comptroller~~] shall deliver a copy of the report to [~~the board and to~~] the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 following the end of the fiscal year covered by the report.

SECTION 15.02. Subsection (c), Section 5.05, Tax Code, is amended to read as follows:

(c) The comptroller shall electronically publish all materials under this section [~~provide without charge one copy of all materials to officials of local government who are responsible~~] for administering the property tax system. [~~If a local government official requests more than one copy, the comptroller may charge a reasonable fee to offset the costs of printing and distributing the materials.~~] The comptroller shall make

the materials available to local governmental officials and members of the public but may charge a reasonable fee to offset the costs of preparing, printing, and distributing the materials.

SECTION 15.03. Section 5.06, Tax Code, is amended to read as follows:

Sec. 5.06. EXPLANATION OF TAXPAYER REMEDIES. [~~(a)~~] The comptroller shall prepare and electronically publish a pamphlet explaining the remedies available to dissatisfied taxpayers and the procedures to be followed in seeking remedial action. The comptroller shall include in the pamphlet advice on preparing and presenting a protest.

[~~(b) The comptroller shall provide without charge a reasonable number of copies of the pamphlet to any person on request. The comptroller may charge a person who requests multiple copies of the pamphlet a reasonable fee to offset the costs of printing and distributing those copies. The comptroller at its discretion shall determine the number of copies that a person may receive without charge.~~]

SECTION 15.04. Section 5.09, Tax Code, is amended to read as follows:

Sec. 5.09. BIENNIAL [~~ANNUAL~~] REPORTS. (a) The comptroller shall prepare a biennial [~~publish an annual~~] report of [~~the operations of the appraisal districts. The report shall include for each appraisal district, each county, and each school district and may include for other taxing units~~] the total appraised values[~~, assessed values,~~] and taxable values of taxable property by category [~~class of property, the assessment ratio,~~] and the tax rates of each county, municipality, and school district in effect for the two years preceding the year in which the report is prepared [~~rate~~].

(b) Not later than December 31 of each even-numbered year, the [~~The~~] comptroller shall:

(1) electronically publish on the comptroller's Internet website the [~~deliver a copy of each annual~~] report required by [~~published under~~] Subsection (a); and

(2) notify [~~of this section to~~] the governor, the lieutenant governor, and each member of the legislature that the report is available on the website.

SECTION 15.05. The following are repealed:

(1) Sections 403.030 and 552.143(e), Government Code; and

(2) Subchapter F, Chapter 379A, Local Government Code.

ARTICLE 16. SURPLUS LINES AND INDEPENDENTLY PROCURED INSURANCE

SECTION 16.01. Subsection (b), Section 101.053, Insurance Code, is amended to read as follows:

(b) Sections 101.051 and 101.052 do not apply to:

(1) the lawful transaction of surplus lines insurance under Chapter 981;

(2) the lawful transaction of reinsurance by insurers;

(3) a transaction in this state that:

(A) involves a policy that:

(i) is lawfully solicited, written, and delivered outside this state; and

(ii) covers, at the time the policy is issued, only subjects of insurance that are not resident, located, or expressly to be performed in this state; and

(B) takes place after the policy is issued;

(4) a transaction:

(A) that involves an insurance contract independently procured by the insured from an insurance company not authorized to do insurance business in this state through negotiations occurring entirely outside this state;

(B) that is reported; and

(C) on which premium tax, if applicable, is paid in accordance with Chapter 226;

(5) a transaction in this state that:

(A) involves group life, health, or accident insurance, other than credit insurance, and group annuities in which the master policy for the group was lawfully issued and delivered in a state in which the insurer or person was authorized to do insurance business; and

(B) is authorized by a statute of this state;

(6) an activity in this state by or on the sole behalf of a nonadmitted captive insurance company that insures solely:

(A) directors' and officers' liability insurance for the directors and officers of the company's parent and affiliated companies;

(B) the risks of the company's parent and affiliated companies; or

(C) both the individuals and entities described by Paragraphs (A) and (B);

(7) the issuance of a qualified charitable gift annuity under Chapter 102; or

(8) a lawful transaction by a servicing company of the Texas workers' compensation employers' rejected risk fund under Section 4.08, Article 5.76-2, as that article existed before its repeal.

SECTION 16.02. Section 225.001, Insurance Code, is amended to read as follows:

Sec. 225.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Affiliate" means, with respect to an insured, a person or entity that controls, is controlled by, or is under common control with the insured.

(2) "Affiliated group" means a group of entities whose members are all affiliated.

(3) "Control" means, with respect to determining the home state of an affiliated entity:

(A) to directly or indirectly, acting through one or more persons, own, control, or hold the power to vote at least 25 percent of any class of voting security of the affiliated entity; or

(B) to control in any manner the election of the majority of directors or trustees of the affiliated entity.

(4) "Home state" means:

(A) for an insured that is not an affiliated group described by Paragraph (B):

(i) the state in which the insured maintains the insured's principal residence, if the insured is an individual;

(ii) the state in which an insured that is not an individual maintains its principal place of business; or

(iii) if 100 percent of the insured risk is located outside of the state in which the insured maintains the insured's principal residence or maintains the insured's principal place of business, as applicable, the state to which the largest percentage of the insured's taxable premium for the insurance contract that covers the risk is allocated; or

(B) for an affiliated group with respect to which more than one member is a named insured on a single insurance contract subject to this chapter, the home state of the member, as determined under Paragraph (A), that has the largest percentage of premium attributed to it under the insurance contract.

(5) "Premium" means any payment made in consideration for insurance and [~~,"premium"~~] includes:

(A) [~~(1)~~] a premium;

(B) premium deposits;

(C) [~~(2)~~] a membership fee;

(D) a registration fee;

(E) [~~(3)~~] an assessment;

(F) [~~(4)~~] dues; and

(G) [~~(5)~~] any other compensation given in consideration for surplus lines insurance.

SECTION 16.03. Section 225.002, Insurance Code, is amended to read as follows:

Sec. 225.002. APPLICABILITY OF CHAPTER. This chapter applies to a surplus lines agent who collects gross premiums for surplus lines insurance for any risk in which this state is the home state of the insured.

SECTION 16.04. Section 225.004, Insurance Code, is amended by adding Subsections (a-1) and (f) and amending Subsections (b), (c), and (e) to read as follows:

(a-1) Consistent with 15 U.S.C. Section 8201 et seq., this state may not impose a premium tax on nonadmitted insurance premiums other than premiums paid for insurance in which this state is the home state of the insured.

(b) Taxable gross premiums under this section are based on gross premiums written or received for surplus lines insurance placed through an eligible surplus lines insurer during a calendar year. Notwithstanding the tax basis described by this subsection, the comptroller by rule may establish an alternate basis for taxation for multistate and single-state policies for the purpose of achieving uniformity.

(c) If a surplus lines insurance policy covers risks or exposures only partially located in this state, and this state has not entered into a cooperative agreement, reciprocal agreement, or compact with another state for the collection of surplus lines tax as authorized by Chapter 229, the tax is computed on the entire policy [~~portion of the~~] premium for any policy in which this state is the home state of the insured [~~that is properly allocated to a risk or exposure located in this state~~].

(e) Premiums [~~The following premiums are not taxable in this state:~~

[~~(1) premiums properly allocated to another state that are specifically exempt from taxation in that state; and~~

[~~(2) premiums~~] on risks or exposures that are properly allocated to federal or international waters or are under the jurisdiction of a foreign government are not taxable in this state.

(f) If this state enters a cooperative agreement, reciprocal agreement, or compact with another state for the allocation of surplus lines tax as authorized by Chapter 229, taxes due on multistate policies shall be allocated and reported in accordance with the agreement or compact.

SECTION 16.05. Section 225.005, Insurance Code, is amended to read as follows:

Sec. 225.005. TAX EXCLUSIVE. The tax imposed by this chapter is a transaction tax collected by the surplus lines agent of record and is in lieu of any [~~all~~] other transaction [~~insurance~~] taxes on these premiums.

SECTION 16.06. Section 225.009, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding Subsections (a), (b), and (c), if this state enters a cooperative agreement, reciprocal agreement, or compact with another state for the allocation of surplus lines tax as authorized by Chapter 229, the tax shall be allocated and reported in accordance with the terms of the agreement or compact.

SECTION 16.07. Section 226.051, Insurance Code, is amended to read as follows:

Sec. 226.051. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

(1) "Affiliate" means, with respect to an insured, a person or entity that controls, is controlled by, or is under common control with the insured.

(2) "Affiliated group" means a group of entities whose members are all affiliated.

(3) "Control" means, with respect to determining the home state of an affiliated entity:

(A) to directly or indirectly, acting through one or more persons, own, control, or hold the power to vote at least 25 percent of any class of voting security of the affiliated entity; or

(B) to control in any manner the election of the majority of directors or trustees of the affiliated entity.

(4) "Home state" means:

(A) for an insured that is not an affiliated group described by Paragraph (B):

(i) the state in which the insured maintains the insured's principal residence, if the insured is an individual;

(ii) the state in which an insured that is not an individual maintains its principal place of business; or

(iii) if 100 percent of the insured risk is located outside of the state in which the insured maintains the insured's principal residence or maintains the insured's principal place of business, as applicable, the state to which the largest percentage of the insured's taxable premium for the insurance contract that covers the risk is allocated; or

(B) for an affiliated group with respect to which more than one member is a named insured on a single insurance contract subject to this chapter, the home state of the member, as determined under Paragraph (A), that has the largest percentage of premium attributed to it under the insurance contract.

(5) "Independently procured insurance" means insurance procured directly by an insured from a nonadmitted insurer.

(6) "Premium" means any payment made in consideration for insurance and [~~, "premium"~~] includes [~~any consideration for insurance, including~~]:

(A) [~~(1)~~] a premium;

(B) premium deposits;

(C) [~~(2)~~] a membership fee; [~~or~~]

(D) a registration fee;

(E) an assessment;

(F) [~~(3)~~] dues; and

(G) any other compensation given in consideration for insurance.

SECTION 16.08. Section 226.052, Insurance Code, is amended to read as follows:

Sec. 226.052. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an insured who procures an independently procured insurance contract for any risk in which this state is the home state of the insured [~~in accordance with Section 101.053(b)(4)~~].

SECTION 16.09. Section 226.053, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) A tax is imposed on each insured at the rate of 4.85 percent of the premium paid for the insurance contract procured in accordance with Section 226.052 [~~101.053(b)(4)~~].

(b) If an independently procured insurance policy [~~contract~~] covers risks or exposures only partially located in this state and this state has not joined a cooperative agreement, reciprocal agreement, or compact with another state for the allocation of nonadmitted insurance taxes as authorized by Chapter 229, the tax is computed on the entire policy [~~portion of the~~] premium for any policy in which this state is the home state of the insured [~~that is properly allocated to a risk or exposure located in this state~~].

(d) If this state enters into a cooperative agreement, reciprocal agreement, or compact with another state for the allocation of nonadmitted insurance taxes as authorized by Chapter 229, the tax due on multistate policies shall be allocated and reported in accordance with the agreement or compact.

SECTION 16.10. Section 981.008, Insurance Code, is amended to read as follows:

Sec. 981.008. SURPLUS LINES INSURANCE PREMIUM TAX. The premiums charged for surplus lines insurance are subject to the premium tax, if applicable, imposed under Chapter 225.

SECTION 16.11. The following provisions are repealed:

(1) Sections 225.004(d) and (d-1), Insurance Code; and

(2) Section 226.053(b-1), Insurance Code.

SECTION 16.12. The changes in law made by this article to Chapters 225 and 226, Insurance Code, apply only to an insurance policy that is delivered, issued for delivery, or renewed on or after July 21, 2011. A policy that is delivered, issued for delivery, or renewed before July 21, 2011, is governed by the law as it existed immediately before the effective date of this article, and that law is continued in effect for that purpose.

SECTION 16.13. This article takes 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, this article takes effect on the 91st day after the last day of the legislative session.

ARTICLE 17. FISCAL MATTERS CONCERNING OIL AND GAS REGULATION

SECTION 17.01. Subsection (c), Section 81.0521, Natural Resources Code, is amended to read as follows:

(c) Two-thirds of the proceeds from this fee, excluding [~~including~~] any penalties collected in connection with the fee, shall be deposited to the oil and gas regulation and [~~oil field~~] cleanup fund as provided by Section 81.067 [~~91.111~~].

SECTION 17.02. Subchapter C, Chapter 81, Natural Resources Code, is amended by adding Sections 81.067 through 81.070 to read as follows:

Sec. 81.067. OIL AND GAS REGULATION AND CLEANUP FUND. (a) The oil and gas regulation and cleanup fund is created as an account in the general revenue fund of the state treasury.

(b) The commission shall certify to the comptroller the date on which the balance in the fund equals or exceeds $20 million. The oil-field cleanup regulatory fees on oil and gas shall not be collected or required to be paid on or after the first day of the second month following the certification, except that the comptroller shall resume collecting the fees on receipt of a commission certification that the fund has fallen below $10 million. The comptroller shall continue collecting the fees until collections are again suspended in the manner provided by this subsection.

(c) The fund consists of:

(1) proceeds from bonds and other financial security required by this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies, subject to the refund provisions of Section 91.1091, if applicable;

(2) private contributions, including contributions made under Section 89.084;

(3) expenses collected under Section 89.083;

(4) fees imposed under Section 85.2021;

(5) costs recovered under Section 91.457 or 91.459;

(6) proceeds collected under Sections 89.085 and 91.115;

(7) interest earned on the funds deposited in the fund;

(8) oil and gas waste hauler permit application fees collected under Section 29.015, Water Code;

(9) costs recovered under Section 91.113(f);

(10) hazardous oil and gas waste generation fees collected under Section 91.605;

(11) oil-field cleanup regulatory fees on oil collected under Section 81.116;
(12) oil-field cleanup regulatory fees on gas collected under Section 81.117;
(13) fees for a reissued certificate collected under Section 91.707;
(14) fees collected under Section 91.1013;
(15) fees collected under Section 89.088;
(16) fees collected under Section 91.142;
(17) fees collected under Section 91.654;
(18) costs recovered under Sections 91.656 and 91.657;
(19) two-thirds of the fees collected under Section 81.0521;
(20) fees collected under Sections 89.024 and 89.026;
(21) legislative appropriations; and
(22) any surcharges collected under Section 81.070.

Sec. 81.068. PURPOSE OF OIL AND GAS REGULATION AND CLEANUP FUND. Money in the oil and gas regulation and cleanup fund may be used by the commission or its employees or agents for any purpose related to the regulation of oil and gas development, including oil and gas monitoring and inspections, oil and gas remediation, oil and gas well plugging, public information and services related to those activities, and administrative costs and state benefits for personnel involved in those activities.

Sec. 81.069. REPORTING ON PROGRESS IN MEETING PERFORMANCE GOALS FOR THE OIL AND GAS REGULATION AND CLEANUP FUND. (a) The commission, through the legislative appropriations request process, shall establish specific performance goals for the oil and gas regulation and cleanup fund for the next biennium, including goals for each quarter of each state fiscal year of the biennium for the number of:

(1) orphaned wells to be plugged with state-managed funds;
(2) abandoned sites to be investigated, assessed, or cleaned up with state funds; and
(3) surface locations to be remediated.

(b) The commission shall provide quarterly reports to the Legislative Budget Board that include:

(1) the following information with respect to the period since the last report was provided as well as cumulatively:
(A) the amount of money deposited in the oil and gas regulation and cleanup fund;
(B) the amount of money spent from the fund for the purposes described by Subsection (a);
(C) the balance of the fund; and
(D) the commission's progress in meeting the quarterly performance goals established under Subsection (a) and, if the number of orphaned wells plugged with state-managed funds, abandoned sites investigated, assessed, or cleaned up with state funds, or surface locations remediated is at least five percent less than the number projected in the applicable goal established under Subsection (a), an explanation of the reason for the variance; and
(2) any additional information or data requested in writing by the Legislative Budget Board.

(c) The commission shall submit to the legislature and make available to the public, annually, a report that reviews the extent to which money provided under Section 81.067 has enabled the commission to better protect the environment through oil-field cleanup activities. The report must include:

(1) the performance goals established under Subsection (a) for that state fiscal year, the commission's progress in meeting those performance goals, and, if the number of orphaned wells plugged with state-managed funds, abandoned sites investigated, assessed, or cleaned up with state funds, or surface locations remediated is at least five percent less than the number projected in the applicable goal established under Subsection (a), an explanation of the reason for the variance;

(2) the number of orphaned wells plugged with state-managed funds, by region;

(3) the number of wells orphaned, by region;

(4) the number of inactive wells not currently in compliance with commission rules, by region;

(5) the status of enforcement proceedings for all wells in violation of commission rules and the period during which the wells have been in violation, by region in which the wells are located;

(6) the number of surface locations remediated, by region;

(7) a detailed accounting of expenditures of money in the fund for oil-field cleanup activities, including expenditures for plugging of orphaned wells, investigation, assessment, and cleaning up of abandoned sites, and remediation of surface locations;

(8) the method by which the commission sets priorities by which it determines the order in which orphaned wells are plugged;

(9) a projection of the amount of money needed for the next biennium for plugging orphaned wells, investigating, assessing, and cleaning up abandoned sites, and remediating surface locations; and

(10) the number of sites successfully remediated under the voluntary cleanup program under Subchapter O, Chapter 91, by region.

Sec. 81.070. ESTABLISHMENT OF SURCHARGES ON FEES. (a) Except as provided by Subsection (b), the commission by rule shall provide for the imposition of reasonable surcharges as necessary on fees imposed by the commission that are required to be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067 in amounts sufficient to enable the commission to recover the costs of performing the functions specified by Section 81.068 from those fees and surcharges.

(b) The commission may not impose a surcharge on an oil-field cleanup regulatory fee on oil collected under Section 81.116 or an oil-field cleanup regulatory fee on gas collected under Section 81.117.

(c) The commission by rule shall establish a methodology for determining the amount of a surcharge that takes into account:

(1) the time required for regulatory work associated with the activity in connection with which the surcharge is imposed;

(2) the number of individuals or entities from which the commission's costs may be recovered;

(3) the effect of the surcharge on operators of all sizes, as measured by the number of oil or gas wells operated;

(4) the balance in the oil and gas regulation and cleanup fund; and

(5) any other factors the commission determines to be important to the fair and equitable imposition of the surcharge.

(d) The commission shall collect a surcharge on a fee at the time the fee is collected.

(e) A surcharge collected under this section shall be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067.

(f) A surcharge collected under this section shall not exceed an amount equal to 185 percent of the fee on which it is imposed.

SECTION 17.03. Section 81.115, Natural Resources Code, is amended to read as follows:

Sec. 81.115. APPROPRIATIONS [~~PAYMENTS~~] TO COMMISSION FOR OIL AND GAS REGULATION AND CLEANUP PURPOSES [~~DIVISION~~]. Money appropriated to the [~~oil and gas division of the~~] commission under the General Appropriations Act for the purposes described by Section 81.068 shall be paid from the oil and gas regulation and cleanup fund [~~General Revenue Fund~~].

SECTION 17.04. Subsections (d) and (e), Section 81.116, Natural Resources Code, are amended to read as follows:

(d) The comptroller shall suspend collection of the fee in the manner provided by Section 81.067 [~~91.111~~]. The exemptions and reductions set out in Sections 202.052, 202.054, 202.056, 202.057, 202.059, and 202.060, Tax Code, do not affect the fee imposed by this section.

(e) Proceeds from the fee, excluding [~~including~~] any penalties collected in connection with the fee, shall be deposited to the oil and gas regulation and [~~oil field~~] cleanup fund as provided by Section 81.067 [~~91.111 of this code~~].

SECTION 17.05. Subsections (d) and (e), Section 81.117, Natural Resources Code, are amended to read as follows:

(d) The comptroller shall suspend collection of the fee in the manner provided by Section 81.067 [~~91.111~~]. The exemptions and reductions set out in Sections 201.053, 201.057, 201.058, and 202.060, Tax Code, do not affect the fee imposed by this section.

(e) Proceeds from the fee, excluding [~~including~~] any penalties collected in connection with the fee, shall be deposited to the oil and gas regulation and [~~oil field~~] cleanup fund as provided by Section 81.067 [~~91.111 of this code~~].

SECTION 17.06. Subsection (d), Section 85.2021, Natural Resources Code, is amended to read as follows:

(d) All fees collected under this section shall be deposited in the oil and gas regulation and [~~state oil field~~] cleanup fund.

SECTION 17.07. Subsection (d), Section 89.024, Natural Resources Code, is amended to read as follows:

(d) An operator who files an abeyance of plugging report must pay an annual fee of $100 for each well covered by the report. A fee collected under this section shall be deposited in the oil and gas regulation and [~~oil field~~] cleanup fund.

SECTION 17.08. Subsection (d), Section 89.026, Natural Resources Code, is amended to read as follows:

(d) An operator who files documentation described by Subsection (a) must pay an annual fee of $50 for each well covered by the documentation. A fee collected under this section shall be deposited in the oil and gas regulation and [~~oil field~~] cleanup fund.

SECTION 17.09. Subsection (d), Section 89.048, Natural Resources Code, is amended to read as follows:

(d) On successful plugging of the well by the well plugger, the surface estate owner may submit documentation to the commission of the cost of the well-plugging operation. The commission shall reimburse the surface estate owner from money in the oil and gas regulation and [~~oil field~~] cleanup fund in an amount not to exceed 50 percent of the lesser of:

(1) the documented well-plugging costs; or

(2) the average cost incurred by the commission in the preceding 24 months in plugging similar wells located in the same general area.

SECTION 17.10. Subsection (j), Section 89.083, Natural Resources Code, is amended to read as follows:

(j) Money collected in a suit under this section shall be deposited in the oil and gas regulation and [~~state oil field~~] cleanup fund.

SECTION 17.11. Subsection (d), Section 89.085, Natural Resources Code, is amended to read as follows:

(d) The commission shall deposit money received from the sale of well-site equipment or hydrocarbons under this section to the credit of the oil and gas regulation and [~~oil field~~] cleanup fund. The commission shall separately account for money and credit received for each well.

SECTION 17.12. The heading to Section 89.086, Natural Resources Code, is amended to read as follows:

Sec. 89.086. CLAIMS AGAINST OIL AND GAS REGULATION AND [~~THE OIL FIELD~~] CLEANUP FUND.

SECTION 17.13. Subsections (a) and (h) through (k), Section 89.086, Natural Resources Code, are amended to read as follows:

(a) A person with a legal or equitable ownership or security interest in well-site equipment or hydrocarbons disposed of under Section 89.085 [~~of this code~~] may make a claim against the oil and gas regulation and [~~oil field~~] cleanup fund unless an element of the transaction giving rise to the interest occurs after the commission forecloses its statutory lien under Section 89.083.

(h) The commission shall suspend an amount of money in the oil and gas regulation and [~~oil field~~] cleanup fund equal to the amount of the claim until the claim is finally resolved. If the provisions of Subsection (k) [~~of this section~~] prevent suspension of the full amount of the claim, the commission shall treat the claim as two consecutively filed claims, one in the amount of funds available for suspension and the other in the remaining amount of the claim.

(i) A claim made by or on behalf of the operator or a nonoperator of a well or a successor to the rights of the operator or nonoperator is subject to a ratable deduction from the proceeds or credit received for the well-site equipment to cover the costs

incurred by the commission in removing the equipment or hydrocarbons from the well or in transporting, storing, or disposing of the equipment or hydrocarbons. A claim made by a person who is not an operator or nonoperator is subject to a ratable deduction for the costs incurred by the commission in removing the equipment from the well. If a claimant is a person who is responsible under law or commission rules for plugging the well or cleaning up pollution originating on the lease or if the claimant owes a penalty assessed by the commission or a court for a violation of a commission rule or order, the commission may recoup from or offset against a valid claim an expense incurred by the oil and gas regulation and [~~oil field~~] cleanup fund that is not otherwise reimbursed or any penalties owed. An amount recouped from, deducted from, or offset against a claim under this subsection shall be treated as an invalid portion of the claim and shall remain suspended in the oil and gas regulation and [~~oil field~~] cleanup fund in the manner provided by Subsection (j) [~~of this section~~].

(j) If the commission finds that a claim is valid in whole or in part, the commission shall pay the valid portion of the claim from the suspended amount in the oil and gas regulation and [~~oil field~~] cleanup fund not later than the 30th day after the date of the commission's decision. If the commission finds that a claim is invalid in whole or in part, the commission shall continue to suspend in the oil and gas regulation and [~~oil field~~] cleanup fund an amount equal to the invalid portion of the claim until the period during which the commission's decision may be appealed has expired or, if appealed, during the period the case is under judicial review. If on appeal the district court finds the claim valid in whole or in part, the commission shall pay the valid portion of the claim from the suspended amount in the oil and gas regulation and [~~oil field~~] cleanup fund not later than 30 days after the date the court's judgment becomes unappealable. On the date the commission's decision is not subject to judicial review, the commission shall release from the suspended amount in the oil and gas regulation and [~~oil field~~] cleanup fund the amount of the claim held to be invalid.

(k) If the aggregate of claims paid and money suspended that relates to well-site equipment or hydrocarbons from a particular well equals the total of the actual proceeds and credit realized from the disposition of that equipment or those hydrocarbons, the oil and gas regulation and [~~oil field~~] cleanup fund is not liable for any subsequently filed claims that relate to the same equipment or hydrocarbons unless and until the commission releases from the suspended amount money derived from the disposition of that equipment or those hydrocarbons. If the commission releases money, then the commission shall suspend money in the amount of subsequently filed claims in the order of filing.

SECTION 17.14. Subsection (b), Section 89.121, Natural Resources Code, is amended to read as follows:

(b) Civil penalties collected for violations of this chapter or of rules relating to plugging that are adopted under this code shall be deposited in the general revenue [~~state oil field cleanup~~] fund.

SECTION 17.15. Subsection (c), Section 91.1013, Natural Resources Code, is amended to read as follows:

(c) Fees collected under this section shall be deposited in the oil and gas regulation and [~~state oil field~~] cleanup fund.

SECTION 17.16. Section 91.108, Natural Resources Code, is amended to read as follows:

Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the refund provisions of Section 91.1091, if applicable, proceeds from bonds and other financial security required pursuant to this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies shall be deposited in the oil and gas regulation and [~~oil-field~~] cleanup fund and, notwithstanding Sections 81.068 [~~91.112~~] and 91.113, may be used only for actual well plugging and surface remediation.

SECTION 17.17. Subsection (a), Section 91.109, Natural Resources Code, is amended to read as follows:

(a) A person applying for or acting under a commission permit to store, handle, treat, reclaim, or dispose of oil and gas waste may be required by the commission to maintain a performance bond or other form of financial security conditioned that the permittee will operate and close the storage, handling, treatment, reclamation, or disposal site in accordance with state law, commission rules, and the permit to operate the site. However, this section does not authorize the commission to require a bond or other form of financial security for saltwater disposal pits, emergency saltwater storage pits (including blow-down pits), collecting pits, or skimming pits provided that such pits are used in conjunction with the operation of an individual oil or gas lease. Subject to the refund provisions of Section 91.1091 [~~of this code~~], proceeds from any bond or other form of financial security required by this section shall be placed in the oil and gas regulation and [~~oil field~~] cleanup fund. Each bond or other form of financial security shall be renewed and continued in effect until the conditions have been met or release is authorized by the commission.

SECTION 17.18. Subsections (a) and (f), Section 91.113, Natural Resources Code, are amended to read as follows:

(a) If oil and gas wastes or other substances or materials regulated by the commission under Section 91.101 are causing or are likely to cause the pollution of surface or subsurface water, the commission, through its employees or agents, may use money in the oil and gas regulation and [~~oil-field~~] cleanup fund to conduct a site investigation or environmental assessment or control or clean up the oil and gas wastes or other substances or materials if:

(1) the responsible person has failed or refused to control or clean up the oil and gas wastes or other substances or materials after notice and opportunity for hearing;

(2) the responsible person is unknown, cannot be found, or has no assets with which to control or clean up the oil and gas wastes or other substances or materials; or

(3) the oil and gas wastes or other substances or materials are causing the pollution of surface or subsurface water.

(f) If the commission conducts a site investigation or environmental assessment or controls or cleans up oil and gas wastes or other substances or materials under this section, the commission may recover all costs incurred by the commission from any person who was required by law, rules adopted by the commission, or a valid order of the commission to control or clean up the oil and gas wastes or other substances or

materials. The commission by order may require the person to reimburse the commission for those costs or may request the attorney general to file suit against the person to recover those costs. At the request of the commission, the attorney general may file suit to enforce an order issued by the commission under this subsection. A suit under this subsection may be filed in any court of competent jurisdiction in Travis County. Costs recovered under this subsection shall be deposited to the oil and gas regulation and [~~oil field~~] cleanup fund.

SECTION 17.19. Subsection (c), Section 91.264, Natural Resources Code, is amended to read as follows:

(c) A penalty collected under this section shall be deposited to the credit of the general revenue [~~oil field cleanup~~] fund [~~account~~].

SECTION 17.20. Subsection (b), Section 91.457, Natural Resources Code, is amended to read as follows:

(b) If a person ordered to close a saltwater disposal pit under Subsection (a) [~~of this section~~] fails or refuses to close the pit in compliance with the commission's order and rules, the commission may close the pit using money from the oil and gas regulation and [~~oil field~~] cleanup fund and may direct the attorney general to file suits in any courts of competent jurisdiction in Travis County to recover applicable penalties and the costs incurred by the commission in closing the saltwater disposal pit.

SECTION 17.21. Subsection (c), Section 91.459, Natural Resources Code, is amended to read as follows:

(c) Any [~~penalties or~~] costs recovered by the attorney general under this subchapter shall be deposited in the oil and gas regulation and [~~oil field~~] cleanup fund.

SECTION 17.22. Subsection (e), Section 91.605, Natural Resources Code, is amended to read as follows:

(e) The fees collected under this section shall be deposited in the oil and gas regulation and [~~oil field~~] cleanup fund.

SECTION 17.23. Subsection (e), Section 91.654, Natural Resources Code, is amended to read as follows:

(e) Fees collected under this section shall be deposited to the credit of the oil and gas regulation and [~~oil field~~] cleanup fund under Section 81.067 [~~91.111~~].

SECTION 17.24. Subsection (b), Section 91.707, Natural Resources Code, is amended to read as follows:

(b) Fees collected under this section shall be deposited to the oil and gas regulation and [~~oil field~~] cleanup fund.

SECTION 17.25. The heading to Section 121.211, Utilities Code, is amended to read as follows:

Sec. 121.211. PIPELINE SAFETY AND REGULATORY FEES.

SECTION 17.26. Subsections (a) through (e) and (h), Section 121.211, Utilities Code, are amended to read as follows:

(a) The railroad commission by rule may adopt a [~~an inspection~~] fee to be assessed annually against operators of natural gas distribution pipelines and their pipeline facilities and natural gas master metered pipelines and their pipeline facilities subject to this title [~~chapter~~].

(b) The railroad commission by rule shall establish the method by which the fee will be calculated and assessed. In adopting a fee structure, the railroad commission may consider any factors necessary to provide for the equitable allocation among operators of the costs of administering the railroad commission's pipeline safety and regulatory program under this title [~~chapter~~].

(c) The total amount of fees estimated to be collected under rules adopted by the railroad commission under this section may not exceed the amount estimated by the railroad commission to be necessary to recover the costs of administering the railroad commission's pipeline safety and regulatory program under this title [~~chapter~~], excluding costs that are fully funded by federal sources.

(d) The commission may assess each operator of a natural gas distribution system subject to this title [~~chapter~~] an annual [~~inspection~~] fee not to exceed one dollar for each service line reported by the system on the Distribution Annual Report, Form RSPA F7100.1-1, due on March 15 of each year. The fee is due March 15 of each year.

(e) The railroad commission may assess each operator of a natural gas master metered system subject to this title [~~chapter~~] an annual [~~inspection~~] fee not to exceed $100 for each master metered system. The fee is due June 30 of each year.

(h) A fee collected under this section shall be deposited to the credit of the general revenue fund to be used for the pipeline safety and regulatory program.

SECTION 17.27. Section 29.015, Water Code, is amended to read as follows:

Sec. 29.015. APPLICATION FEE. With each application for issuance, renewal, or material amendment of a permit, the applicant shall submit to the railroad commission a nonrefundable fee of $100. Fees collected under this section shall be deposited in the oil and gas regulation and [~~oil field~~] cleanup fund.

SECTION 17.28. The following provisions of the Natural Resources Code are repealed:

(1) Section 91.111; and

(2) Section 91.112.

SECTION 17.29. On the effective date of this article:

(1) the oil-field cleanup fund is abolished;

(2) any money remaining in the oil-field cleanup fund is transferred to the oil and gas regulation and cleanup fund;

(3) any claim against the oil-field cleanup fund is transferred to the oil and gas regulation and cleanup fund; and

(4) any amount required to be deposited to the credit of the oil-field cleanup fund shall be deposited to the credit of the oil and gas regulation and cleanup fund.

ARTICLE 18. FISCAL MATTERS REGARDING LEASING CERTAIN STATE FACILITIES

SECTION 18.01. The heading to Section 2165.2035, Government Code, is amended to read as follows:

Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; USE AFTER HOURS.

SECTION 18.02. Subchapter E, Chapter 2165, Government Code, is amended by adding Sections 2165.204, 2165.2045, and 2165.2046 to read as follows:

Sec. 2165.204. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS INDIVIDUAL PARKING SPACES. (a) The commission may lease to a private individual an individual parking space in a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) In leasing a parking space under Subsection (a), the commission must ensure that the lease does not restrict uses for parking lots and garages developed under Section 2165.2035, including special event parking related to institutions of higher education.

(d) In leasing or renewing a lease for a parking space under Subsection (a), the commission shall give preference to an individual who is currently leasing or previously leased the parking space.

Sec. 2165.2045. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS BLOCKS OF PARKING SPACE. (a) The commission may lease to an institution of higher education or a local government all or a significant block of a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

(c) In leasing all or a block of a state-owned parking lot or garage under Subsection (a), the commission must ensure that the lease does not restrict uses for parking lots and garages developed under Section 2165.2035, including special event parking related to institutions of higher education.

(d) In leasing or renewing a lease for all or a block of a state-owned parking lot or garage under Subsection (a), the commission shall give preference to an entity that is currently leasing or previously leased the lot or garage or a block of the lot or garage.

Sec. 2165.2046. REPORTS ON PARKING PROGRAMS. On or before October 1 of each even-numbered year, the commission shall submit a report to the Legislative Budget Board describing the effectiveness of parking programs developed by the commission under this subchapter. The report must, at a minimum, include:

(1) the yearly revenue generated by the programs;

(2) the yearly administrative and enforcement costs of each program;

(3) yearly usage statistics for each program; and

(4) initiatives and suggestions by the commission to:

(A) modify administration of the programs; and

(B) increase revenue generated by the programs.

SECTION 18.03. This article takes 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, this article takes effect on the 91st day after the last day of the legislative session.

ARTICLE 19. FISCAL MATTERS RELATING TO SECRETARY OF STATE

SECTION 19.01. Section 405.014, Government Code, is amended to read as follows:

Sec. 405.014. ACTS OF THE LEGISLATURE. (a) At each session of the legislature the secretary of state shall obtain the bills that have become law. Immediately after the closing of each session of the legislature, the secretary of state shall bind all enrolled bills and resolutions in volumes on which the date of the session is placed.

(b) As soon as practicable after the closing of each session of the legislature, the secretary of state shall publish and maintain electronically the bills enacted at that session. The electronic publication must be:

(1) indexed by bill number and assigned chapter number for each bill; and

(2) made available by an electronic link on the secretary of state's generally accessible Internet website.

SECTION 19.02. Subchapter B, Chapter 2158, Government Code, is repealed.

SECTION 19.03. The change in law made by this article does not apply to a contract for the publication of the laws of this state entered into before the effective date of this article.

SECTION 19.04. This article takes 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, this article takes effect on the 91st day after the last day of the legislative session.

ARTICLE 20. FISCAL MATTERS REGARDING ATTORNEY GENERAL

SECTION 20.01. Section 402.006, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The attorney general may charge a reasonable fee for the electronic filing of a document.

SECTION 20.02. The heading to Section 402.0212, Government Code, is amended to read as follows:

Sec. 402.0212. PROVISION OF LEGAL SERVICES–OUTSIDE COUNSEL; FEES.

SECTION 20.03. Section 402.0212, Government Code, is amended by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(b) An invoice submitted to a state agency under a contract for legal services as described by Subsection (a) must be reviewed by the attorney general to determine whether the invoice is eligible for payment.

(c) An attorney or law firm must pay an administrative fee to the attorney general for the review described in Subsection (b) when entering into a contract to provide legal services to a state agency.

(d) For purposes of this section, the functions of a hearing examiner, administrative law judge, or other quasi-judicial officer are not considered legal services.

(e) [~~(c)~~] This section shall not apply to the Texas Turnpike Authority division of the Texas Department of Transportation.

(f) The attorney general may adopt rules as necessary to implement and administer this section.

SECTION 20.04. Section 371.051, Transportation Code, is amended to read as follows:

Sec. 371.051. ATTORNEY GENERAL REVIEW AND EXAMINATION FEE. (a) A toll project entity may not enter into a comprehensive development agreement unless the attorney general reviews the proposed agreement and determines that it is legally sufficient.

(b) A toll project entity shall pay a nonrefundable examination fee to the attorney general on submitting a proposed comprehensive development agreement for review. At the time the examination fee is paid, the toll project entity shall also submit for review a complete transcript of proceedings related to the comprehensive development agreement.

(c) If the toll project entity submits multiple proposed comprehensive development agreements relating to the same toll project for review, the entity shall pay the examination fee under Subsection (b) for each proposed comprehensive development agreement.

(d) The attorney general shall provide a legal sufficiency determination not later than the 60th business day after the date the examination fee and transcript of the proceedings required under Subsection (b) are received. If the attorney general cannot provide a legal sufficiency determination within the 60-business-day period, the attorney general shall notify the toll project entity in writing of the reason for the delay and may extend the review period for not more than 30 business days.

(e) After the attorney general issues a legal sufficiency determination, a toll project entity may supplement the transcript of proceedings or amend the comprehensive development agreement to facilitate a redetermination by the attorney general of the prior legal sufficiency determination issued under this section.

(f) The toll project entity may collect or seek reimbursement of the examination fee under Subsection (b) from the private participant.

(g) The attorney general by rule shall set the examination fee required under Subsection (b) in a reasonable amount and may adopt other rules as necessary to implement this section. The fee may not be set in an amount that is determined by a percentage of the cost of the toll project. The amount of the fee may not exceed reasonable attorney's fees charged for similar legal services in the private sector.

SECTION 20.05. The fee prescribed by Section 402.006, Government Code, as amended by this article, applies only to a document electronically submitted to the office of the attorney general on or after the effective date of this article.

SECTION 20.06. The fee prescribed by Section 402.0212, Government Code, as amended by this article, applies only to invoices for legal services submitted to the office of the attorney general for review on or after the effective date of this article.

SECTION 20.07. The fee prescribed by Section 371.051, Transportation Code, as amended by this article, applies only to a comprehensive development agreement submitted to the office of the attorney general on or after the effective date of this article.

SECTION 20.08. The changes in law made by this article apply only to a contract for legal services between a state agency and a private attorney or law firm entered into on or after the effective date of this article. A contract for legal services between a state agency and a private attorney or law firm entered into before the effective date of this article is governed by the law in effect at the time the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 20.09. Except as otherwise provided by this article, this article takes 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, this article takes effect on the 91st day after the last day of the legislative session.

ARTICLE 21. TEXAS PRESERVATION TRUST FUND ACCOUNT

SECTION 21.01. Subsections (a), (b), and (f), Section 442.015, Government Code, are amended to read as follows:

(a) Notwithstanding Section [~~Sections 403.094 and~~] 403.095, the Texas preservation trust fund account is a separate account in the general revenue fund. The account consists of transfers made to the account, loan repayments, grants and donations made for the purposes of this program, proceeds of sales, income earned [~~earnings~~] on money in the account, and any other money received under this section. Money in [~~Distributions from~~] the account may be used only for the purposes of this section and [~~may not be used~~] to pay operating expenses of the commission. Money allocated to the commission's historic preservation grant program shall be deposited to the credit of the account. Income earned [~~Earnings~~] on money in the account shall be deposited to the credit of the account.

(b) The commission may use money in [~~distributions from~~] the Texas preservation trust fund account to provide financial assistance to public or private entities for the acquisition, survey, restoration, or preservation, or for planning and educational activities leading to the preservation, of historic property in the state that is listed in the National Register of Historic Places or designated as a State Archeological Landmark or Recorded Texas Historic Landmark, or that the commission determines is eligible for such listing or designation. The financial assistance may be in the amount and form and according to the terms that the commission by rule determines. The commission shall give priority to property the commission determines to be endangered by demolition, neglect, underuse, looting, vandalism, or other threat to the property. Gifts and grants deposited to the credit of the account specifically for any eligible projects may be used only for the type of projects specified. If such a specification is not made, the gift or grant shall be unencumbered and accrue to the benefit of the Texas preservation trust fund account. If such a specification is made, the entire amount of the gift or grant may be used during any period for the project or type of project specified.

(f) The advisory board shall recommend to the commission rules for administering this section [~~Subsections (a) (e)~~].

SECTION 21.02. Subsections (h), (i), (j), (k), and (l), Section 442.015, Government Code, are repealed.

SECTION 21.03. The comptroller of public accounts and the Texas Historical Commission shall enter into a memorandum of understanding to facilitate the conversion of assets of the Texas preservation trust fund account into cash for deposit into the state treasury using a method that provides for the lowest amount of revenue loss to the state.

SECTION 21.04. This article takes effect November 1, 2011.

ARTICLE 22. FISCAL MATTERS CONCERNING INFORMATION TECHNOLOGY

SECTION 22.01. Section 2054.380, Government Code, is amended to read as follows:

Sec. 2054.380. FEES. (a) The department shall set and charge a fee to each state agency that receives a service from a statewide technology center in an amount sufficient to cover the direct and indirect cost of providing the service.

(b) Revenue derived from the collection of fees imposed under Subsection (a) may be appropriated to the department for:

(1) developing statewide information resources technology policies and planning under this chapter and Chapter 2059; and

(2) providing shared information resources technology services under this chapter.

SECTION 22.02. Subsection (d), Section 2157.068, Government Code, is amended to read as follows:

(d) The department may charge a reasonable administrative fee to a state agency, political subdivision of this state, or governmental entity of another state that purchases commodity items through the department in an amount that is sufficient to recover costs associated with the administration of this section. Revenue derived from the collection of fees imposed under this subsection may be appropriated to the department for:

(1) developing statewide information resources technology policies and planning under Chapters 2054 and 2059; and

(2) providing shared information resources technology services under Chapter 2054.

SECTION 22.03. Subsections (a) and (d), Section 2170.057, Government Code, are amended to read as follows:

(a) The department shall develop a system of billings and charges for services provided in operating and administering the consolidated telecommunications system that allocates the total state cost to each entity served by the system based on proportionate usage. The department shall set and charge a fee to each entity that receives services provided under this chapter in an amount sufficient to cover the direct and indirect costs of providing the service. Revenue derived from the collection of fees imposed under this subsection may be appropriated to the department for:

(1) developing statewide information resources technology policies and planning under Chapters 2054 and 2059; and

(2) providing:

(A) shared information resources technology services under Chapter 2054; and

(B) network security services under Chapter 2059.

(d) The department shall maintain in the revolving fund account sufficient amounts to pay the bills of the consolidated telecommunications system and the centralized capitol complex telephone system. [~~The department shall certify amounts that exceed this amount to the comptroller, and the comptroller shall transfer the excess amounts to the credit of the statewide network applications account established by Section 2054.011.~~]

SECTION 22.04. This article takes 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, this article takes effect on the 91st day after the last day of the legislative session.

ARTICLE 23. CONTINUING LEGAL EDUCATION REQUIREMENTS FOR ATTORNEY EMPLOYED BY ATTORNEY GENERAL

SECTION 23.01. Section 81.113, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The state bar shall credit an attorney licensed in this state with meeting the minimum continuing legal education requirements of the state bar for a reporting year if during the reporting year the attorney is employed full-time as an attorney by the office of the attorney general. An attorney credited for continuing legal education under this subsection must meet the continuing legal education requirements of the state bar in legal ethics or professional responsibility. This subsection expires January 1, 2014.

SECTION 23.02. Subchapter A, Chapter 402, Government Code, is amended by adding Section 402.010 to read as follows:

Sec. 402.010. CONTINUING LEGAL EDUCATION PROGRAMS. The office of the attorney general shall recognize, prepare, or administer continuing legal education programs that meet continuing legal education requirements imposed under Section 81.113(c) for the attorneys employed by the office. This section expires January 1, 2014.

SECTION 23.03. Section 81.113, Government Code, as amended by this article, applies only to the requirements for a continuing legal education compliance year that ends on or after October 1, 2011. The requirements for continuing legal education for a compliance year that ends before October 1, 2011, are covered by the law and rules in effect when the compliance year ended, and that law and those rules are continued in effect for that purpose.

ARTICLE 24. REGISTRATION FEE AND REGISTRATION RENEWAL FEE FOR LOBBYISTS

SECTION 24.01. Subsection (c), Section 305.005, Government Code, is amended to read as follows:

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

(1) $150 [~~$100~~] for a registrant employed by an organization exempt from federal income tax under Section 501(c)(3), [~~or~~] 501(c)(4), or 501(c)(6), Internal Revenue Code of 1986;

(2) $75 [~~$50~~] for any person required to register solely because the person is required to register under Section 305.0041 [~~of this chapter~~]; or

(3) $750 [~~$500~~] for any other registrant.

ARTICLE 25. PUBLIC ASSISTANCE REPORTING INFORMATION SYSTEM

SECTION 25.01. Subsection (c), Section 434.017, Government Code, is amended to read as follows:

(c) Money in the fund may only be appropriated to the Texas Veterans Commission. Money appropriated under this subsection shall be used to:

(1) [~~enhance or improve veterans' assistance programs, including veterans' representation and counseling;~~

[~~(2)~~] make grants to address veterans' needs; [~~and~~]

(2) [~~(3)~~] administer the fund; and

(3) analyze and investigate data received from the federal Public Assistance Reporting Information System (PARIS) that is administered by the Administration for Children and Families of the United States Department of Health and Human Services.

ARTICLE 26. REGIONAL POISON CONTROL CENTER MANAGEMENT CONTROLS AND EFFICIENCY

SECTION 26.01. Section 777.001, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The Commission on State Emergency Communications may standardize the operations of and implement management controls to improve the efficiency of regional poison control centers [~~vote to designate a seventh regional or satellite poison control center in Harris County. That poison control center is subject to all provisions of this chapter and other law relating to regional poison control centers~~].

(d) If the Commission on State Emergency Communications implements management controls under Subsection (c), the commission shall submit to the governor and the Legislative Budget Board a plan for implementing the controls not later than October 31, 2011. This subsection expires January 1, 2013.

ARTICLE 27. AUTHORIZED USES FOR CERTAIN DEDICATED PERMANENT FUNDS

SECTION 27.01. Section 403.105, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

SECTION 27.02. Section 403.1055, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

SECTION 27.03. Section 403.106, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

SECTION 27.04. This article takes 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, this article takes effect on the 91st day after the last day of the legislative session.

ARTICLE 28. FISCAL MATTERS CONCERNING SURPLUS AND SALVAGE PROPERTY

SECTION 28.01. Subchapter C, Chapter 2175, Government Code, is repealed.

SECTION 28.02. Subsection (a), Section 32.102, Education Code, is amended to read as follows:

(a) As provided by this subchapter, a school district or open-enrollment charter school may transfer to a student enrolled in the district or school:

(1) any data processing equipment donated to the district or school, including equipment donated by:

(A) a private donor; or

(B) a state eleemosynary institution or a state agency under Section 2175.905 [~~2175.128~~], Government Code;

(2) any equipment purchased by the district or school, to the extent consistent with Section 32.105; and

(3) any surplus or salvage equipment owned by the district or school.

SECTION 28.03. Section 2175.002, Government Code, is amended to read as follows:

Sec. 2175.002. ADMINISTRATION OF CHAPTER. The commission is responsible for the disposal of surplus and salvage property of the state. The commission's surplus and salvage property division shall administer this chapter.

SECTION 28.04. Section 2175.065, Government Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The commission may authorize a state agency to dispose of surplus or salvage property if the agency demonstrates to the commission its ability to dispose of the property under this chapter [~~Subchapters C and E~~] in a manner that results in cost savings to the state, under commission rules adopted under this chapter.

(c) If property is disposed of under this section, the disposing state agency shall report the transaction to the commission. The report must include a description of the property disposed of, the reasons for disposal, the price paid for the property disposed of, and the recipient of the property disposed of.

(d) If the commission determines that a violation of a state law or rule has occurred based on the report under Subsection (c), the commission shall report the violation to the Legislative Budget Board.

SECTION 28.05. The heading to Subchapter D, Chapter 2175, Government Code, is amended to read as follows:

SUBCHAPTER D. DISPOSITION OF SURPLUS OR SALVAGE PROPERTY [~~BY COMMISSION~~]

SECTION 28.06. Section 2175.181, Government Code, is amended to read as follows:

Sec. 2175.181. APPLICABILITY. [~~(a) This subchapter applies only to surplus and salvage property located in:~~

[~~(1) Travis County;~~

[~~(2) a county in which federal surplus property is warehoused by the commission under Subchapter G; or~~

[~~(3) a county for which the commission determines that it is cost-effective to follow the procedures created under this subchapter and informs affected state agencies of that determination.~~

[~~(b)~~] This subchapter applies [~~does not apply~~] to a state agency delegated the authority to dispose of surplus or salvage property under Section 2175.065.

SECTION 28.07. Section 2175.182, Government Code, is amended to read as follows:

Sec. 2175.182. STATE AGENCY TRANSFER OF PROPERTY [~~TO COMMISSION~~]. (a) A state agency that determines it has surplus or salvage property shall inform the commission of that fact for the purpose of determining the method of disposal of the property. [~~The commission is responsible for the disposal of surplus or salvage property under this subchapter.~~] The commission may take physical possession of the property.

(b) Based on the condition of the property, the commission, in conjunction with the state agency, shall determine whether the property is:

(1) surplus property that should be offered for transfer under Section 2175.184 or sold to the public; or

(2) salvage property.

(c) Following the determination in Subsection (b), the [~~The~~] commission shall direct the state agency to inform the comptroller's office of the property's kind, number, location, condition, original cost or value, and date of acquisition.

SECTION 28.08. Section 2175.1825, Government Code, is amended to read as follows:

Sec. 2175.1825. ADVERTISING ON COMPTROLLER WEBSITE. (a) Not later than the second day after the date the comptroller receives notice from a state agency [~~the commission~~] under Section 2175.182(c), the comptroller shall advertise the property's kind, number, location, and condition on the comptroller's website.

(b) The comptroller shall provide the commission access to all records in the state property accounting system related to surplus and salvage property.

SECTION 28.09. Section 2175.183, Government Code, is amended to read as follows:

Sec. 2175.183. COMMISSION NOTICE TO OTHER ENTITIES. The [~~On taking responsibility for surplus property under this subchapter, the~~] commission shall inform other state agencies, political subdivisions, and assistance organizations of the comptroller's website that lists surplus property that is available for sale.

SECTION 28.10. Section 2175.184, Government Code, is amended to read as follows:

Sec. 2175.184. DIRECT TRANSFER. During the 10 business days after the date the property is posted on the comptroller's website, a state agency, political subdivision, or assistance organization shall [~~may~~] coordinate with the commission for a transfer of the property at a price established by the commission [~~in cooperation with the transferring agency~~]. A transfer to a state agency has priority over any other transfer during this period.

SECTION 28.11. Subsection (a), Section 2175.186, Government Code, is amended to read as follows:

(a) If a disposition of a state agency's surplus property is not made under Section 2175.184, the commission shall sell the property by competitive bid, auction, or direct sale to the public, including a sale using an Internet auction site. The commission may contract with a private vendor to assist with the sale of the property.

SECTION 28.12. Section 2175.189, Government Code, is amended to read as follows:

Sec. 2175.189. ADVERTISEMENT OF SALE. If the value of an item or a lot of property to be sold is estimated to be more than $25,000 [~~$5,000~~], the commission shall advertise the sale at least once in at least one newspaper of general circulation in the vicinity in which the property is located.

SECTION 28.13. Subsection (a), Section 2175.191, Government Code, is amended to read as follows:

(a) Proceeds from the sale of surplus or salvage property, less the cost of advertising the sale, the cost of selling the surplus or salvage property, including the cost of auctioneer services or assistance from a private vendor, and the amount of the fee collected under Section 2175.188, shall be deposited to the credit of the general revenue fund of the state treasury.

SECTION 28.14. Section 2175.302, Government Code, is amended to read as follows:

Sec. 2175.302. EXCEPTION FOR ELEEMOSYNARY INSTITUTIONS. Except as provided by Section 2175.905(b) [~~2175.128(b)~~], this chapter does not apply to the disposition of surplus or salvage property by a state eleemosynary institution.

SECTION 28.15. Section 2175.904, Government Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The commission shall establish a program for the sale of gambling equipment received from a municipality, from a commissioners court under Section 263.152(a)(5), Local Government Code, or from a state agency under this chapter.

(c) Proceeds from the sale of gambling equipment from a municipality or commissioners court, less the costs of the sale, including costs of advertising, storage, shipping, and auctioneer or broker services, and the amount of the fee collected under Section 2175.188 [~~2175.131~~], shall be divided according to an agreement between the commission and the municipality or commissioners court that provided the equipment for sale. The agreement must provide that:

(1) not less than 50 percent of the net proceeds be remitted to the commissioners court; and

(2) the remainder of the net proceeds retained by the commission be deposited to the credit of the general revenue fund.

(d) Proceeds from the sale of gambling equipment from a state agency, less the costs of the sale, including costs of advertising, storage, shipping, and auctioneer or broker services, and the amount of the fee collected under Section 2175.188, shall be deposited to the credit of the general revenue fund of the state treasury.

SECTION 28.16. Subchapter Z, Chapter 2175, Government Code, is amended by adding Sections 2175.905 and 2175.906 to read as follows:

Sec. 2175.905. DISPOSITION OF DATA PROCESSING EQUIPMENT. (a) If a disposition of a state agency's surplus or salvage data processing equipment is not made under Section 2175.184, the state agency shall transfer the equipment to:

(1) a school district or open-enrollment charter school in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district; or

(3) the Texas Department of Criminal Justice.

(b) If a disposition of the surplus or salvage data processing equipment of a state eleemosynary institution or an institution or agency of higher education is not made under other law, the institution or agency shall transfer the equipment to:

(1) a school district or open-enrollment charter school in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district; or

(3) the Texas Department of Criminal Justice.

(c) The state eleemosynary institution or institution or agency of higher education or other state agency may not collect a fee or other reimbursement from the district, the school, the assistance organization, or the Texas Department of Criminal Justice for the surplus or salvage data processing equipment transferred under this section.

Sec. 2175.906. ABOLISHED AGENCIES. On abolition of a state agency, in accordance with Chapter 325, the commission shall take custody of all of the agency's property or other assets as surplus property unless other law or the legislature designates another appropriate governmental entity to take custody of the property or assets.

ARTICLE 29. SALES AND USE TAX COLLECTION AND ALLOCATION

SECTION 29.01. Subsection (b), Section 151.008, Tax Code, is amended to read as follows:

(b) "Seller" and "retailer" include:

(1) a person in the business of making sales at auction of tangible personal property owned by the person or by another;

(2) a person who makes more than two sales of taxable items during a 12-month period, including sales made in the capacity of an assignee for the benefit of creditors or receiver or trustee in bankruptcy;

(3) a person regarded by the comptroller as a seller or retailer under Section 151.024 [~~of this code~~];

(4) a hotel, motel, or owner or lessor of an office or residential building or development that contracts and pays for telecommunications services for resale to guests or tenants; [~~and~~]

(5) a person who engages in regular or systematic solicitation of sales of taxable items in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, by means of print, radio, or television media, or by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system for the purpose of effecting sales of taxable items; and

(6) a person who, under an agreement with another person, is:

(A) entrusted with possession of tangible personal property with respect to which the other person has title or another ownership interest; and

(B) authorized to sell, lease, or rent the property without additional action by the person having title to or another ownership interest in the property.

SECTION 29.02. Section 151.107, Tax Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) For the purpose of this subchapter and in relation to the use tax, a retailer is engaged in business in this state if the retailer:

(1) maintains, occupies, or uses in this state permanently, temporarily, directly, or indirectly or through a subsidiary or agent by whatever name, an office, [~~place of~~] distribution center, sales or sample room or place, warehouse, storage place, or any other physical location where [~~place of~~] business is conducted;

(2) has a representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling or delivering or the taking of orders for a taxable item;

(3) derives receipts [~~rentals~~] from the sale, [~~a~~] lease, or rental of tangible personal property situated in this state;

(4) engages in regular or systematic solicitation of sales of taxable items in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, by means of print, radio, or television media, or by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system for the purpose of effecting sales of taxable items;

(5) solicits orders for taxable items by mail or through other media and under federal law is subject to or permitted to be made subject to the jurisdiction of this state for purposes of collecting the taxes imposed by this chapter;

(6) has a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section; [~~or~~]

(7) holds a substantial ownership interest in, or is owned in whole or substantial part by, a person who maintains a location in this state from which business is conducted and if:

(A) the retailer sells the same or a substantially similar line of products as the person with the location in this state and sells those products under a business name that is the same as or substantially similar to the business name of the person with the location in this state; or

(B) the facilities or employees of the person with the location in this state are used to:

(i) advertise, promote, or facilitate sales by the retailer to consumers; or

(ii) perform any other activity on behalf of the retailer that is intended to establish or maintain a marketplace for the retailer in this state, including receiving or exchanging returned merchandise;

(8) holds a substantial ownership interest in, or is owned in whole or substantial part by, a person that:

(A) maintains a distribution center, warehouse, or similar location in this state; and

(B) delivers property sold by the retailer to consumers; or

(9) otherwise does business in this state.

(d) In this section:

(1) "Ownership" includes:

(A) direct ownership;

(B) common ownership; and

(C) indirect ownership through a parent entity, subsidiary, or affiliate.

(2) "Substantial" means, with respect to an ownership interest, an interest in an entity that is:

(A) if the entity is a corporation, at least 50 percent, directly or indirectly, of:

(i) the total combined voting power of all classes of stock of the corporation; or

(ii) the beneficial ownership interest in the voting stock of the corporation;

(B) if the entity is a trust, at least 50 percent, directly or indirectly, of the current beneficial interest in the trust corpus or income;

(C) if the entity is a limited liability company, at least 50 percent, directly or indirectly, of:

(i) the total membership interest of the limited liability company; or

(ii) the beneficial ownership interest in the membership interest of the limited liability company; or

(D) for any entity, including a partnership or association, at least 50 percent, directly or indirectly, of the capital or profits interest in the entity.

SECTION 29.03. Subchapter M, Chapter 151, Tax Code, is amended by adding Section 151.802 to read as follows:

Sec. 151.802. ALLOCATION OF CERTAIN REVENUE TO PROPERTY TAX RELIEF FUND. (a) This section applies only:

(1) during the state fiscal years beginning September 1 of 2012, 2013, 2014, 2015, and 2016; and

(2) with respect to unused franchise tax credits described by Sections 18(e) and (f), Chapter 1 (H.B. 3), Acts of the 79th Legislature, 3rd Called Session, 2006.

(b) Notwithstanding Section 151.801, the comptroller shall deposit to the credit of the property tax relief fund under Section 403.109, Government Code, an amount of the proceeds from the collection of the taxes imposed by this chapter equal to the amount of revenue the state does not receive from the tax imposed under Chapter 171 because taxable entities, as defined by that chapter, that are corporations are entitled to claim unused franchise tax credits after December 31, 2012, and during that state fiscal year.

(c) This section expires September 1, 2017.

SECTION 29.04. The change in law made by this article does not affect tax liability accruing before the effective date of this article. That liability continues in effect as if this article had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 29.05. This article takes effect January 1, 2012.

ARTICLE 30. CARRYFORWARD OF CERTAIN FRANCHISE TAX CREDITS

SECTION 30.01. Subsections (e) and (f), Section 18, Chapter 1 (H.B. 3), Acts of the 79th Legislature, 3rd Called Session, 2006, are amended to read as follows:

(e) A corporation that has any unused credits established before the effective date of this Act under Subchapter P, Chapter 171, Tax Code, may claim those unused credits on or with the tax report for the period in which the credit was established. However, if the corporation was allowed to carry forward unused credits under that subchapter, the corporation may continue to apply those credits on or with each consecutive report until the earlier of the date the credit would have expired under the terms of Subchapter P, Chapter 171, Tax Code, had it continued in existence, or December 31, 2016 [~~2012~~], and the former law under which the corporation established the credits is continued in effect for purposes of determining the amount of the credits the corporation may claim and the manner in which the corporation may claim the credits.

(f) A corporation that has any unused credits established before the effective date of this Act under Subchapter Q, Chapter 171, Tax Code, may claim those unused credits on or with the tax report for the period in which the credit was established. However, if the corporation was allowed to carry forward unused credits under that subchapter, the corporation may continue to apply those credits on or with each consecutive report until the earlier of the date the credit would have expired under the terms of Subchapter Q, Chapter 171, Tax Code, had it continued in existence, or December 31, 2016 [~~2012~~], and the former law under which the corporation established the credits is continued in effect for purposes of determining the amount of the credits the corporation may claim and the manner in which the corporation may claim the credits.

ARTICLE 31. STATE PURCHASING

SECTION 31.01. Section 2155.082, Government Code, is amended to read as follows:

Sec. 2155.082. PROVIDING CERTAIN PURCHASING SERVICES ON FEE-FOR-SERVICE BASIS OR THROUGH BENEFIT FUNDING. (a) The comptroller [~~commission~~] may provide open market purchasing services on a fee-for-service basis for state agency purchases that are delegated to an agency under Section 2155.131, 2155.132, [~~2155.133,~~] or 2157.121 or that are exempted from the purchasing authority of the comptroller [~~commission~~]. The comptroller [~~commission~~] shall set the fees in an amount that recovers the comptroller's [~~commission's~~] costs in providing the services.

(b) The comptroller [~~commission~~] shall publish a schedule of [~~its~~] fees for services that are subject to this section. The schedule must include the comptroller's [~~commission's~~] fees for:

(1) reviewing bid and contract documents for clarity, completeness, and compliance with laws and rules;

(2) developing and transmitting invitations to bid;

(3) receiving and tabulating bids;

(4) evaluating and determining which bidder offers the best value to the state;

(5) creating and transmitting purchase orders; and

(6) participating in agencies' request for proposal processes.

(c) If the state agency on behalf of which the procurement is to be made agrees, the comptroller may engage a consultant to assist with a particular procurement on behalf of a state agency and pay the consultant from the cost savings realized by the state agency.

ARTICLE 32. PERIOD FOR SALES AND USE TAX HOLIDAY

SECTION 32.01. Subsection (a), Section 151.326, 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 period beginning at 12:01 a.m. on the [~~third~~] Friday before the eighth day preceding the earliest date on which any school district, other than a district operating a year-round system, may begin instruction for the school year as prescribed by Section 25.0811(a), Education Code, [~~in August~~] and ending at 12 midnight on the following Sunday.

SECTION 32.02. Subsection (a), Section 151.326, Tax Code, as amended by this article, does not affect tax liability accruing before the effective date of this article. That liability continues in effect as if this article had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

ARTICLE 33. ECONOMIC AND WORKFORCE DEVELOPMENT PROGRAMS

SECTION 33.01. Section 481.078, Government Code, is amended by adding Subsection (m) to read as follows:

(m) Notwithstanding Subsections (e) and (e-1), during the state fiscal biennium that begins on September 1, 2011, the governor may transfer money from the fund to the Texas Workforce Commission to fund the Texas Back to Work Program established under Chapter 313, Labor Code. This subsection expires September 1, 2013.

SECTION 33.02. Subtitle B, Title 4, Labor Code, is amended by adding Chapter 313 to read as follows:

CHAPTER 313. TEXAS BACK TO WORK PROGRAM

Sec. 313.001. DEFINITION. In this chapter, "qualified applicant" means a person who made less than $40 per hour at the person's last employment before becoming unemployed.

Sec. 313.002. INITIATIVE ESTABLISHED. (a) The Texas Back to Work Program is established within the commission.

(b) The purpose of the program is to establish public-private partnerships with employers to transition residents of this state from receiving unemployment compensation to becoming employed as members of the workforce.

(c) An employer that participates in the initiative may receive a wage subsidy for hiring one or more qualified applicants who are unemployed at the time of hire.

Sec. 313.003. RULES. The commission may adopt rules as necessary to implement this chapter.

ARTICLE 34. ELIGIBILITY OF SURVIVING SPOUSE OF DISABLED VETERAN TO PAY AD VALOREM TAXES ON RESIDENCE HOMESTEAD IN INSTALLMENTS

SECTION 34.01. Section 31.031, Tax Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) This section applies only to:

(1) [~~If before the delinquency date~~] an individual who is:

(A) disabled or at least 65 years of age; and

(B) [~~is~~] qualified for an exemption under Section 11.13(c); or

(2) an individual who is:

(A) the unmarried surviving spouse of a disabled veteran; and

(B) qualified for an exemption under Section 11.22.

(a-1) If before the delinquency date an individual to whom this section applies pays at least one-fourth of a taxing unit's taxes imposed on property that the person owns and occupies as a residence homestead, accompanied by notice to the taxing unit that the person will pay the remaining taxes in installments, the person may pay the remaining taxes without penalty or interest in three equal installments. The first installment must be paid before April 1, the second installment before June 1, and the third installment before August 1.

SECTION 34.02. This article applies only to an ad valorem tax year that begins on or after the effective date of this article.

SECTION 34.03. This article takes effect January 1, 2012.

ARTICLE 35. EXTENSION OF FRANCHISE TAX EXEMPTION

SECTION 35.01. Subsection (c), Section 1, Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

(c) This [~~If this section takes effect, this~~] section expires December 31, 2013 [~~2011~~].

SECTION 35.02. Subsection (b), Section 2, Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

(b) This section takes effect January 1, 2014 [~~2012, if H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211, Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. If H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section takes effect January 1, 2010~~].

SECTION 35.03. Subsection (b), Section 3, Chapter 286 (H.B. 4765), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

(b) This section takes effect January 1, 2014 [~~2012, if H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211, Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. If H.B. No. 2154, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section takes effect January 1, 2010~~].

SECTION 35.04. This article takes 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 this article to have immediate effect, this article takes effect on the 91st day after the last day of the legislative session.

ARTICLE 36. FISCAL MATTERS REGARDING ASSISTANT PROSECUTORS

SECTION 36.01. Subsection (f), Section 41.255, Government Code, is amended to read as follows:

(f) A county is not required to pay longevity supplements if the county does not receive funds from the comptroller as provided by Subsection (d). If sufficient funds are not available to meet the requests made by counties for funds for payment of assistant prosecutors qualified for longevity supplements:

(1) [~~,~~] the comptroller shall apportion the available funds to the eligible counties by reducing the amount payable to each county on an equal percentage basis;

(2) a county is not entitled to receive the balance of the funds at a later date; and

(3) the longevity pay program under this chapter is suspended to the extent of the insufficiency. [~~A county that receives from the comptroller an amount less than the amount certified by the county to the comptroller under Subsection (d) shall apportion the funds received by reducing the amount payable to eligible assistant prosecutors on an equal percentage basis, but is not required to use county funds to make up any difference between the amount certified and the amount received.~~]

SECTION 36.02. Subsection (g), Section 41.255, Government Code, is repealed.

ARTICLE 37. FISCAL MATTERS REGARDING PROCESS SERVERS

SECTION 37.01. Subchapter B, Chapter 72, Government Code, is amended by adding Sections 72.013 and 72.014 to read as follows:

Sec. 72.013. PROCESS SERVER REVIEW BOARD. A person appointed to the process server review board established by supreme court order serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in traveling and performing official board duties.

Sec. 72.014. CERTIFICATION DIVISION. The office shall establish a certification division to oversee the regulatory programs assigned to the office by law or by the supreme court.

ARTICLE 38. FISCAL MATTERS REGARDING REIMBURSEMENT OF JURORS

SECTION 38.01. Section 61.001, Government Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) Notwithstanding Subsection (a), and except as provided by Subsection (c), during the state fiscal biennium beginning September 1, 2011, a person who reports for jury service in response to the process of a court is entitled to receive as reimbursement for travel and other expenses an amount:

(1) not less than $6 for the first day or fraction of the first day the person is in attendance in court in response to the process and discharges the person's duty for that day; and

(2) not less than the amount provided in the General Appropriations Act for each day or fraction of each day the person is in attendance in court in response to the process after the first day and discharges the person's duty for that day.

(a-2) This subsection and Subsection (a-1) expire September 1, 2013.

SECTION 38.02. Section 61.0015, Government Code, is amended by adding Subsections (a-1), (a-2), and (e-1) to read as follows:

(a-1) Notwithstanding Subsection (a), during the state fiscal biennium beginning September 1, 2011, the state shall reimburse a county the appropriate amount as provided in the General Appropriations Act for the reimbursement paid under Section 61.001 to a person who reports for jury service in response to the process of a court for each day or fraction of each day after the first day in attendance in court in response to the process.

(a-2) This subsection and Subsections (a-1) and (e-1) expire September 1, 2013.

(e-1) Notwithstanding Subsection (e), during the state fiscal biennium beginning September 1, 2011, if a payment on a county's claim for reimbursement is reduced under Subsection (d), or if a county fails to file the claim for reimbursement in a timely manner, the comptroller may, as provided by rule, apportion the payment of the balance owed the county. The comptroller's rules may permit a different rate of reimbursement for each quarterly payment under Subsection (c).

ARTICLE 39. SEXUAL ASSAULT PROGRAM FUND; FEE IMPOSED ON CERTAIN SEXUALLY ORIENTED BUSINESSES

SECTION 39.01. Section 102.054, Business & Commerce Code, is amended to read as follows:

Sec. 102.054. ALLOCATION OF [~~CERTAIN~~] REVENUE FOR SEXUAL ASSAULT PROGRAMS. The comptroller shall deposit the amount [~~first $25 million~~] received from the fee imposed under this subchapter [~~in a state fiscal biennium~~] to the credit of the sexual assault program fund.

SECTION 39.02. Section 420.008, Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The legislature may appropriate money deposited to the credit of the fund only to:

(1) the attorney general, for:

(A) sexual violence awareness and prevention campaigns;

(B) grants to faith-based groups, independent school districts, and community action organizations for programs for the prevention of sexual assault and programs for victims of human trafficking;

(C) grants for equipment for sexual assault nurse examiner programs, to support the preceptorship of future sexual assault nurse examiners, and for the continuing education of sexual assault nurse examiners;

(D) grants to increase the level of sexual assault services in this state;

(E) grants to support victim assistance coordinators;

(F) grants to support technology in rape crisis centers;

(G) grants to and contracts with a statewide nonprofit organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code of 1986, having as a primary purpose ending sexual violence in this state, for programs for the prevention of sexual violence, outreach programs, and technical assistance to and support of youth and rape crisis centers working to prevent sexual violence; [~~and~~]

(H) grants to regional nonprofit providers of civil legal services to provide legal assistance for sexual assault victims;

(I) grants to health science centers and related nonprofit entities exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code, for research relating to the prevention and mitigation of sexual assault; and

(J) Internet Crimes Against Children Task Force locations in this state recognized by the United States Department of Justice;

(2) the Department of State Health Services, to measure the prevalence of sexual assault in this state and for grants to support programs assisting victims of human trafficking;

(3) the Institute on Domestic Violence and Sexual Assault at The University of Texas at Austin, to conduct research on all aspects of sexual assault and domestic violence;

(4) Texas State University, for training and technical assistance to independent school districts for campus safety;

(5) the office of the governor, for grants to support sexual assault and human trafficking prosecution projects;

(6) the Department of Public Safety, to support sexual assault training for commissioned officers;

(7) the comptroller's judiciary section, for increasing the capacity of the sex offender civil commitment program;

(8) the Texas Department of Criminal Justice:

(A) for pilot projects for monitoring sex offenders on parole; and

(B) for increasing the number of adult incarcerated sex offenders receiving treatment;

(9) the Texas Youth Commission, for increasing the number of incarcerated juvenile sex offenders receiving treatment;

(10) the comptroller, for the administration of the fee imposed on sexually oriented businesses under Section 102.052, Business & Commerce Code; [~~and~~]

(11) the supreme court, to be transferred to the Texas Equal Access to Justice Foundation, or a similar entity, to provide victim-related legal services to sexual assault victims, including legal assistance with protective orders, relocation-related matters, victim compensation, and actions to secure privacy protections available to victims under law; and

(12) the Department of Family and Protective Services for:

(A) programs related to sexual assault prevention and intervention; and

(B) research relating to how the department can effectively address the prevention of sexual assault.

(d) A board, commission, department, office, or other agency in the executive or judicial branch of state government to which money is appropriated from the sexual assault program fund under this section shall, not later than December 1 of each even-numbered year, provide to the Legislative Budget Board a report stating, for the preceding fiscal biennium:

(1) the amount appropriated to the entity under this section;

(2) the purposes for which the money was used; and

(3) any results of a program or research funded under this section.

SECTION 39.03. The comptroller of public accounts shall collect the fee imposed under Section 102.052, Business & Commerce Code, until a court, in a final judgment upheld on appeal or no longer subject to appeal, finds Section 102.052, Business & Commerce Code, or its predecessor statute, to be unconstitutional.

SECTION 39.04. Section 102.055, Business & Commerce Code, is repealed.

SECTION 39.05. This article prevails over any Act of the 82nd Legislature, Regular Session or 1st Called Session, 2011, regardless of the relative dates of enactment, that purports to amend or repeal Subchapter B, Chapter 102, Business & Commerce Code, or any provision of Chapter 1206 (H.B. 1751), Acts of the 80th Legislature, Regular Session, 2007.

ARTICLE 40. CORRECTIONAL MANAGED HEALTH CARE

SECTION 40.01. Subsection (a), Section 501.133, Government Code, is amended to read as follows:

(a) The committee consists of five voting [~~nine~~] members and one nonvoting member [~~appointed~~] as follows:

(1) one member [~~two members~~] employed full-time by the department, [~~at least one of whom is a physician,~~] appointed by the executive director;

(2) one member who is a physician and [~~two members~~] employed full-time by The University of Texas Medical Branch at Galveston, [~~at least one of whom is a physician,~~] appointed by the president of the medical branch;

(3) one member who is a physician and [~~two members~~] employed full-time by the Texas Tech University Health Sciences Center, [~~at least one of whom is a physician,~~] appointed by the president of the university; [~~and~~]

(4) two [~~three~~] public members appointed by the governor who are not affiliated with the department or with any entity with which the committee has contracted to provide health care services under this chapter, at least one [~~two~~] of whom is [~~are~~] licensed to practice medicine in this state; and

(5) the state Medicaid director, to serve ex officio as a nonvoting member.

SECTION 40.02. Subsection (b), Section 501.135, Government Code, is amended to read as follows:

(b) A person may not be an appointed [~~a~~] member of the committee and may not be a committee employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care or health care services; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care or health care services.

SECTION 40.03. Section 501.136, Government Code, is amended to read as follows:

Sec. 501.136. TERMS OF OFFICE FOR PUBLIC MEMBERS. Committee members appointed by the governor serve staggered four-year [~~six-year~~] terms, with the term of one of those members expiring on February 1 of each odd-numbered year. Other committee members serve at the will of the appointing official or until termination of the member's employment with the entity the member represents.

SECTION 40.04. Section 501.147, Government Code, is amended to read as follows:

Sec. 501.147. DEPARTMENT [~~COMMITTEE~~] AUTHORITY TO CONTRACT. (a) The department [~~committee~~] may enter into a contract [~~on behalf of the department~~] to fully implement the managed health care plan under this subchapter. A contract entered into under this subsection must include provisions necessary to ensure that The University of Texas Medical Branch at Galveston is eligible for and makes reasonable efforts to participate in the purchase of prescription drugs under Section 340B, Public Health Service Act (42 U.S.C. Section 256b).

(b) The department [~~committee~~] may[~~, in addition to providing services to the department,~~] contract with other governmental entities for similar health care services and integrate those services into the managed health care provider network.

(c) In contracting for implementation of the managed health care plan, the department [~~committee~~], to the extent possible, shall integrate the managed health care provider network with the public medical schools of this state and the component and affiliated hospitals of those medical schools. The contract must authorize The University of Texas Medical Branch at Galveston to contract directly with the Texas

Tech University Health Sciences Center for the provision of health care services. The Texas Tech University Health Sciences Center shall cooperate with The University of Texas Medical Branch at Galveston in its efforts to participate in the purchase of prescription drugs under Section 340B, Public Health Service Act (42 U.S.C. Section 256b).

(d) For services that the public medical schools and their components and affiliates cannot provide, the department [~~committee~~] shall initiate a competitive bidding process for contracts with other providers for medical care to persons confined by the department.

(e) The department, in cooperation with the committee, may contract with an individual or firm for a biennial review of, and report concerning, expenditures under the managed health care plan. The review must be conducted by an individual or firm experienced in auditing the state's Medicaid expenditures and other medical expenditures. Not later than September 1 of each even-numbered year, the department shall submit a copy of a report under this section to the health care providers that are part of the managed health care provider network established under this subchapter, the Legislative Budget Board, the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 40.05. Subsection (a), Section 501.148, Government Code, is amended to read as follows:

(a) The committee may [~~shall~~]:

(1) develop statewide policies for the delivery of correctional health care;

(2) [~~maintain contracts for health care services in consultation with the department and the health care providers;~~

[~~(3)~~] communicate with the department and the legislature regarding the financial needs of the correctional health care system;

(3) in conjunction with the department, [~~(4) allocate funding made available through legislative appropriations for correctional health care;~~

[~~(5)~~] monitor the expenditures of The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center to ensure that those expenditures comply with applicable statutory and contractual requirements;

(4) [~~(6)~~] serve as a dispute resolution forum in the event of a disagreement relating to inmate health care services between:

(A) the department and the health care providers; or

(B) The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center;

(5) [~~(7)~~] address problems found through monitoring activities by the department and health care providers, including requiring corrective action if care does not meet expectations as determined by those monitoring activities;

(6) [~~(8)~~] identify and address long-term needs of the correctional health care system; and

(7) [~~(9)~~] report to the Texas Board of Criminal Justice at the board's regularly scheduled meeting each quarter on the committee's policy recommendations [~~decisions~~], the financial status of the correctional health care system, and corrective actions taken by or required of the department or the health care providers.

SECTION 40.06. (a) The Correctional Managed Health Care Committee established under Section 501.133, Government Code, as that section existed before amendment by this article, is abolished effective November 30, 2011.

(b) An appointing official under Section 501.133, Government Code, shall appoint the members of the Correctional Managed Health Care Committee under Section 501.133, Government Code, as amended by this Act, not later than November 30, 2011. The governor shall appoint one public member to serve a term that expires February 1, 2013, and one public member to serve a term that expires February 1, 2015.

(c) The term of a person who is serving as a member of the Correctional Managed Health Care Committee immediately before the abolition of that committee under Subsection (a) of this section expires on November 30, 2011. Such a person is eligible for appointment by an appointing official to the new committee under Section 501.133, Government Code, as amended by this article.

ARTICLE 41. GENERAL HOUSING MATTERS

SECTION 41.01. Section 481.078, Government Code, is amended by amending Subsection (c) and adding Subsection (d-1) to read as follows:

(c) Except as provided by Subsections [~~Subsection~~] (d) and (d-1), the fund may be used only for economic development, infrastructure development, community development, job training programs, and business incentives.

(d-1) The fund may be used for the Texas homeless housing and services program administered by the Texas Department of Housing and Community Affairs. Subsections (e-1), (f), (g), (h), (i), and (j) and Section 481.080 do not apply to a grant awarded for a purpose specified by this subsection.

SECTION 41.02. Section 481.079, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) For grants awarded for a purpose specified by Section 481.078(d-1), the report must include only the amount and purpose of each grant.

SECTION 41.03. Subchapter K, Chapter 2306, Government Code, is amended by adding Section 2306.2585 to read as follows:

Sec. 2306.2585. HOMELESS HOUSING AND SERVICES PROGRAM. (a) The department may administer a homeless housing and services program in each municipality in this state with a population of 285,500 or more to:

(1) provide for the construction, development, or procurement of housing for homeless persons; and

(2) provide local programs to prevent and eliminate homelessness.

(b) The department may adopt rules to govern the administration of the program, including rules that:

(1) provide for the allocation of any available funding; and

(2) provide detailed guidelines as to the scope of the local programs in the municipalities described by Subsection (a).

(c) The department may use any available revenue, including legislative appropriations, and shall solicit and accept gifts and grants for the purposes of this section. The department shall use gifts and grants received for the purposes of this section before using any other revenue.

SECTION 41.04. This article takes 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, this article takes effect on the 91st day after the last day of the legislative session.

ARTICLE 42. UNIFORM GRANT AND CONTRACT MANAGEMENT

SECTION 42.01. Section 783.004, Government Code, is amended to read as follows:

Sec. 783.004. OFFICE OF THE COMPTROLLER [~~GOVERNOR'S OFFICE~~]. The office of the comptroller [~~governor's office~~] is the state agency for uniform grant and contract management.

SECTION 42.02. Subsections (a) and (b), Section 783.005, Government Code, are amended to read as follows:

(a) The comptroller [~~governor's office~~] shall develop uniform and concise language for any assurances that a local government is required to make to a state agency.

(b) The comptroller [~~governor's office~~] may:

(1) categorize assurances according to the type of grant or contract;

(2) designate programs to which the assurances are applicable; and

(3) revise the assurances.

SECTION 42.03. Section 783.006, Government Code, is amended to read as follows:

Sec. 783.006. STANDARD FINANCIAL MANAGEMENT CONDITIONS. (a) The comptroller [~~governor's office~~] shall compile and distribute to each state agency an official compilation of standard financial management conditions.

(b) The comptroller [~~governor's office~~] shall develop the compilation from Federal Management Circular A-102 or from a revision of that circular and from other applicable statutes and regulations.

(c) The comptroller [~~governor's office~~] shall include in the compilation official commentary regarding administrative or judicial interpretations that affect the application of financial management standards.

(d) The comptroller [~~governor's office~~] may:

(1) categorize the financial management conditions according to the type of grant or contract;

(2) designate programs to which the conditions are applicable; and

(3) revise the conditions.

SECTION 42.04. Subsection (d), Section 783.007, Government Code, is amended to read as follows:

(d) The agency shall file a notice of each proposed rule that establishes a variation from uniform assurances or standard conditions with the comptroller [~~governor's office~~].

SECTION 42.05. Subsection (b), Section 783.008, Government Code, is amended to read as follows:

(b) On receipt of a request for a single audit or audit coordination, the comptroller [~~governor's office~~] in consultation with the state auditor shall not later than the 30th day after the date of the request designate a single state agency to coordinate state audits of the local government.

ARTICLE 43. AD VALOREM TAXATION OF LAND USED TO RAISE OR KEEP BEES

SECTION 43.01. Subdivision (2), Section 23.51, Tax Code, is amended to read as follows:

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; planting cover crops or leaving land idle for the purpose of participating in a governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management. The term also includes the use of land to raise or keep bees for pollination or for the production of human food or other tangible products having a commercial value, provided that the land used is not less than 5 or more than 20 acres.

SECTION 43.02. This article applies only to the appraisal of land for ad valorem tax purposes for a tax year that begins on or after the effective date of this Act.

ARTICLE 44. PLACE OF BUSINESS OF A RETAILER FOR SALES TAX PURPOSES

SECTION 44.01. Subdivision (3), Subsection (a), Section 321.002, Tax Code, is amended to read as follows:

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant. An outlet, office, facility, or any location that contracts with a retail or commercial business [~~engaged in activities to which this chapter applies~~] to process for that business invoices, purchase orders, [~~or~~] bills of lading, or other equivalent records onto which sales tax is added, including an office operated for the purpose of buying and selling taxable goods to be used or consumed by the retail or commercial business, is not a "place of business of the retailer" if the comptroller determines that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this

chapter to the contracting business. Notwithstanding any other provision of this subdivision, a kiosk is not a "place of business of the retailer." In this subdivision, "kiosk" means a small stand-alone area or structure that:

(A) is used solely to display merchandise or to submit orders for taxable items from a data entry device, or both;

(B) is located entirely within a location that is a place of business of another retailer, such as a department store or shopping mall; and

(C) at which taxable items are not available for immediate delivery to a customer.

SECTION 44.02. This article takes effect October 1, 2011.

ARTICLE 45. TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM

SECTION 45.01. Subsection (b), Section 183.059, Natural Resources Code, is amended to read as follows:

(b) To receive a grant from the fund under this subchapter, an applicant who is qualified to be an easement holder under this subchapter must submit an application to the council. The application must:

(1) set out the parties' clear conservation goals consistent with the program;

(2) include a site-specific estimate-of-value appraisal by a licensed appraiser qualified to determine the market value of the easement; and

(3) [~~demonstrate that the applicant is able to match 50 percent of the amount of the grant being sought, considering that the council may choose to allow a donation of part of the appraised value of the easement to be considered as in-kind matching funds; and~~

[~~(4)~~] include a memorandum of understanding signed by the landowner and the applicant indicating intent to sell an agricultural conservation easement and containing the terms of the contract for the sale of the easement.

ARTICLE 46. QUINQUENNIAL REPORTING OF CERTAIN INFORMATION FOR UNCLAIMED PROPERTY

SECTION 46.01. Subsection (a), Section 411.0111, Government Code, is amended to read as follows:

(a) Not later than June 1 of every fifth [~~each~~] year, the department shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, date of birth, and driver's license or state identification number of each person about whom the department has such information in its records.

SECTION 46.02. Subsection (a), Section 811.012, Government Code, as effective September 1, 2011, is amended to read as follows:

(a) Not later than June 1 of every fifth [~~each~~] year, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

SECTION 46.03. Subsection (a), Section 821.010, Government Code, is amended to read as follows:

(a) Not later than June 1 of every fifth [~~each~~] year, the retirement system shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from the retirement system's records.

SECTION 46.04. Subsection (a), Section 301.086, Labor Code, is amended to read as follows:

(a) Not later than June 1 of every fifth [~~each~~] year, the commission shall provide to the comptroller, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each person about whom the commission has such information in its records.

SECTION 46.05. The Department of Public Safety, the Employees Retirement System of Texas, the Teacher Retirement System of Texas, and the Texas Workforce Commission shall provide information to the comptroller as required by Sections 411.0111(a), 811.012(a), and 821.010(a), Government Code, and Section 301.086(a), Labor Code, as amended by this article, beginning in 2016.

ARTICLE 47. AD VALOREM TAXATION OF CERTAIN STORED PROPERTY

SECTION 47.01. Subsection (a), Section 11.253, Tax Code, is amended by amending Subdivision (2) and adding Subdivisions (5) and (6) to read as follows:

(2) "Goods-in-transit" means tangible personal property that:

(A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

(B) is stored under a contract of bailment by a public warehouse operator [~~detained~~] at one or more public warehouse facilities [~~a location~~] in this state that are not in any way owned or controlled by [~~in which~~] the owner of the personal property [~~does not have a direct or indirect ownership interest~~] for the account of [~~assembling, storing, manufacturing, processing, or fabricating purposes by~~] the person who acquired or imported the property;

(C) is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and

(D) does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory.

(5) "Bailee" and "warehouse" have the meanings assigned by Section 7.102, Business & Commerce Code.

(6) "Public warehouse operator" means a person that:

(A) is both a bailee and a warehouse; and

(B) stores under a contract of bailment, at one or more public warehouse facilities, tangible personal property that is owned by other persons solely for the account of those persons and not for the operator's account.

SECTION 47.02. Section 11.253, Tax Code, is amended by amending Subsections (e) and (h) and adding Subsections (j-1) and (j-2) to read as follows:

(e) In determining the market value of goods-in-transit that in the preceding year were [~~assembled,~~] stored[~~, manufactured, processed, or fabricated~~] in this state, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or outside this state before the expiration of 175 days after the date they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held by the owner of the component parts during the preceding year at a location in this state that was not owned by or under the control of the owner of the component parts in determining whether the component parts were transported to another location in this state or outside this state before the expiration of 175 days.

(h) The chief appraiser by written notice delivered to a property owner who claims an exemption under this section may require the property owner to provide copies of property records so the chief appraiser can determine the amount and value of goods-in-transit and that the location in this state where the goods-in-transit were detained for storage [~~assembling, storing, manufacturing, processing, or fabricating purposes~~] was not owned by or under the control of the owner of the goods-in-transit. If the property owner fails to deliver the information requested in the notice before the 31st day after the date the notice is delivered to the property owner, the property owner forfeits the right to claim or receive the exemption for that year.

(j-1) Notwithstanding Subsection (j) or official action that was taken under that subsection before October 1, 2011, to tax goods-in-transit exempt under Subsection (b) and not exempt under other law, a taxing unit may not tax such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the governing body of the taxing unit takes action on or after October 1, 2011, in the manner required for official action by the governing body, to provide for the taxation of the goods-in-transit. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, the governing body of the taxing unit must conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. If the governing body of a taxing unit provides for the taxation of the goods-in-transit as provided by this subsection, the exemption prescribed by Subsection (b) does not apply to that unit. The goods-in-transit remain subject to taxation by the taxing unit until the governing body of the taxing unit, in the manner required for official action, rescinds or repeals its previous action to tax goods-in-transit or otherwise determines that the exemption prescribed by Subsection (b) will apply to that taxing unit.

(j-2) Notwithstanding Subsection (j-1), if under Subsection (j) the governing body of a taxing unit, before October 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the taxing unit, the tax officials of the taxing unit may continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

SECTION 47.03. Subdivision (2), Subsection (a), Section 11.253, Tax Code, as amended by this article, applies only to an ad valorem tax year that begins on or after January 1, 2012.

SECTION 47.04. (a) Except as provided by Subsection (b) of this section, this article takes effect January 1, 2012.

(b) Section 47.02 of this article takes effect October 1, 2011.

ARTICLE 48. FISCAL MATTERS CONCERNING ADVANCED PLACEMENT

SECTION 48.01. Subsection (h), Section 28.053, Education Code, is amended to read as follows:

(h) The commissioner may enter into agreements with the college board and the International Baccalaureate Organization to pay for all examinations taken by eligible public school students. An eligible student is a student [~~one~~] who:

(1) takes a college advanced placement or international baccalaureate course at a public school or who is recommended by the student's principal or teacher to take the test; and

(2) demonstrates financial need as determined in accordance with guidelines adopted by the board that are consistent with the definition of financial need adopted by the college board or the International Baccalaureate Organization.

ARTICLE 49. FISCAL MATTERS CONCERNING TUITION EXEMPTIONS

SECTION 49.01. Subsection (c), Section 54.214, Education Code, is amended to read as follows:

(c) To be eligible for an exemption under this section, a person must:

(1) be a resident of this state;

(2) be a school employee serving in any capacity;

(3) for the initial term or semester for which the person receives an exemption under this section, have worked as an educational aide for at least one school year during the five years preceding that term or semester;

(4) establish financial need as determined by coordinating board rule;

(5) be enrolled at the institution of higher education granting the exemption in courses required for teacher certification in one or more subject areas determined by the Texas Education Agency to be experiencing a critical shortage of teachers at the public schools in this state [~~at the institution of higher education granting the exemption~~];

(6) maintain an acceptable grade point average as determined by coordinating board rule; and

(7) comply with any other requirements adopted by the coordinating board under this section.

SECTION 49.02. The change in law made by this article applies beginning with tuition and fees charged for the 2012 fall semester. Tuition and fees charged for a term or semester before the 2012 fall semester are covered by the law in effect during the term or semester for which the tuition and fees are charged, and the former law is continued in effect for that purpose.

ARTICLE 50. CLASSIFICATION OF ENTITIES AS ENGAGED IN RETAIL TRADE FOR PURPOSES OF THE FRANCHISE TAX

SECTION 50.01. Subdivision (12), Section 171.0001, Tax Code, is amended to read as follows:

(12) "Retail trade" means:

(A) the activities described in Division G of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget; and

(B) apparel rental activities classified as Industry 5999 or 7299 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

SECTION 50.02. This article applies only to a report originally due on or after the effective date of this Act.

SECTION 50.03. This article takes effect January 1, 2012.

ARTICLE 51. RETENTION OF CERTAIN FOUNDATION SCHOOL FUND PAYMENTS

SECTION 51.01. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2511 to read as follows:

Sec. 42.2511. AUTHORIZATION FOR CERTAIN DISTRICTS TO RETAIN ADDITIONAL STATE AID. (a) This section applies only to a school district that was provided with state aid under former Section 42.2516 for the 2009-2010 or 2010-2011 school year based on the amount of aid to which the district would have been entitled under that section if Section 42.2516(g), as it existed on January 1, 2009, applied to determination of the amount to which the district was entitled for that school year.

(b) Notwithstanding any other law, a district to which this section applies may retain the state aid provided to the district as described by Subsection (a).

(c) This section expires September 1, 2013.

SECTION 51.02. It is the intent of the legislature that the authorization provided by Section 42.2511, Education Code, as added by this article, to retain state aid described by that section is not affected by the expiration of that provision on September 1, 2013.

ARTICLE 52. THE STATE COMPRESSION PERCENTAGE

SECTION 52.01. Section 42.2516, Education Code, is amended by adding Subsection (b-2) to read as follows:

(b-2) If a school district adopts a maintenance and operations tax rate that is below the rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, the commissioner shall reduce the district's entitlement under this section in proportion to the amount by which the adopted rate is less than the rate equal to the product of the state compression percentage multiplied by the rate adopted by the district for the 2005 tax year. The reduction required by this subsection applies beginning with the maintenance and operations tax rate adopted for the 2009 tax year.

ARTICLE 53. TEXAS GUARANTEED STUDENT LOAN CORPORATION; BOARD OF DIRECTORS

SECTION 53.01. Subsections (a) and (b), Section 57.13, Education Code, are amended to read as follows:

(a) The corporation is governed by a board of nine [~~11~~] directors in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint the [~~10~~] members of [~~to~~] the board as follows:

(1) four [~~five~~] members who must have knowledge of or experience in finance, including management of funds or business operations;

(2) one member who must be a student enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution; and

(3) four members who must be members of the faculty or administration of a [~~an eligible~~] postsecondary educational institution that is an eligible institution for purposes of the Higher Education Act of 1965, as amended[~~, as defined by Section 57.46~~].

SECTION 53.02. Section 57.17, Education Code, is amended to read as follows:

Sec. 57.17. OFFICERS. The governor shall designate the chairman from among the board's membership. The board shall elect from among its members a [~~chairman,~~] vice-chairman[~~,~~] and other officers that the board considers necessary. The chairman and vice-chairman serve for a term of one year and may be redesignated or reelected, as applicable.

SECTION 53.03. Subsection (d), Section 57.13, Education Code, is repealed.

ARTICLE 54. FISCAL MATTERS CONCERNING LEASES OF PUBLIC LAND FOR MINERAL DEVELOPMENT

SECTION 54.01. Subsections (a) and (c), Section 85.66, Education Code, are amended to read as follows:

(a) If oil or other minerals are developed on any of the lands leased by the board, the royalty or money as stipulated in the sale shall be paid to the general land office at Austin on or before the last day of each month for the preceding month during the life of the rights purchased, and shall be set aside [~~in the state treasury~~] as specified in Section 85.70 [~~of this code~~]. The royalty or money paid to the general land office shall be accompanied by the sworn statement of the owner, manager, or other authorized agent showing the gross amount of oil, gas, sulphur, mineral ore, and other minerals produced and saved since the last report, the amount of oil, gas, sulphur, mineral ore, and other minerals produced and sold off the premises, and the market value of the oil, gas, sulphur, mineral ore, and other minerals, together with a copy of all daily gauges, or vats, tanks, gas meter readings, pipeline receipts, gas line receipts and other checks and memoranda of the amounts produced and put into pipelines, tanks, vats, or pool and gas lines, gas storage, other places of storage, and other means of transportation.

(c) The commissioner of the general land office shall tender to the board on or before the 10th day of each month a report of all receipts that are collected from the lease or sale of oil, gas, sulphur, mineral ore, and other minerals and that are deposited [~~turned into the state treasury,~~] as provided by Section 85.70 during [~~of this code, of~~] the preceding month.

SECTION 54.02. Section 85.69, Education Code, is amended to read as follows:

Sec. 85.69. PAYMENTS; DISPOSITION. Payments under this subchapter shall be made to the commissioner of the general land office at Austin, who shall transmit to the board [~~comptroller~~] all royalties, lease fees, rentals for delay in drilling or mining, and all other payments, including all filing assignments and relinquishment fees, to be deposited [~~in the state treasury~~] as provided by Section 85.70 [~~of this code~~].

SECTION 54.03. Section 85.70, Education Code, is amended to read as follows:

Sec. 85.70. CERTAIN MINERAL LEASES; DISPOSITION OF MONEY; SPECIAL FUNDS; INVESTMENT. (a) Except as provided by Subsection (c) [~~of this section~~], all money received under and by virtue of this subchapter shall be deposited in [~~the state treasury to the credit of~~] a special fund managed by the board to be known as The Texas A&M University System Special Mineral Investment Fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the system and its component institutions. The [~~With the approval of the comptroller, the board of regents of The Texas A&M University System may appoint one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the Special Mineral Investment Fund's securities with authority to hold the money realized from those securities pending completion of an investment transaction if the money held is reinvested within one business day of receipt in investments determined by the board of regents. Money not reinvested within one business day of receipt shall be deposited in the state treasury not later than the fifth day after the date of receipt. In the judgment of the board, this~~] special fund may be invested so as to produce [~~an~~] income which may be expended under the direction of the board for the general use of any component of The Texas A&M University System, including erecting permanent improvements and in payment of expenses incurred in connection with the administration of this subchapter. The unexpended income likewise may be invested as [~~herein~~] provided by this section.

(b) The income from the investment of the special mineral investment fund created by [~~under~~] Subsection (a) [~~of this section~~] shall be deposited in [~~to the credit of~~] a fund managed by the board to be known as The Texas A&M University System Special Mineral Income Fund, and is considered to be institutional funds, as defined by Section 51.009, of the system and its component institutions [~~shall be appropriated by the legislature exclusively for the university system for the purposes herein provided~~].

(c) The board shall lease for oil, gas, sulphur, or other mineral development, as prescribed by this subchapter, all or part of the land under the exclusive control of the board owned by the State of Texas and acquired for the use of Texas A&M University–Kingsville and its divisions. Any money received by the board concerning such land under this subchapter shall be deposited in [~~the state treasury to the credit of~~] a special fund managed by the board to be known as the Texas A&M University–Kingsville special mineral fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the university and is[~~,~~] to be used exclusively for the university [~~Texas A&M University–Kingsville~~] and its branches and divisions. [~~Money may not be expended from this fund except as authorized by the general appropriations act.~~]

(d) All deposits in and investments of the fund under this section shall be made in accordance with Section 51.0031.

(e) Section 34.017, Natural Resources Code, does not apply to funds created by this section.

SECTION 54.04. Subsection (b), Section 95.36, Education Code, is amended to read as follows:

(b) Except as provided in Subsection (c) of this section, any money received by virtue of this section and the income from the investment of such money shall be deposited in [~~the State Treasury to the credit of~~] a special fund managed by the board to be known as the Texas State University System special mineral fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the system and its component institutions and is[~~,~~] to be used exclusively for those entities. All deposits in and investments of the fund shall be made in accordance with Section 51.0031. Section 34.017, Natural Resources Code, does not apply to the fund [~~the university system and the universities in the system. However, no money shall ever be expended from this fund except as authorized by the General Appropriations Act~~].

SECTION 54.05. Subsection (b), Section 109.61, Education Code, is amended to read as follows:

(b) Any money received by virtue of this section shall be deposited in [~~the state treasury to the credit of~~] a special fund managed by the board to be known as the Texas Tech University special mineral fund. Money in the fund is considered to be institutional funds, as defined by Section 51.009, of the university and is[~~,~~] to be used exclusively for the university and its branches and divisions. All deposits in and investments of the fund shall be made in accordance with Section 51.0031. Section 34.017, Natural Resources Code, does not apply to the fund. [~~However, no money shall ever be expended from this fund except as authorized by the general appropriations act.~~]

SECTION 54.06. Subsections (a) and (c), Section 109.75, Education Code, are amended to read as follows:

(a) If oil or other minerals are developed on any of the lands leased by the board, the royalty as stipulated in the sale shall be paid to the general land office in Austin on or before the last day of each month for the preceding month during the life of the rights purchased. The royalty payments shall be set aside [~~in the state treasury~~] as specified in Section 109.61 [~~of this code~~] and used as provided in that section.

(c) The commissioner of the general land office shall tender to the board on or before the 10th day of each month a report of all receipts that are collected from the lease or sale of oil, gas, sulphur, or other minerals and that are deposited in [~~turned into~~] the special fund as provided by Section 109.61 [~~in the state treasury~~] during the preceding month.

SECTION 54.07. Subsection (b), Section 109.78, Education Code, is amended to read as follows:

(b) Payment of all royalties, lease fees, rentals for delay in drilling or mining, filing fees for assignments and relinquishments, and all other payments shall be made to the commissioner of the general land office at Austin. The commissioner shall transmit all payments received to the board [~~comptroller~~] for deposit to the credit of the Texas Tech University special mineral fund as provided by Section 109.61.

SECTION 54.08. Section 85.72, Education Code, is repealed.

SECTION 54.09. This article takes effect September 1, 2011.

ARTICLE 55. FOUNDATION SCHOOL PROGRAM FINANCING; CERTAIN TAX INCREMENT FUND REPORTING MATTERS

SECTION 55.01. (a) This section applies only to a school district that, before May 1, 2011, received from the commissioner of education a notice of a reduction in state funding for the 2004-2005, 2005-2006, 2006-2007, 2007-2008, and 2008-2009 school years based on the district's reporting related to deposits of taxes into a tax increment fund under Chapter 311, Tax Code.

(b) Notwithstanding any other law, including Section 42.302(b)(2), Education Code, the commissioner of education shall reduce by one-half the amounts of the reduction of entitlement amounts computed for purposes of adjusting entitlement amounts to account for taxes deposited into a tax increment fund for any of the school years described by Subsection (a) of this section.

(c) This section expires September 1, 2013.

ARTICLE 56. FISCAL MATTERS RELATING TO PUBLIC SCHOOL FINANCE

SECTION 56.01. Effective September 1, 2011, Section 12.106, Education Code, is amended by amending Subsection (a) and adding Subsection (a-3) to read as follows:

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to the greater of:

(1) the percentage specified by Section 42.2516(i) multiplied by the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of the percentage specified by Section 42.2516(i) multiplied by $120 for each student in weighted average daily attendance; or

(2) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue for purposes of Section 42.2516.

(a-3) In determining funding for an open-enrollment charter school under Subsection (a), the commissioner shall apply the regular program adjustment factor provided under Section 42.101 to calculate the regular program allotment to which a charter school is entitled.

SECTION 56.02. Effective September 1, 2017, Subsection (a), Section 12.106, Education Code, is amended to read as follows:

(a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to [~~the greater of:~~

[~~(1) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of $120 for each student in weighted average daily attendance; or~~

[~~(2)~~] the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253 [~~and without any local revenue for purposes of Section 42.2516~~].

SECTION 56.03. Effective September 1, 2011, Section 21.402, Education Code, is amended by amending Subsections (a), (b), (c), and (c-1) and adding Subsection (i) to read as follows:

(a) Except as provided by Subsection (d)[~~, (e),~~] or (f), a school district must pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

MS = SF x FS

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101(a) or (b) for a school district with a maintenance and operations tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a) [~~state and local funds per weighted student, including funds provided under Section 42.2516, available to a district eligible to receive state assistance under Section 42.302 with a maintenance and operations tax rate per $100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by $1.50, except that the amount of state and local funds per weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001~~].

(b) Not later than June 1 of each year, the commissioner shall determine the basic allotment and resulting monthly salaries to be paid by school districts as provided by Subsection (a) [~~amount of state and local funds per weighted student available, for purposes of Subsection (a), to a district described by that subsection for the following school year~~].

(c) The salary factors per step are as follows:

Years Experience	0		1		2		3		4	
Salary Factor	.5464	[~~.6226~~]	.5582	[~~.6360~~]	.5698	[~~.6492~~]	.5816	[~~.6627~~]	.6064	[~~.6909~~]
Years Experience	5		6		7		8		9	
Salary Factor	.6312	[~~.7192~~]	.6560	[~~.7474~~]	.6790	[~~.7737~~]	.7008	[~~.7985~~]	.7214	[~~.8220~~]

Years Experience		10		11		12		13		14
Salary Factor	.7408	[~~.8441~~]	.7592	[~~.8650~~]	.7768	[~~.8851~~]	.7930	[~~.9035~~]	.8086	[~~.9213~~]
Years Experience		15		16		17		18		19
Salary Factor	.8232	[~~.9380~~]	.8372	[~~.9539~~]	.8502	[~~.9687~~]	.8626	[~~.9828~~]	.8744	[~~.9963~~]
Years Experience	20	and	over							
Salary Factor	.8854	[~~1.009~~]								

(c-1) Notwithstanding Subsections [~~Subsection~~] (a) and (b)[~~, for the 2009-2010 and 2010-2011 school years~~], each school district shall pay a monthly salary to [~~increase the monthly salary of~~] each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor certified under Subchapter B, and full-time school nurse that is at least equal to the following monthly salary or the monthly salary determined by the commissioner under Subsections (a) and (b), whichever is [~~by the~~] greater [~~of~~]:

Years of Experience	Monthly Salary
0	2,732
1	2,791
2	2,849
3	2,908
4	3,032
5	3,156
6	3,280
7	3,395
8	3,504
9	3,607
10	3,704
11	3,796
12	3,884
13	3,965
14	4,043
15	4,116
16	4,186
17	4,251
18	4,313
19	4,372
20 & Over	4,427

[~~(1) $80; or~~

[~~(2) the maximum uniform amount that, when combined with any resulting increases in the amount of contributions made by the district for social security coverage for the specified employees or by the district on behalf of the specified~~

~~employees under Section 825.405, Government Code, may be provided using an amount equal to the product of $60 multiplied by the number of students in weighted average daily attendance in the school during the 2009-2010 school year.~~]

(i) Not later than January 1, 2013, the commissioner shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over primary and secondary education a written report that evaluates and provides recommendations regarding the salary schedule. This subsection expires September 1, 2013.

SECTION 56.04. Effective September 1, 2017, Section 21.402, Education Code, is amended by amending Subsection (a) and adding Subsection (e-1) to read as follows:

(a) Except as provided by Subsection (d), (e-1) [~~(e)~~], or (f), a school district must pay each classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience in addition to other factors, as determined by commissioner rule, determined by the following formula:

MS = SF x FS

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of the basic allotment as provided by Section 42.101(a) or (b) for a school district with a maintenance and operation tax rate at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a) [~~state and local funds per weighted student, including funds provided under Section 42.2516, available to a district eligible to receive state assistance under Section 42.302 with a maintenance and operations tax rate per $100 of taxable value equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by $1.50, except that the amount of state and local funds per weighted student does not include the amount attributable to the increase in the guaranteed level made by Chapter 1187, Acts of the 77th Legislature, Regular Session, 2001~~].

(e-1) If the minimum monthly salary determined under Subsection (a) for a particular level of experience is less than the minimum monthly salary for that level of experience in the preceding year, the minimum monthly salary is the minimum monthly salary for the preceding year.

SECTION 56.05. Subsection (a), Section 41.002, Education Code, is amended to read as follows:

(a) A school district may not have a wealth per student that exceeds:

(1) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to a district with maintenance and operations tax revenue per cent of tax effort equal to the maximum amount provided per cent under Section 42.101(a) or (b) [~~42.101~~], for the district's maintenance and operations tax effort equal to or less than the rate equal to the

product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the wealth per student that generates the amount of maintenance and operations tax revenue per weighted student available to the Austin Independent School District, as determined by the commissioner in cooperation with the Legislative Budget Board, for the first six cents by which the district's maintenance and operations tax rate exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, subject to Section 41.093(b-1); or

(3) $319,500, for the district's maintenance and operations tax effort that exceeds the first six cents by which the district's maintenance and operations tax effort exceeds the rate equal to the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year.

SECTION 56.06. The heading to Section 42.101, Education Code, is amended to read as follows:

Sec. 42.101. BASIC AND REGULAR PROGRAM ALLOTMENTS [~~ALLOTMENT~~].

SECTION 56.07. Section 42.101, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (c) and (c-1) to read as follows:

(a) The basic [~~For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an~~] allotment is an amount equal to the lesser of $4,765 or the amount that results from the following formula:

A = $4,765 X (DCR/MCR)

where:

"A" is the resulting amount for [~~allotment to which~~] a district [~~is entitled~~];

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by $1.50.

(b) A greater amount for any school year for the basic allotment under Subsection (a) may be provided by appropriation.

(c) A school district is entitled to a regular program allotment equal to the amount that results from the following formula:

RPA = ADA X AA X RPAF

where:

"RPA" is the regular program allotment to which the district is entitled;

"ADA" is the number of students in average daily attendance in a district, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C;

"AA" is the district's adjusted basic allotment, as determined under Section 42.102 and, if applicable, as further adjusted under Section 42.103; and

"RPAF" is the regular program adjustment factor, which is an amount established by appropriation.

(c-1) Notwithstanding Subsection (c), the regular program adjustment factor ("RPAF") is 0.9239 for the 2011-2012 school year and 0.98 for the 2012-2013 school year. This subsection expires September 1, 2013.

SECTION 56.08. Section 42.105, Education Code, is amended to read as follows:

Sec. 42.105. SPARSITY ADJUSTMENT. Notwithstanding Sections 42.101, 42.102, and 42.103, a school district that has fewer than 130 students in average daily attendance shall be provided a regular program [~~an adjusted basic~~] allotment on the basis of 130 students in average daily attendance if it offers a kindergarten through grade 12 program and has preceding or current year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. A district offering a kindergarten through grade 8 program whose preceding or current year's average daily attendance was at least 50 students or which is 30 miles or more by bus route from the nearest high school district shall be provided a regular program [~~an adjusted basic~~] allotment on the basis of 75 students in average daily attendance. An average daily attendance of 60 students shall be the basis of providing the regular program [~~adjusted basic~~] allotment if a district offers a kindergarten through grade 6 program and has preceding or current year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district.

SECTION 56.09. Subsection (a), Section 42.251, Education Code, is amended to read as follows:

(a) The sum of the regular program [~~basic~~] allotment under Subchapter B and the special allotments under Subchapter C, computed in accordance with this chapter, constitute the tier one allotments. The sum of the tier one allotments and the guaranteed yield allotments under Subchapter F, computed in accordance with this chapter, constitute the total cost of the Foundation School Program.

SECTION 56.10. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2514 to read as follows:

Sec. 42.2514. ADDITIONAL STATE AID FOR TAX INCREMENT FINANCING PAYMENTS. For each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code.

SECTION 56.11. Effective September 1, 2011, Section 42.2516, Education Code, is amended by amending Subsections (a), (b), (d), and (f-2) and adding Subsection (i) to read as follows:

(a) In this title [~~section~~], "state compression percentage" means the percentage[~~, as determined by the commissioner,~~] of a school district's adopted maintenance and operations tax rate for the 2005 tax year that serves as the basis for state funding [~~for tax rate reduction under this section~~]. If the state compression percentage is not established by appropriation for a school year, the [~~The~~] commissioner shall determine the state compression percentage for each school year based on the percentage by which a district is able to reduce the district's maintenance and operations tax rate for that year, as compared to the district's adopted maintenance and operations tax rate for the 2005 tax year, as a result of state funds appropriated for distribution under this section for that year from the property tax relief fund established under Section 403.109, Government Code, or from another funding source available for school district property tax relief.

(b) Notwithstanding any other provision of this title, a school district that imposes a maintenance and operations tax at a rate at least equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year is entitled to at least the amount of state revenue necessary to provide the district with the sum of:

(1) the percentage specified by Subsection (i) of the amount, as calculated under Subsection (e), [~~the amount~~] of state and local revenue per student in weighted average daily attendance for maintenance and operations that the district would have received during the 2009-2010 school year under Chapter 41 and this chapter, as those chapters existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage for that year multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year;

(2) the percentage specified by Subsection (i) of an amount equal to the product of $120 multiplied by the number of students in weighted average daily attendance in the district; and

(3) [~~an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code, in the current tax year; and~~]

[~~(4)~~] any amount to which the district is entitled under Section 42.106.

(d) In determining the amount to which a district is entitled under Subsection (b)(1), the commissioner shall:

(1) include the percentage specified by Subsection (i) of any amounts received by the district during the 2008-2009 school year under Rider 86, page III-23, Chapter 1428 (H.B. 1), Acts of the 80th Legislature, Regular Session, 2007 (the General Appropriations Act); and

(2) for a school district that paid tuition under Section 25.039 during the 2008-2009 school year, reduce the amount to which the district is entitled by the amount of tuition paid during that school year.

(f-2) The rules adopted by the commissioner under Subsection (f-1) must:

(1) require the commissioner to determine, as if this section did not exist, the effect under Chapter 41 and this chapter of a school district's action described by Subsection (f-1)(1), (2), (3), or (4) on the total state revenue to which the district would be entitled or the cost to the district of purchasing sufficient attendance credits to reduce the district's wealth per student to the equalized wealth level; and

(2) require an increase or reduction in the amount of state revenue to which a school district is entitled under Subsection (b)(1) [~~(b)~~] that is substantially equivalent to any change in total state revenue or the cost of purchasing attendance credits that would apply to the district if this section did not exist.

(i) The percentage to be applied for purposes of Subsections (b)(1) and (2) and Subsection (d)(1) is 100.00 percent for the 2011-2012 school year and 92.35 percent for the 2012-2013 school year. For the 2013-2014 school year and each subsequent school year, the legislature by appropriation shall establish the percentage reduction to be applied.

SECTION 56.12. Effective September 1, 2017, the heading to Section 42.2516, Education Code, is amended to read as follows:

Sec. 42.2516. STATE COMPRESSION PERCENTAGE [~~ADDITIONAL STATE AID FOR TAX REDUCTION~~].

SECTION 56.13. Effective September 1, 2017, Subsection (a), Section 42.2516, Education Code, is amended to read as follows:

(a) In this title [~~section~~], "state compression percentage" means the percentage[~~, as determined by the commissioner,~~] of a school district's adopted maintenance and operations tax rate for the 2005 tax year that serves as the basis for state funding [~~for tax rate reduction under this section~~]. If the state compression percentage is not established by appropriation for a school year, the [~~The~~] commissioner shall determine the state compression percentage for each school year based on the percentage by which a district is able to reduce the district's maintenance and operations tax rate for that year, as compared to the district's adopted maintenance and operations tax rate for the 2005 tax year, as a result of state funds appropriated for [~~distribution under this section for~~] that year from the property tax relief fund established under Section 403.109, Government Code, or from another funding source available for school district property tax relief.

SECTION 56.14. Effective September 1, 2011, Subsection (a), Section 42.25161, Education Code, is amended to read as follows:

(a) The commissioner shall provide South Texas Independent School District with the amount of state aid necessary to ensure that the district receives an amount of state and local revenue per student in weighted average daily attendance that is at least the percentage specified by Section 42.2516(i) of $120 greater than the amount the district would have received per student in weighted average daily attendance during the 2009-2010 school year under this chapter, as it existed on January 1, 2009, at a maintenance and operations tax rate equal to the product of the state compression percentage multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year, provided that the district imposes a maintenance and operations tax at that rate.

SECTION 56.15. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2525 to read as follows:

Sec. 42.2525. ADJUSTMENTS FOR CERTAIN DEPARTMENT OF DEFENSE DISTRICTS. The commissioner is granted the authority to ensure that Department of Defense school districts do not receive more than an eight percent reduction should the federal government reduce appropriations to those schools.

SECTION 56.16. Effective September 1, 2011, Subsections (h) and (i), Section 42.253, Education Code, are amended to read as follows:

(h) If the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts are entitled for that year, the commissioner shall certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. If the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), the commissioner shall adjust [~~reduce~~] the total amounts due to each school district under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 [~~amount of state funds allocated to each district~~] by an amount determined by applying to each district, including a district receiving funds under Section 42.2516, the same percentage adjustment so that the total amount of the adjustment to all districts [~~a method under which the application of the same number of cents of increase in tax rate in all districts applied to the taxable value of property of each district, as determined under Subchapter M, Chapter 403, Government Code,~~] results in an amount [~~a total levy~~] equal to the total adjustment necessary. A school district is not entitled to reimbursement in a subsequent fiscal year of the amount resulting from the adjustment authorized by this subsection [~~reduction. The following fiscal year, a district's entitlement under this section is increased by an amount equal to the reduction made under this subsection~~].

(i) Not later than March 1 each year, the commissioner shall determine the actual amount of state funds to which each school district is entitled under the allocation formulas in this chapter for the current school year, as adjusted in accordance with Subsection (h), if applicable, and shall compare that amount with the amount of the warrants issued to each district for that year. If the amount of the warrants differs from the amount to which a district is entitled because of variations in the district's tax rate, student enrollment, or taxable value of property, the commissioner shall adjust the district's entitlement for the next fiscal year accordingly.

SECTION 56.17. Effective September 1, 2017, Subsection (h), Section 42.253, Education Code, is amended to read as follows:

(h) If the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts are entitled for that year, the commissioner shall certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. If the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), the commissioner shall adjust [~~reduce~~] the total amounts due to each school district under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 [~~amount of state funds allocated to each district~~] by an

amount determined by applying to each district the same percentage adjustment so that the total amount of the adjustment to all districts [~~a method under which the application of the same number of cents of increase in tax rate in all districts applied to the taxable value of property of each district, as determined under Subchapter M, Chapter 403, Government Code,~~] results in an amount [~~a total levy~~] equal to the total adjustment necessary. A school district is not entitled to reimbursement in a subsequent fiscal year of the amount resulting from the adjustment authorized by this subsection [~~reduction. The following fiscal year, a district's entitlement under this section is increased by an amount equal to the reduction made under this subsection~~].

SECTION 56.18. Section 42.258, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) If a school district has received an overallocation of state funds, the agency shall, by withholding from subsequent allocations of state funds for the current or subsequent school year or by requesting and obtaining a refund, recover from the district an amount equal to the overallocation.

(a-1) Notwithstanding Subsection (a), the agency may recover an overallocation of state funds over a period not to exceed the subsequent five school years if the commissioner determines that the overallocation was the result of exceptional circumstances reasonably caused by statutory changes to Chapter 41 or 46 or this chapter and related reporting requirements.

SECTION 56.19. Subsection (b), Section 42.260, Education Code, is amended to read as follows:

(b) For each year, the commissioner shall certify to each school district or participating charter school the amount of[~~:~~

[~~(1)~~] additional funds to which the district or school is entitled due to the increase made by H.B. No. 3343, Acts of the 77th Legislature, Regular Session, 2001, to:

(1) [~~(A)~~] the equalized wealth level under Section 41.002; or

(2) [~~(B)~~] the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302[~~; or~~

[~~(2) additional state aid to which the district or school is entitled under Section 42.2513~~].

SECTION 56.20. Section 44.004, Education Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) If the rate calculated under Subsection (c)(5)(A)(ii)(b) decreases after the publication of the notice required by this section, the president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate.

SECTION 56.21. Subsection (a), Section 26.05, Tax Code, is amended to read as follows:

(a) The governing body of each taxing unit, before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the taxing unit, shall adopt a tax rate for the current tax year and shall notify the assessor for the unit of the rate adopted. The tax rate consists of two components, each of which must be approved separately. The components are:

(1) for a taxing unit other than a school district, the rate that, if applied to the total taxable value, will impose the total amount published under Section 26.04(e)(3)(C), less any amount of additional sales and use tax revenue that will be used to pay debt service, or, for a school district, the rate calculated [~~published~~] under Section 44.004(c)(5)(A)(ii)(b), Education Code; and

(2) the rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the unit for the next year.

SECTION 56.22. Effective September 1, 2017, Subsection (i), Section 26.08, Tax Code, is amended to read as follows:

(i) For purposes of this section, the effective maintenance and operations tax rate of a school district is the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, [~~including state funds that will be distributed to the district in that school year under Section 42.2516, Education Code,~~] would provide the same amount of state funds distributed under Chapter 42, Education Code, [~~including state funds distributed under Section 42.2516, Education Code,~~] and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year 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.

SECTION 56.23. Subsection (n), Section 311.013, Tax Code, is amended to read as follows:

(n) This subsection applies only to a school district whose taxable value computed under Section 403.302(d), Government Code, is reduced in accordance with Subdivision (4) of that subsection. In addition to the amount otherwise required to be paid into the tax increment fund, the district shall pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction. This additional amount may not exceed the amount the school district receives in state aid for the current tax year under Section 42.2514, Education Code. The school district shall pay the additional amount after the district receives the state aid to which the district is entitled for the current tax year under Section 42.2514, Education Code.

SECTION 56.24. Effective September 1, 2011, the following provisions of the Education Code are repealed:

(1) Subsections (c-2), (c-3), and (e), Section 21.402;

(2) Section 42.008; and

(3) Subsections (a-1) and (a-2), Section 42.101.

SECTION 56.25. (a) Effective September 1, 2017, the following provisions of the Education Code are repealed:

(1) Section 41.0041;

(2) Subsections (b), (b-1), (b-2), (c), (d), (e), (f), (f-1), (f-2), (f-3), and (i), Section 42.2516;

(3) Section 42.25161;
(4) Subsection (c), Section 42.2523;
(5) Subsection (g), Section 42.2524;
(6) Subsection (c-1), Section 42.253; and
(7) Section 42.261.

(b) Effective September 1, 2017, Subsections (i-1) and (j), Section 26.08, Tax Code, are repealed.

SECTION 56.26. (a) The speaker of the house of representatives and the lieutenant governor shall establish a joint legislative interim committee to conduct a comprehensive study of the public school finance system in this state.

(b) Not later than January 15, 2013, the committee shall make recommendations to the 83rd Legislature regarding changes to the public school finance system.

(c) The committee is dissolved September 1, 2013.

SECTION 56.27. It is the intent of the legislature, between fiscal year 2014 and fiscal year 2018, to continue to reduce the amount of Additional State Aid For Tax Reduction (ASATR) to which a school district is entitled under Section 42.2516, Education Code, and to increase the basic allotment to which a school district is entitled under Section 42.101, Education Code.

SECTION 56.28. Except as otherwise provided by this Act, the changes in law made by this Act to Chapter 42, Education Code, apply beginning with the 2011-2012 school year.

SECTION 56.29. The change in law made by Subsection (g-1), Section 44.004, Education Code, as added by this Act, applies beginning with adoption of a tax rate for the 2011 tax year.

ARTICLE 57. EFFECTIVE DATE

SECTION 57.01. Except as otherwise provided by this Act:

(1) this Act takes effect September 1, 2011, 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; and

(2) if this Act does not receive the vote necessary for effect on that date, this Act takes effect on the 91st day after the last day of the legislative session.

Floor Amendment No. 1

Amend **CSSB 1** (house committee report) as follows:

(1) Add the following ARTICLE to the bill, appropriately numbered, and renumber subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. FEDERAL FUNDS FOR BACK TO WORK PROGRAMS OR PROGRAMS FOR HOMELESS

SECTION ____.01. (a) Each state agency that received federal funds originally appropriated in Article XII, Chapter 1424 (Senate Bill 1), Acts of the 81st Legislature, Regular Session, 2009 (the General Appropriations Act) and reappropriated in Section 8.02(a), Article IX, H.B. No. 1, Acts of the 82nd Legislature, Regular Session, 2011, to prevent the federal law authorization to spend that money from lapsing before the money is spent, may direct the comptroller to transfer an amount of that federal money to the office of the governor for the purposes of Subsection (b) of this section. The total of the amounts transferred under this subsection by all agencies may not exceed $20 million.

(b) The governor may establish a program to provide grants to any person for the purposes of back to work programs or programs for the homeless authorized by legislation of the 82nd Legislature, Regular Session, 2011, or 1st Called Session, 2011, and may use money transferred to the office under Subsection (a) of this section to make those grants. To the extent practicable and consistent with the purpose of ensuring that the authorization to spend that money under federal law does not lapse before it is spent, the office must distribute evenly the money transferred to the office under Subsection (a) of this section.

(c) To the extent other law requires money to be provided for back to work programs or programs for the homeless authorized by legislation of the 82nd Legislature, Regular Session, 2011, or 1st Called Session, 2011, money provided for grants under Subsection (b) of this section reduces the requirement provided by that other law, by an amount equal to the total amount of the grants made.

(2) Strike ARTICLE 3 of the bill (page 5, line 12, through page 10, line 5) and substitute the following:

ARTICLE 3. TAX RECORDS

SECTION 3.01. Section 2153.201, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A record required under Subsection (a) must:

(1) be available at all times for inspection by the attorney general, the comptroller, or an authorized representative of the attorney general or comptroller as provided by Subsection (c);

(2) include information relating to:

(A) the kind of each machine;

(B) the date each machine is:

(i) acquired or received in this state; and

(ii) placed in operation;

(C) the location of each machine, including the:

(i) county;

(ii) municipality, if any; and

(iii) street or rural route number;

(D) the name and complete address of each operator of each machine;

(E) if the owner is an individual, the full name and address of the owner; and

(F) if the owner is not an individual, the name and address of each principal officer or member of the owner; and

(3) be maintained[~~:~~

[~~(A)~~] at a permanent address in this state designated on the application for a license under Section 2153.153[~~; and~~

[~~(B) until the second anniversary of the date the owner ceases ownership of the machine that is the subject of the record~~].

(c) A record required under Subsection (a) must be available for inspection under Subsection (b) for at least four years and as required by Section 111.0041, Tax Code.

SECTION 3.02. Section 111.0041, Tax Code, is amended to read as follows:

Sec. 111.0041. RECORDS; BURDEN TO PRODUCE AND SUBSTANTIATE CLAIMS. (a) Except as provided by Subsection (b), a [~~Any~~] taxpayer who is required by this title to keep records shall keep those records open to inspection by the comptroller, the attorney general, or the authorized representatives of either of them for at least four years.

(b) A taxpayer is required to keep records, as provided by Subsection (c) with respect to the taxpayer's claim, open for inspection under Subsection (a) for more than four years throughout any period when:

(1) any tax, penalty, or interest may be assessed, collected, or refunded by the comptroller; or

(2) an administrative hearing is pending before the comptroller, or a judicial proceeding is pending, to determine the amount of the tax, penalty, or interest that has been assessed or collected or will be refunded.

(c) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the transactions in question to substantiate and enable verification of the taxpayer's claim related to the amount of tax, penalty, or interest that has been assessed or collected or will be refunded in an administrative or judicial proceeding. Contemporaneous records and supporting documentation appropriate to the tax or fee include invoices, vouchers, checks, shipping records, contracts, and other equivalent records, such as electronically stored images of such documents, reflecting legal relationships and taxes collected or paid.

(d) This section prevails over any other conflicting provision of this title.

SECTION 3.03. Section 112.052, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the transaction in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest that has been assessed or collected or will be refunded, as required by Section 111.0041.

SECTION 3.04. Section 112.151, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the transaction in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest that has been assessed or collected or will be refunded, as required by Section 111.0041.

SECTION 3.05. Section 151.025(b), Tax Code, is amended to read as follows:

(b) A record required by Subsection (a) [~~of this section~~] shall be kept for not less than four years from the date [~~day~~] that it is made unless:

(1) the comptroller authorizes in writing its destruction at an earlier date; or

(2) Section 111.0041 requires that the record be kept for a longer period.

SECTION 3.06. Section 152.063, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) Section 111.0041 applies to a person required to keep records under this chapter.

SECTION 3.07. Section 152.0635, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) Section 111.0041 applies to a person required to keep records under this chapter.

SECTION 3.08. Section 154.209(a), Tax Code, is amended to read as follows:

(a) Except as provided by Section 111.0041, each [~~Each~~] permit holder shall keep records available for inspection and copying by the comptroller and the attorney general for at least four years.

SECTION 3.09. Section 155.110(a), Tax Code, is amended to read as follows:

(a) Except as provided by Section 111.0041, each [~~Each~~] permit holder shall keep records available for inspection and copying by the comptroller and the attorney general for at least four years.

SECTION 3.10. Section 160.046, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) A person required to keep records under this section shall also keep the records as required by Section 111.0041.

SECTION 3.11. Subchapter A, Chapter 162, Tax Code, is amended by adding Section 162.0125 to read as follows:

Sec. 162.0125. DUTY TO KEEP RECORDS. A person required to keep a record under this chapter shall also keep the record as required by Section 111.0041.

SECTION 3.12. This article takes effect September 1, 2011, 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 this article to have effect on that date, this article takes effect October 1, 2011.

(3) In ARTICLE 33 of the bill, strike SECTION 33.01 (page 98, line 25, through page 99, line 5) and renumber subsequent SECTIONS of the ARTICLE accordingly.

(4) In SECTION 40.01 of the bill, in amended Section 501.133(a), Government Code (page 109, line 4), strike "five" and substitute "seven".

(5) In SECTION 40.01 of the bill, in amended Section 501.133(a), Government Code, strike Subdivision (a)(4) (page 109, lines 17-21) and substitute the following:

(4) four [~~three~~] public members appointed by the governor who are not affiliated with the department or with any entity with which the committee has contracted to provide health care services under this chapter, at least two of whom are licensed to practice medicine in this state; and

(6) In SECTION 40.03 of the bill, in amended Section 501.136, Government Code (page 110, line 15), strike "one" and substitute "two [~~one~~]".

(7) In SECTION 40.06(b) of the bill (page 113, line 27, and page 114, line 1), strike "one public member to serve a term" each time it occurs and substitute "two public members to serve terms".

(8) In ARTICLE 41 of the bill, strike SECTIONS 41.01 and 41.02 (page 114, lines 10-26) and renumber subsequent SECTIONS of the ARTICLE accordingly.

Floor Amendment No. 7

Amend **CSSB 1** (house committee printing) in SECTION 17.03 of the bill (page 56, line 27) by inserting after "fund" and before the period, insert "or other fund indicated by the appropriation".

Floor Amendment No. 8

Amend **CSSB 1** (house committee printing) by adding the following on page 66, line 20 after "sources.":

No more than five cents of the annual one dollar service line fee may be used to fund the agency's regulatory program.

Floor Amendment No. 9

Amend **CSSB 1** (house committee printing) as follows:

(1) In ARTICLE 23 of the bill, in the heading (page 78, line 25), strike "ATTORNEY GENERAL" and substitute "STATE GOVERNMENT".

(2) In ARTICLE 23 of the bill, in SECTION 23.01, in added Section 81.113(a-1), Government Code (page 79, line 5), strike "the office of the attorney general" and substitute "a board, commission, department, agency, office, or other entity of this state's government".

Floor Amendment No. 15

Amend **CSSB 1** (house committee report), Section 37.01, by striking new Section 72.014, Government Code (page 103, line 12, through page 103, line 14), and substituting the following:

Sec. 72.014. CERTIFICATION DIVISION. The office shall establish a certification division to oversee the regulatory programs assigned to the office by law or by the supreme court. Fees collected under Section 51.008, Government Code, may be appropriated to the office to support the certification division.

Floor Amendment No. 18

Amend **CSSB 1** (house committee report) as follows:

(1) In the recital to SECTION 49.01 of the bill (page 126, lines 22 and 23), strike "Subsection (c), Section 54.214, Education Code, is amended" and substitute "Section 54.214, Education Code, is amended by amending Subsection (c) and by adding Subsection (c-1)".

(2) In SECTION 49.01 of the bill, on page 127, between lines 16 and 17, insert the following:

(c-1) Notwithstanding Subsection (c)(5), a person who previously received a tuition exemption under Section 54.214 remains eligible for an exemption if the person:

(1) is enrolled at an institution of higher education granting the exemption in courses required for teacher certification; and

(2) meets the eligibility requirements in Subsection (c) other than Subsection (c)(5).

Floor Amendment No. 20

Amend **CSSB 1** (house committee report) in ARTICLE 56 of the bill as follows:

(1) In SECTION 56.01 of the bill, in the recital (page 136, line 21), strike "Subsection (a-3)" and substitute "Subsections (a-3) and (a-4)".

(2) In SECTION 56.01 of the bill, in amended Section 12.106, Education Code (page 137, between lines 17 and 18), insert the following:

(a-4) Subsection (a-3) and this subsection expire September 1, 2013.

(3) In SECTION 56.06 of the bill, in the recital (page 144, line 4), strike "The heading" and substitute "Effective September 1, 2011, the heading".

(4) In SECTION 56.07 of the bill, in the recital (page 144, line 8), between the period and "Section 42.101", insert "Effective September 1, 2011,".

(5) In SECTION 56.07 of the bill, in the recital (page 144, lines 9 and 10) strike "(c) and (c-1)" and substitute "(c), (c-1), and (c-2)".

(6) In SECTION 56.07 of the bill, in added Section 42.101(c-1), Education Code (page 145, line 21) between "Subsection (c)" and the comma, insert "and except as provided by Subsection (c-2)".

(7) In SECTION 56.07 of the bill, in added Section 42.101(c-1), Education Code (page 145, lines 23 and 24), strike "This subsection expires September 1, 2013."

(8) In SECTION 56.07 of the bill, after added Section 42.101(c-1), Education Code (page 145, between lines 24 and 25), insert the following:

(c-2) The regular program adjustment factor ("RPAF") for a school district that does not receive funding under Section 42.2516 for the 2011-2012 school year is 0.95195 for the 2011-2012 and 2012-2013 school years. This subsection and Subsections (c) and (c-1) expire September 1, 2013.

(9) In SECTION 56.08 of the bill, in the recital (page 145, line 25), between the period and "Section 42.105", insert "Effective September 1, 2011,".

(10) In SECTION 56.09 of the bill, in the recital (page 146, line 19), between the period and "Subsection (a)", insert "Effective September 1, 2011,".

(11) Strike SECTIONS 56.16 and 56.17 of the bill, amending Section 42.253, Education Code (page 151, line 18, through page 154, line 9), and substitute the following appropriately numbered SECTIONS:

SECTION 56.____. Effective September 1, 2011, Subsection (h), Section 42.253, Education Code, is amended to read as follows:

(h) If the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts and open-enrollment charter schools are entitled for that year, the commissioner shall certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. If the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), the commissioner shall adjust [~~reduce~~] the total amounts due to each school district and open-enrollment charter school under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 [~~amount of state funds allocated to each district~~] by an amount determined by applying to each district and school, including a district receiving funds under Section 42.2516, the same percentage adjustment to the total amount of state and local revenue due to the district or school under this chapter and Chapter 41 so that the total amount of the adjustment to all districts and schools [~~a method under which the application of the same number of cents of increase in tax rate in all districts applied to the taxable value of property of each district, as~~

~~determined under Subchapter M, Chapter 403, Government Code,~~] results in an amount [~~a total levy~~] equal to the total adjustment necessary [~~reduction~~]. The following fiscal year:

(1)[~~,~~] a district's or school's entitlement under this section is increased by an amount equal to the adjustment [~~reduction~~] made under this subsection; and

(2) the amount necessary for a district to comply with the requirements of Chapter 41 is reduced by an amount equal to the adjustment made under this subsection.

SECTION 56.____. Effective September 1, 2017, Subsection (h), Section 42.253, Education Code, is amended to read as follows:

(h) If the amount appropriated for the Foundation School Program for the second year of a state fiscal biennium is less than the amount to which school districts and open-enrollment charter schools are entitled for that year, the commissioner shall certify the amount of the difference to the Legislative Budget Board not later than January 1 of the second year of the state fiscal biennium. The Legislative Budget Board shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under this subsection. If the legislature fails during the regular session to enact the proposed transfer and appropriation and there are not funds available under Subsection (j), the commissioner shall adjust [~~reduce~~] the total amounts due to each school district and open-enrollment charter school under this chapter and the total amounts necessary for each school district to comply with the requirements of Chapter 41 [~~amount of state funds allocated to each district~~] by an amount determined by applying to each district and school the same percentage adjustment to the total amount of state and local revenue due to the district or school under this chapter and Chapter 41 so that the total amount of the adjustment to all districts and schools [~~a method under which the application of the same number of cents of increase in tax rate in all districts applied to the taxable value of property of each district, as determined under Subchapter M, Chapter 403, Government Code,~~] results in an amount [~~a total levy~~] equal to the total adjustment necessary [~~reduction~~]. The following fiscal year:

(1)[~~,~~] a district's or school's entitlement under this section is increased by an amount equal to the adjustment [~~reduction~~] made under this subsection; and

(2) the amount necessary for a district to comply with the requirements of Chapter 41 is reduced by an amount equal to the adjustment made under this subsection.

(12) Add the following appropriately numbered SECTIONS to ARTICLE 56 of the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 56.____. Effective September 1, 2013, Section 42.101, Education Code, is amended to read as follows:

Sec. 42.101. BASIC ALLOTMENT. (a) For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment equal to the lesser of $4,765 or the amount that results from the following formula:

A = $4,765 X (DCR/MCR)

where:

"A" is the allotment to which a district is entitled;

"DCR" is the district's compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by the maintenance and operations tax rate adopted by the district for the 2005 tax year; and

"MCR" is the state maximum compressed tax rate, which is the product of the state compression percentage, as determined under Section 42.2516, multiplied by $1.50.

(b) A greater amount for any school year may be provided by appropriation.

SECTION 56.____. Effective September 1, 2013, Section 42.105, Education Code, is amended to read as follows:

Sec. 42.105. SPARSITY ADJUSTMENT. Notwithstanding Sections 42.101, 42.102, and 42.103, a school district that has fewer than 130 students in average daily attendance shall be provided an adjusted basic allotment on the basis of 130 students in average daily attendance if it offers a kindergarten through grade 12 program and has preceding or current year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. A district offering a kindergarten through grade 8 program whose preceding or current year's average daily attendance was at least 50 students or which is 30 miles or more by bus route from the nearest high school district shall be provided an adjusted basic allotment on the basis of 75 students in average daily attendance. An average daily attendance of 60 students shall be the basis of providing the adjusted basic allotment if a district offers a kindergarten through grade 6 program and has preceding or current year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district.

SECTION 56.____. Effective September 1, 2013, Subsection (a), Section 42.251, Education Code, is amended to read as follows:

(a) The sum of the basic allotment under Subchapter B and the special allotments under Subchapter C, computed in accordance with this chapter, constitute the tier one allotments. The sum of the tier one allotments and the guaranteed yield allotments under Subchapter F, computed in accordance with this chapter, constitute the total cost of the Foundation School Program.

Floor Amendment No. 24

Amend **CSSB 1** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 114 to read as follows:

CHAPTER 114. ADJUDICATION OF CLAIMS ARISING UNDER WRITTEN CONTRACTS WITH STATE AGENCIES

Sec. 114.001. DEFINITIONS. In this chapter:

(1) "Adjudication" of a claim means the bringing of a civil suit and prosecution to final judgment in county or state court and includes the bringing of an arbitration proceeding and prosecution to final resolution in accordance with any mandatory procedures established in the contract subject to this chapter for the arbitration proceedings.

(2) "Contract subject to this chapter" means a written contract stating the essential terms of the agreement for providing goods or services to the state agency that is properly executed on behalf of the state agency.

(3) "State agency" means an agency, department, commission, bureau, board, office, council, court, or other entity that is in any branch of state government and that is created by the constitution or a statute of this state, including a university system or a system of higher education. The term does not include a county, municipality, court of a county or municipality, special purpose district, or other political subdivision of this state.

Sec. 114.002. APPLICABILITY. This chapter applies only to a claim for breach of contract in which the matter in controversy exceeds $250,000, exclusive of interest.

Sec. 114.003. WAIVER OF IMMUNITY TO SUIT FOR CERTAIN CLAIMS. A state agency that is authorized by statute or the constitution to enter into a contract and that enters into a contract subject to this chapter waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of an express or implied provision of the contract, subject to the terms and conditions of this chapter.

Sec. 114.004. LIMITATIONS ON ADJUDICATION AWARDS. (a) The total amount of money awarded in an adjudication brought against a state agency for breach of an express or implied provision of a contract subject to this chapter is limited to the following:

(1) the balance due and owed by the state agency under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work required to carry out the contract; and

(3) interest as allowed by law.

(b) Damages awarded in an adjudication brought against a state agency arising under a contract subject to this chapter may not include:

(1) consequential damages, except as allowed under Subsection (a)(1);

(2) exemplary damages; or

(3) damages for unabsorbed home office overhead.

Sec. 114.005. CONTRACTUAL ADJUDICATION PROCEDURES ENFORCEABLE. Adjudication procedures, including requirements for serving notices or engaging in alternative dispute resolution proceedings before bringing a suit or an arbitration proceeding, that are stated in the contract subject to this chapter or that are established by the state agency and expressly incorporated into the contract are enforceable except to the extent those procedures conflict with the terms of this chapter.

Sec. 114.006. NO WAIVER OF OTHER DEFENSES. This chapter does not waive a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity.

Sec. 114.007. NO WAIVER OF IMMUNITY TO SUIT IN FEDERAL COURT. This chapter does not waive sovereign immunity to suit in federal court.

Sec. 114.008. NO WAIVER OF IMMUNITY TO SUIT FOR TORT LIABILITY. This chapter does not waive sovereign immunity to a claim arising from a cause of action for negligence.

Sec. 114.009. EMPLOYMENT CONTRACTS EXEMPT. This chapter does not apply to an employment contract between a state agency and an employee of that agency.

Sec. 114.010. NO RECOVERY OF ATTORNEY'S FEES. Attorney's fees incurred by a state agency or any other party in the adjudication of a claim by or against a state agency shall not be awarded to any party in the adjudication unless the state agency has entered into a written agreement that expressly authorizes the prevailing party in the adjudication to recover its reasonable and necessary attorney's fees.

Sec. 114.011. VENUE. A suit under this chapter may be brought in a district court in:

(1) a county in which the events or omissions giving rise to the claim occurred; or

(2) Travis County.

SECTION ____. Section 2260.002, Government Code, is amended to read as follows:

Sec. 2260.002. APPLICABILITY. This chapter does not apply to:

(1) a claim for personal injury or wrongful death arising from the breach of a contract; [~~or~~]

(2) a contract executed or awarded on or before August 30, 1999; or

(3) a claim for breach of contract to which Chapter 114, Civil Practice and Remedies Code, applies.

SECTION ____. (a) Chapter 114, Civil Practice and Remedies Code, as added by this Act, applies only to a claim arising under a contract executed on or after the 91st day after the last day of the legislative session. A claim that arises under a contract executed before that date is governed by the law applicable to the claim immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Nothing in this Act is intended to create, rescind, expand, or limit any waiver of sovereign immunity to suit applicable to any contract executed before the 91st day after the last day of the legislative session.

Floor Amendment No. 25

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. AUTHORITY OF PEACE OFFICERS TO REQUEST FINGERPRINTS DURING MOTOR VEHICLE STOPS

SECTION ____.01. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.32 to read as follows:

Art. 2.32. OBTAINING FINGERPRINTS DURING MOTOR VEHICLE STOP. (a) In this article:

(1) "Citation" means any summons, ticket, or other official document issued to a person by a peace officer that requires the person to respond or appear.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle based on the officer's reasonable suspicion of an alleged violation of a law or ordinance.

(b) For purposes of accurately determining the person's identity, a peace officer who makes a motor vehicle stop may request and obtain one digital fingerprint from each hand of the person operating the motor vehicle if the person operating the motor vehicle fails to provide to the officer during the stop:

(1) a driver's license issued to the person under Chapter 521 or 522, Transportation Code;

(2) a driver's license or commercial driver's license issued to the person by another state;

(3) a United States passport issued to the person; or

(4) any other form of photographic identification issued to the person by a governmental entity.

(c) In addition to or instead of the digital fingerprints permitted under Subsection (b), the peace officer may request and obtain one ink fingerprint from each hand of the person if the requirements of Subsection (b) are otherwise met and the officer issues a citation to the person for any offense as part of the motor vehicle stop. An ink fingerprint must be placed on an area of the citation that can be detached from the citation without damaging or altering any information on the citation.

(d) The person operating the motor vehicle shall provide the person's fingerprints on a request by the peace officer under Subsection (b) or (c).

(e) Subject to Subsection (f), the peace officer and the applicable law enforcement agency may retain a digital or ink fingerprint under this article beyond the duration of the motor vehicle stop only if the person operating the motor vehicle is cited or arrested for an offense during or as a result of the stop.

(f) A digital or ink fingerprint taken under this article must be discarded not later than the 30th day after the date the custodian of the fingerprint receives proof from any source that each criminal charge relating to the person's citation or arrest has been resolved as follows:

(1) the charge was dismissed with prejudice against the state;

(2) the person was acquitted of the charge; or

(3) the person was convicted of an offense punishable by fine only or the charge based on such an offense was dismissed for any reason.

(g) Based on available information regarding the retention of a fingerprint under Subsection (e), a court shall make a good faith effort to notify each custodian of the defendant's fingerprints as soon as practicable after the occurrence of any disposition of the defendant's case by the court as described by Subsection (f).

(h) This article does not prevent a peace officer from obtaining fingerprints through a person's voluntary compliance with the peace officer's request for fingerprints or through any other lawful means.

Floor Amendment No. 26

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered SECTION to ARTICLE 56 of the bill and renumbering subsequent SECTIONS of the article accordingly:

SECTION 56.____. Section 11.158(a), Education Code, is amended to read as follows:

(a) The board of trustees of an independent school district may require payment of:

(1) a fee for materials used in any program in which the resultant product in excess of minimum requirements becomes, at the student's option, the personal property of the student, if the fee does not exceed the cost of materials;

(2) membership dues in student organizations or clubs and admission fees or charges for attending extracurricular activities, if membership or attendance is voluntary;

(3) a security deposit for the return of materials, supplies, or equipment;

(4) a fee for personal physical education and athletic equipment and apparel, although any student may provide the student's own equipment or apparel if it meets reasonable requirements and standards relating to health and safety established by the board;

(5) a fee for items of personal use or products that a student may purchase at the student's option, such as student publications, class rings, annuals, and graduation announcements;

(6) a fee specifically permitted by any other statute;

(7) a fee for an authorized voluntary student health and accident benefit plan;

(8) a reasonable fee, not to exceed the actual annual maintenance cost, for the use of musical instruments and uniforms owned or rented by the district;

(9) a fee for items of personal apparel that become the property of the student and that are used in extracurricular activities;

(10) a parking fee or a fee for an identification card;

(11) a fee for a driver training course, not to exceed the actual district cost per student in the program for the current school year;

(12) a fee for a course offered for credit that requires the use of facilities not available on the school premises or the employment of an educator who is not part of the school's regular staff, if participation in the course is at the student's option;

(13) a fee for a course offered during summer school, except that the board may charge a fee for a course required for graduation only if the course is also offered without a fee during the regular school year;

(14) a reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school, except that the board may not charge a fee for transportation for which the school district receives funds under Section 42.155(d); [~~or~~]

(15) a reasonable fee, not to exceed $50, for costs associated with an educational program offered outside of regular school hours through which a student who was absent from class receives instruction voluntarily for the purpose of making up the missed instruction and meeting the level of attendance required under Section 25.092; or

(16) if the district does not receive any funds under Section 42.155 and does not participate in a county transportation system for which an allotment is provided under Section 42.155(i), a reasonable fee for the transportation of a student to and from the school the student attends.

Floor Amendment No. 30

Amend **CSSB 1** (house committee printing) by adding to the bill the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. GUARANTEE OF OPEN-ENROLLMENT CHARTER SCHOOL BONDS BY PERMANENT SCHOOL FUND

SECTION ____.01. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.135 to read as follows:

Sec. 12.135. DESIGNATION AS CHARTER DISTRICT FOR PURPOSES OF BOND GUARANTEE. (a) On the application of the charter holder, the commissioner may grant designation as a charter district to an open-enrollment charter school that meets financial standards adopted by the commissioner. The financial standards must require an open-enrollment charter school to have an investment grade credit rating as specified by Section 45.0541.

(b) A charter district may apply for bonds issued under Chapter 53 for the open-enrollment charter school to be guaranteed by the permanent school fund as provided by Chapter 45.

SECTION ____.02. Section 45.051, Education Code, is amended by adding Subdivision (1-a) and amending Subdivision (2) to read as follows:

(1-a) "Charter district" means an open-enrollment charter school designated as a charter district under Section 12.135.

(2) "Paying agent" means the financial institution that is designated by a school district or charter district as its agent for the payment of the principal of and interest on guaranteed bonds.

SECTION ____.03. Section 45.052, Education Code, is amended to read as follows:

Sec. 45.052. GUARANTEE. (a) On approval by the commissioner, bonds issued under Subchapter A by a school district or Chapter 53 for a charter district, including refunding bonds, are guaranteed by the corpus and income of the permanent school fund.

(b) Notwithstanding any amendment of this subchapter or other law, the guarantee under this subchapter of school district or charter district bonds remains in effect until the date those bonds mature or are defeased in accordance with state law.

SECTION ____.04. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0532 to read as follows:

Sec. 45.0532. LIMITATION ON GUARANTEE OF CHARTER DISTRICT BONDS. (a) In addition to the general limitation under Section 45.053, the commissioner may not approve charter district bonds for guarantee under this subchapter in a total amount that exceeds the percentage of the total available capacity of the guaranteed bond program that is equal to the percentage of the number of

students enrolled in open-enrollment charter schools in this state compared to the total number of students enrolled in all public schools in this state, as determined by the commissioner.

(b) For purposes of Subsection (a), the total available capacity of the guaranteed bond program is the limit established by the board under Sections 45.053(d) and 45.0531 minus the total amount of outstanding guaranteed bonds. Each time the board increases the limit under Section 45.053(d), the total amount of charter district bonds that may be guaranteed increases accordingly under Subsection (a).

(c) Notwithstanding Subsections (a) and (b), the commissioner may not approve charter district bonds for guarantee under this subchapter if the guarantee will result in lower bond ratings for school district bonds for which a guarantee is requested under this subchapter.

(d) The commissioner may request that the comptroller place the portion of the permanent school fund committed to the guarantee of charter district bonds in a segregated account if the commissioner determines that a separate account is needed to avoid any negative impact on the bond ratings of school district bonds for which a guarantee is requested under this subchapter.

(e) A guarantee of charter district bonds must be made in accordance with this chapter and any applicable federal law.

SECTION ____.05. Section 45.054, Education Code, is amended to read as follows:

Sec. 45.054. ELIGIBILITY OF SCHOOL DISTRICT BONDS. To be eligible for approval by the commissioner, school district bonds must be issued under Subchapter A of this chapter or under Subchapter A, Chapter 1207, Government Code, to make a deposit under Subchapter B or C of that chapter, by an accredited school district.

SECTION ____.06. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0541 to read as follows:

Sec. 45.0541. ELIGIBILITY OF CHARTER DISTRICT BONDS. To be eligible for approval by the commissioner, charter district bonds must:

(1) without the guarantee, be rated as investment grade by a nationally recognized investment rating firm; and

(2) be issued under Chapter 53.

SECTION ____.07. Subsections (a) and (b), Section 45.055, Education Code, are amended to read as follows:

(a) A school district or charter district seeking guarantee of eligible bonds under this subchapter shall apply to the commissioner using a form adopted by the commissioner for the purpose. The commissioner may adopt a single form on which a school district seeking guarantee or credit enhancement of eligible bonds may apply simultaneously first for guarantee under this subchapter and then, if that guarantee is rejected, for credit enhancement under Subchapter I.

(b) An application under Subsection (a) must include:

(1) the name of the school district or charter district and the principal amount of the bonds to be issued;

(2) the name and address of the district's paying agent for those bonds; and

(3) the maturity schedule, estimated interest rate, and date of the bonds.

SECTION ____.08. Section 45.056, Education Code, is amended to read as follows:

Sec. 45.056. INVESTIGATION. (a) Following receipt of an application for the guarantee of bonds, the commissioner shall conduct an investigation of the applicant school district or charter district in regard to:

(1) the status of the district's accreditation; and

(2) the total amount of outstanding guaranteed bonds.

(b) If following the investigation the commissioner is satisfied that the school district's bonds should be guaranteed under this subchapter or provided credit enhancement under Subchapter I, as applicable, or the charter district's bonds should be guaranteed under this subchapter, the commissioner shall endorse the bonds.

SECTION ____.09. Subsection (b), Section 45.057, Education Code, is amended to read as follows:

(b) The guarantee is not effective unless the attorney general approves the bonds under Section 45.005 or 53.40, as applicable.

SECTION ____.10. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0571 to read as follows:

Sec. 45.0571. CHARTER DISTRICT BOND GUARANTEE RESERVE FUND. (a) The charter district bond guarantee reserve fund is a special fund in the state treasury outside the general revenue fund. The following amounts shall be deposited in the fund:

(1) money due from a charter district as provided by Subsection (b); and

(2) interest earned on balances in the fund.

(b) A charter district that has a bond guaranteed as provided by this subchapter must annually remit to the commissioner, for deposit in the charter district bond guarantee reserve fund, an amount equal to 10 percent of the savings to the charter district that is a result of the lower interest rate on the bond due to the guarantee by the permanent school fund. The amount due under this section shall be amortized and paid over the duration of the bond. Each payment is due on the anniversary of the date the bond was issued. The commissioner shall adopt rules to determine the total and annual amounts due under this section.

(c) The commissioner may direct the comptroller to annually withhold the amount due to the charter district bond guarantee reserve fund under Subsection (b) for that year from the state funds otherwise payable to the charter district.

(d) Each year, the commissioner shall:

(1) review the condition of the bond guarantee program and the amount that must be deposited in the charter district bond guarantee reserve fund from charter districts; and

(2) determine if charter districts should be required to submit a greater percentage of the savings resulting from the guarantee.

(e) The commissioner shall make recommendations to the legislature based on the review under Subsection (d).

SECTION ____.11. Section 45.058, Education Code, is amended to read as follows:

Sec. 45.058. NOTICE OF DEFAULT. Immediately following a determination that a school district or charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, but not later than the fifth day before maturity date, the school district or charter district shall notify the commissioner.

SECTION ____.12. The heading to Section 45.059, Education Code, is amended to read as follows:

Sec. 45.059. PAYMENT OF SCHOOL DISTRICT BOND ON DEFAULT [~~FROM PERMANENT SCHOOL FUND~~].

SECTION ____.13. Subsection (a), Section 45.059, Education Code, is amended to read as follows:

(a) Immediately following receipt of notice under Section 45.058 that a school district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the commissioner shall instruct the comptroller to transfer from the appropriate account in the permanent school fund to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.

SECTION ____.14. Subchapter C, Chapter 45, Education Code, is amended by adding Section 45.0591 to read as follows:

Sec. 45.0591. PAYMENT OF CHARTER DISTRICT BOND ON DEFAULT. (a) Immediately following receipt of notice under Section 45.058 that a charter district will be or is unable to pay maturing or matured principal or interest on a guaranteed bond, the commissioner shall instruct the comptroller to transfer from the charter district bond guarantee reserve fund created under Section 45.0571 to the district's paying agent the amount necessary to pay the maturing or matured principal or interest.

(b) If money in the charter district bond guarantee reserve fund is insufficient to pay the amount due on a bond under Subsection (a), the commissioner shall instruct the comptroller to transfer from the appropriate account in the permanent school fund to the district's paying agent the amount necessary to pay the balance of the unpaid maturing or matured principal or interest.

(c) Immediately following receipt of the funds for payment of the principal or interest, the paying agent shall pay the amount due and forward the canceled bond or coupon to the comptroller. The comptroller shall hold the canceled bond or coupon on behalf of the fund or funds from which payment was made.

(d) Following full reimbursement to the charter district bond guarantee reserve fund and the permanent school fund, if applicable, with interest, the comptroller shall further cancel the bond or coupon and forward it to the charter district for which payment was made.

SECTION ____.15. Section 45.060, Education Code, is amended to read as follows:

Sec. 45.060. BONDS NOT ACCELERATED ON DEFAULT. If a school district or charter district fails to pay principal or interest on a guaranteed bond when it matures, other amounts not yet mature are not accelerated and do not become due by virtue of the school district's or charter district's default.

SECTION ____.16. The heading to Section 45.061, Education Code, is amended to read as follows:

Sec. 45.061. REIMBURSEMENT OF FUNDS [~~PERMANENT SCHOOL FUND~~].

SECTION ____.17. Section 45.061, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) If the commissioner orders payment from the permanent school fund or the charter district bond guarantee reserve fund on behalf of a school district or charter district, the commissioner shall direct the comptroller to withhold the amount paid, plus interest, from the first state money payable to the school district or charter district. Except as provided by Subsection (a-1), the [~~The~~] amount withheld shall be deposited to the credit of the permanent school fund.

(a-1) After the permanent school fund has been reimbursed for all money paid from the fund as the result of a default of a charter district bond guaranteed under this subchapter, any remaining amounts withheld under Subsection (a) shall be deposited to the credit of the charter district bond guarantee reserve fund.

(b) In accordance with the rules of the board, the commissioner may authorize reimbursement to the permanent school fund or charter district bond guarantee reserve fund with interest in a manner other than that provided by this section.

SECTION ____.18. Section 45.062, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If a total of two or more payments are made under this subchapter on charter district bonds and the commissioner determines that the charter district is acting in bad faith under the guarantee program under this subchapter, the commissioner may request the attorney general to institute appropriate legal action to compel the charter district and its officers, agents, and employees to comply with the duties required of them by law in regard to the bonds.

SECTION ____.19. Subdivision (10), Section 53.02, Education Code, is amended to read as follows:

(10) "Authorized charter school" means an open-enrollment charter school that holds a charter granted under Subchapter D, Chapter 12, and includes an open-enrollment charter school designated as a charter district as provided by Section 12.135.

SECTION ____.20. Section 53.351, Education Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f) Except as provided by Subsection (f-1), a [~~A~~] revenue bond issued under this section is not a debt of the state or any state agency, political corporation, or political subdivision of the state and is not a pledge of the faith and credit of any of these entities. A revenue bond is payable solely from the revenue of the authorized open-enrollment charter school on whose behalf the bond is issued. A revenue bond issued under this section must contain on its face a statement to the effect that:

(1) neither the state nor a state agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bond; and

(2) neither the faith and credit nor the taxing power of the state or any state agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of or interest on the bond.

(f-1) Subsection (f) does not apply to a revenue bond issued under this section for a charter district if the bond is approved for guarantee by the permanent school fund under Subchapter C, Chapter 45.

SECTION ____.21. This article applies only to a bond issued or refunded on or after the effective date of this Act by an open-enrollment charter school designated as a charter district under Section 12.135, Education Code, as added by this article. A bond issued or refunded by an open-enrollment charter school before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

Floor Amendment No. 33

Amend **CSSB 1** (house committee printing) by adding to the bill the following appropriately numbered new ARTICLE and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. FLEXIBLE SCHOOL DAY PROGRAM

SECTION ____.01. (a) Section 29.0822(a), Education Code, is amended to read as follows:

(a) Notwithstanding Section 25.081 or 25.082, a school district may apply to the commissioner to provide a flexible school day program for [~~students who~~]:

(1) students who have dropped out of school or are at risk of dropping out of school as defined by Section 29.081;

(2) students who attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the commissioner; [~~or~~]

(3) students who, as a result of attendance requirements under Section 25.092, will be denied credit for one or more classes in which the students have been enrolled; or

(4) a campus or campuses that would benefit from the program.

(b) Subsection (a) of this section applies beginning with the 2011-2012 school year.

Floor Amendment No. 35

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. ALLOCATION OF STATE AND FEDERAL FUNDS FOR ADULT BASIC EDUCATION

SECTION ____.01. Section 29.255, Education Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other provision of this subchapter, the agency shall allocate state and federal adult education program funds, other than federal funds set aside for state administration, special projects, and staff development, to each county based on need, performance, and efficiency.

SECTION ____.02. Subchapter H, Chapter 29, Education Code, is amended by adding Section 29.2535 to read as follows:

Sec. 29.2535. SERVICE PROVIDER CONTRACTS: COMPETITIVE PROCUREMENT REQUIREMENT. (a) The agency shall use a competitive procurement process to award a contract to a service provider of an adult education program.

(b) The agency shall adopt rules to administer this section.

SECTION ____.03. (a) The change in law made by Section 29.2535(a), Education Code, as added by this article, applies only to a contract entered into on or after the effective date of this article.

(b) Not later than August 31, 2012, the Texas Education Agency shall adopt rules to provide for a competitive procurement process to award contracts to service providers of adult education programs as provided by Section 29.2535, Education Code, as added by this article.

SECTION ____.04. (a) Except as provided by Subsection (b) of this section, this article takes effect September 1, 2012.

(b) Section 29.2535(b), Education Code, as added by this article, takes effect on the 91st day after the last day of the legislative session.

Floor Amendment No. 37

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered new ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. STATE VIRTUAL SCHOOL NETWORK

SECTION ____.01. Section 30A.105, Education Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) The administering authority shall:

(1) establish a schedule for an annual submission and approval process for electronic courses;

(2) evaluate electronic courses to be offered through the state virtual school network; and

(3) not later than the 90th day after the date of submission [~~August 1 of each year~~], approve electronic courses that:

(A) meet the criteria established under Section 30A.103; and

(B) provide the minimum instructional rigor and scope required under Section 30A.104.

(a-1) If the administering authority does not take action regarding approval or disapproval of a submitted electronic course by the deadline specified in Subsection (a)(3), the course is considered approved.

(a-2) The administering authority shall publish the schedule established under Subsection (a)(1), including any deadlines specified in that schedule, and any guidelines applicable to the submission and approval process for electronic courses.

(a-3) The evaluation required by Subsection (a)(2) must include review of each electronic course component, including off-line material proposed to be used in the course.

(c) The agency shall require each school district, open-enrollment charter school, or public or private institution of higher education that submits an electronic course for evaluation and approval to pay a fee in the amount of $500 for each course

submitted. The agency shall use the fees to pay the reasonable costs of evaluating and approving electronic courses. If the amount of fees collected under this subsection is [~~funds available to the agency for that purpose are~~] insufficient to pay the costs of evaluating and approving all electronic courses submitted for evaluation and approval, the agency shall give priority to paying the costs of evaluating and approving the following courses:

(1) courses that satisfy high school graduation requirements;

(2) courses that would likely benefit a student in obtaining admission to a postsecondary institution;

(3) courses, including dual credit courses, that allow a student to earn college credit or other advanced credit;

(4) courses in subject areas most likely to be highly beneficial to students receiving educational services under the supervision of a juvenile probation department, the Texas Youth Commission, or the Texas Department of Criminal Justice; and

(5) courses in subject areas designated by the commissioner as commonly experiencing a shortage of teachers.

(d) If the agency determines that the costs of evaluating and approving a submitted electronic course will not be paid by the agency due to a shortage of fees collected [~~funds available~~] for that purpose, the school district, open-enrollment charter school, or public or private institution of higher education that submitted the course for evaluation and approval may pay the costs in order to ensure that evaluation of the course occurs.

Floor Amendment No. 38

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. SUNSET REVIEW OF UNIVERSITY INTERSCHOLASTIC LEAGUE

SECTION ____.01. Section 33.083, Education Code, is amended by adding Subsection (e) to read as follows:

(e) The University Interscholastic League is subject to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. The University Interscholastic League shall be reviewed during the period in which state agencies abolished in 2013 are reviewed. The University Interscholastic League shall pay the costs incurred by the Sunset Advisory Commission in performing the review under this subsection. The Sunset Advisory Commission shall determine the costs of the review performed under this subsection, and the University Interscholastic League shall pay the amount of those costs promptly on receipt of a statement from the Sunset Advisory Commission regarding those costs. This subsection expires September 1, 2013.

Floor Amendment No. 39

Amend **CSSB 1** by adding the appropriately numbered sections:

SECTION ____. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0221 to read as follows:

Sec. 39.0221. TEMPORARY MORATORIUM ON ADMINISTERING ASSESSMENT INSTRUMENTS. (a) The agency shall:

(1) develop a plan for school districts to suspend the administration of assessment instruments under Section 39.023 for the 2011-2012 and 2012-2013 school years;

(2) determine whether implementation of a plan under Subdivision (1) would result in the loss of any federal education funding under the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.) or other federal law; and

(3) advise districts regarding any potential loss of federal education funding.

(b) A superintendent of a school district may suspend district administration of assessment instruments under Section 39.023 for the 2011-2012 and 2012-2013 school years if the suspension is:

(1) approved by the board of trustees of the district; and

(2) consistent with the plan developed by the agency under Subsection (a).

(c) A superintendent of a school district may apply funds the superintendent identifies as savings from expenditures otherwise required for assessment instruments or the administration of assessment instruments only to:

(1) the retention of teachers or other district personnel with direct student contact and involvement; or

(2) consumable resources requested by classroom teachers for classroom instruction.

(d) The amount of state funding a school district receives each school year is not contingent on a superintendent's decision under this section concerning the administration of assessment instruments under Section 39.023 for the 2011-2012 and 2012-2013 school years.

(e) This section expires September 1, 2013.

Floor Amendment No. 41

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 56 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 56.____. Section 41.093, Education Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding Subsection (a), for the 2009-2010 school year, the commissioner may allow a school district to determine the cost of each credit under Subsection (a) based on the amount described by Subsection (a)(1) if the district imposed a tax to service the district's debt for the 2009 tax year at a rate at least equal to the maintenance and operations tax rate the district imposed for the 2008 tax year. This subsection expires September 1, 2012.

Floor Amendment No. 44

Amend **CSSB 1** (house committee report) in ARTICLE 56 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS in the ARTICLE accordingly:

SECTION 56.____. Subchapter C, Chapter 42, Education Code, is amended by adding Section 42.1541 to read as follows:

Sec. 42.1541. INDIRECT COST ALLOTMENTS. (a) The State Board of Education shall by rule increase the indirect cost allotments established under Sections 42.151(h), 42.152(c), 42.153(b), and 42.154(a-1) and (c) and in effect for the 2010-2011 school year in proportion to the average percentage reduction in total state and local maintenance and operations revenue provided under this chapter for the 2011-2012 school year as a result of **SB 1** and **SB 2**, Acts of the 82nd Legislature, 1st Called Session, 2011.

(b) To the extent necessary to permit the board to comply with this section, the limitation on the percentage of the indirect cost allotment prescribed by Section 42.152(c) does not apply.

(c) The board shall take the action required by Subsection (a) not later than the date that permits the increased indirect cost allotments to apply beginning with the 2011-2012 school year.

Floor Amendment No. 45

Amend **CSSB 1** (house committee printing) in ARTICLE 56 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of ARTICLE 56 of the bill accordingly:

SECTION 56.____. Section 42.152(c), Education Code, is amended to read as follows:

(c) Funds allocated under this section shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B, Chapter 39, or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by Section 29.081, and all other students. Specifically, the funds, other than an indirect cost allotment established under State Board of Education rule, which may not exceed 45 percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081 or a disciplinary [~~an~~] alternative education program established under Section 37.008, to pay the costs associated with placing students in a juvenile justice alternative education program established under Section 37.011, or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under Section 29.081, a district's compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction. A home-rule school district or an open-enrollment charter school must use funds allocated under Subsection (a) for a purpose authorized in this subsection but is not otherwise subject to Subchapter C, Chapter 29. For [~~Notwithstanding any other provisions of this section:~~

[~~(1) to ensure that a sufficient amount of the funds allotted under this section are available to supplement instructional programs and services, no more than 18 percent of the funds allotted under this section may be used to fund disciplinary alternative education programs established under Section 37.008;~~

[~~(2) the commissioner may waive the limitations of Subdivision (1) upon an annual petition, by a district's board and a district's site based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on disciplinary alternative education programs under Section 37.008, provided that:~~

[~~(A) the district in its petition reports the number of students in each grade level, by demographic subgroup, not making satisfactory progress under the state's assessment system; and~~

[~~(B) the commissioner makes the waiver request information available annually to the public on the agency's website; and~~

[~~(3) for~~] purposes of this subsection, a program specifically designed to serve students at risk of dropping out of school, as defined by Section 29.081, is considered to be a program supplemental to the regular education program, and a district may use its compensatory education allotment for such a program.

Floor Amendment No. 46

Amend **CSSB 1** (house committee report) in ARTICLE 56 of the bill by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS in ARTICLE 56 accordingly:

SECTION 56.____. (a) Section 42.2531, Education Code, is amended by adding Subsection (c-1) and amending Subsection (d) to read as follows:

(c-1) Notwithstanding any other provision of this section, the commissioner shall compensate a school district for a tax refund paid in the current year as a result of a property tax value appeal for a previous year if the district is not compensated by an offsetting adjustment to the district's taxable value of property and the amount of the refund exceeds 10 percent of the district's net maintenance and operations tax revenue collected in the current year, after deducting any payments required to be made by the district to comply with Chapter 41, if applicable.

(d) Except as provided by Subsection (c-1), this [~~This~~] section does not require the commissioner to make any requested adjustment. A determination by the commissioner under this section is final and may not be appealed.

(b) Section 42.2531(c-1), Education Code, as added by this section, applies beginning with refunds paid during the 2010-2011 school year.

Floor Amendment No. 50

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered SECTION to ARTICLE 56 of the bill and renumbering subsequent SECTIONS of the article accordingly:

SECTION 56.____. Subchapter A, Chapter 45, Education Code, is amended by adding Section 45.0061 to read as follows:

Sec. 45.0061. ADDITIONAL AUTHORITY FOR MAINTENANCE TAX REQUIRED FOR JUDGMENT ORDERING AD VALOREM TAX REFUND; BONDS. (a) This section applies only to a school district that:

(1) has an average daily attendance of less than 10,000; and

(2) is located in whole or part in a municipality with a population of less than 75,000 that is located in a county with a population of 200,000 or more bordering the State of Louisiana.

(b) Notwithstanding Section 45.003, a school district may levy, assess, and collect maintenance taxes at a rate that exceeds the rate specified in Section 45.003(d) if:

(1) additional ad valorem taxes are necessary to pay a debt of the district that:

(A) resulted from the rendition of a judgment against the district before December 1, 2011;

(B) is greater than $5 million;

(C) decreases a property owner's ad valorem tax liability; and

(D) requires the district to refund to the property owner the difference between the amount of taxes paid by the property owner and the amount of taxes for which the property owner is liable; and

(2) the additional taxes are approved by the voters of the district at an election held for that purpose.

(c) Except as provided by Subsection (e), any additional maintenance taxes that the district collects under this section may be used only to pay the district's debt under Subsection (b)(1).

(d) Except as provided by Subsection (e), the authority of a school district to levy the additional ad valorem taxes under this section expires when the judgment against the district is paid.

(e) The governing body of a school district shall pay the district's debt under Subsection (b)(1) in a lump sum. To satisfy the district's debt under Subsection (b)(1), the governing body may levy and collect additional maintenance taxes as provided by Subsection (b) and may issue bonds. If bonds are issued:

(1) the district may use any additional maintenance taxes collected by the district under this section to pay debt service on the bonds; and

(2) the authority of the district to levy the additional ad valorem taxes expires when the bonds are paid in full or the judgment is paid, whichever occurs later.

(f) The governing body of a school district that adopts a tax rate that exceeds the rate specified in Section 45.003(d) may set the amount of the exemption from taxation authorized by Section 11.13(n), Tax Code, at any time before the date the governing body adopts the district's tax rate for the tax year in which the election approving the additional taxes is held.

(g) The authority to issue bonds granted by this section expires June 1, 2013.

Floor Amendment No. 51

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. STRATEGIC CAPITAL INVESTMENTS

SECTION ____.01. Subchapter A, Chapter 55, Education Code, is amended by adding Section 55.05 to read as follows:

Sec. 55.05. STRATEGIC CAPITAL INVESTMENT PROJECTS. (a) An institution of higher education that authorizes the issuance of bonds under this chapter for strategic capital investment projects qualifying under this section may receive state support of the debt service on those bonds.

(b) An institution of higher education that authorizes the issuance of bonds for a strategic capital investment project must apply to the commissioner of higher education to qualify for state support of the debt service on those bonds under this section. Subject to Subsection (e), the commissioner of higher education shall approve the project for that state support if the commissioner finds that:

(1) the project is of vital importance to the institution and to higher education in this state because the project will:

(A) facilitate an innovative or transformative model of education in a field designated by the commissioner as a high-priority for the education of an innovative workforce;

(B) increase the institution's ability to attract federal and industry funding for research; and

(C) support the commercialization of technology that strengthens the state's ability to attract capital and talent for startup companies and new ventures;

(2) the institution's governing board has designated the project a high priority and a strategic capital investment by; and

(3) the project has funding support from private philanthropic sources, or from funds available to the institution other than formula funding general revenue appropriations, equal to at least two-thirds of the estimated completed cost of the project on the date that the institution applies for state support.

(c) Subject to Subsection (d), the legislature shall appropriate funds for the purpose of reimbursing a university system or institution of higher education that issues bonds for a project that qualifies under this section for the debt service on those bonds. The reimbursement for debt service on an approved project may not exceed an amount equal to the lesser of:

(1) the debt service on $100 million in aggregate value of bonds; or

(2) the debt service on an amount of bonds equal to one-third of the estimated completed cost of the project.

(d) The legislature may not appropriate funds other than formula funding general revenue to support the debt service on bonds for projects approved under this section earlier than the second state fiscal biennium after the fiscal biennium in which the institution issues bonds for the project.

(e) The commissioner of education may approve projects for state support of debt service under this section with an aggregate total bonded indebtedness of not more than $400 million.

(f) The commissioner of higher education may not approve a project under this section after September 1, 2015.

(g) Not later than December 31, 2014, the commissioner of higher education shall submit a report to the governor, the legislature, the Legislative Budget Board, and the Texas Public Finance Authority on:

(1) the number and scope of projects approved for funding under this section; and

(2) the effectiveness of those projects in achieving the goals described in Subsection (b)(1).

Floor Amendment No. 52

Amend the Branch floor amendment No. 51 to **CSSB 1** (prefiled amendment packet, beginning on page 149) as follows:

(1) On page 3, line 5, of the amendment, insert "the Bond Review Board," between "the Legislative Budget Board," and "and the Texas Public Finance Authority".

(2) On page 3, after line 10, of the amendment, insert a new Subsection (h) to added Section 55.05, Education Code, to read as follows:

(h) Funds deposited in the state treasury under Section 51.008, and funds appropriated by Section 17, Article 7, Texas Constitution, are not considered general revenue for purposes of this section.

Floor Amendment No. 55

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill appropriately:

ARTICLE ____. FISCAL MATTERS CONCERNING SCHOLARSHIPS AWARDED FROM STUDENT SUCCESS-BASED FUNDS

SECTION ____.01. Subchapter A, Chapter 56, Education Code, is amended by adding Section 56.005 to read as follows:

Sec. 56.005. STUDENT PRIORITY FOR SCHOLARSHIPS AWARDED FROM STUDENT SUCCESS-BASED FUNDS. (a) In this section:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Critical field" means a field of study designated as a critical field under Subsection (b).

(b) Except as otherwise provided by Subdivision (2), the fields of engineering, computer science, mathematics, physical science, allied health, nursing, and teaching certification in the field of science or mathematics are critical fields. Beginning September 1, 2012, the coordinating board, based on the coordinating board's determination of those fields of study in which the support and development of postsecondary education programs at the bachelor's degree level are most critically necessary for serving the needs of this state, by rule may:

(1) designate as a critical field a field of study that is not currently designated by this subsection or by the board as a critical field; or

(2) remove a field of study from the list of fields currently designated by this subsection or by the board as critical fields.

(c) Notwithstanding any other law, in determining who should receive scholarships awarded by an institution of higher education from funds appropriated to the institution based on student success, the institution shall give priority to awarding the scholarships to eligible students enrolled in critical fields.

(d) The coordinating board may adopt rules for the administration of this section.

SECTION ____.02. Section 56.005, Education Code, as added by this article, applies beginning with scholarships awarded by a public institution of higher education for the 2011 fall semester. Scholarships awarded before the 2011 fall semester are covered by the law in effect immediately before the effective date of this article, and the former law is continued in effect for that purpose.

Floor Amendment No. 56

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. FISCAL MATTERS CONCERNING PERMANENT FUNDS FOR HEALTH-RELATED INSTITUTIONS OF HIGHER EDUCATION

SECTION ____.01. Subchapter B, Chapter 63, Education Code, is amended by adding Section 63.104 to read as follows:

Sec. 63.104. INVESTMENT AND DISTRIBUTION POLICY GOVERNING ENDOWMENT OF THE UNIVERSITY OF TEXAS AT EL PASO. The governing board of The University of Texas at El Paso shall adopt an investment and distribution policy for the institution's endowment fund provided by this subchapter. Section 63.102 does not apply to the investment, distribution, or expenditure of money from the endowment fund.

Floor Amendment No. 57

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the remaining ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. OPTOMETRY CAREER PROGRAM AT THE UNIVERSITY OF HOUSTON

SECTION ____.01. Subchapter C, Chapter 111, Education Code, is amended by adding Section 111.43 to read as follows:

Sec. 111.43. OPTOMETRY CAREER PROGRAM. The university may operate a summer program that prepares highly qualified, economically disadvantaged junior-level, senior-level, and postbaccalaureate students from any public or private institution of higher education for advanced studies and a career in the field of optometry.

Floor Amendment No. 59

Amend **CSSB 1** (house committee report) by adding the appropriately numbered SECTIONS to the bill:

(1) SECTION ____. Section 254.031(a), Election Code, is amended to read as follows:

(a) Except as otherwise provided by this chapter, each report filed under this chapter must include:

(1) the amount of political contributions from each person that in the aggregate exceed $50 and that are accepted during the reporting period by the person or committee required to file a report under this chapter, the full name and address of the person making the contributions, and the dates of the contributions;

(2) the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed $50, the dates the loans are made, the interest rate, the maturity date, the type of collateral for the loans, if any, the full name and address of the person or financial institution making the loans, the full name and address, principal occupation, and name of the employer of each guarantor of the loans, the amount of the loans guaranteed by each guarantor, and the aggregate principal amount of all outstanding loans as of the last day of the reporting period;

(3) the amount of political expenditures that in the aggregate exceed $100 [~~$50~~] and that are made during the reporting period, the full name and address of the persons to whom the expenditures are made, and the dates and purposes of the expenditures;

(4) the amount of each payment made during the reporting period from a political contribution if the payment is not a political expenditure, the full name and address of the person to whom the payment is made, and the date and purpose of the payment;

(5) the total amount or a specific listing of the political contributions of $50 or less accepted and the total amount or a specific listing of the political expenditures of $100 [~~$50~~] or less made during the reporting period;

(6) the total amount of all political contributions accepted and the total amount of all political expenditures made during the reporting period;

(7) the name of each candidate or officeholder who benefits from a direct campaign expenditure made during the reporting period by the person or committee required to file the report, and the office sought or held, excluding a direct campaign expenditure that is made by the principal political committee of a political party on behalf of a slate of two or more nominees of that party; [~~and~~]

(8) as of the last day of a reporting period for which the person is required to file a report, the total amount of political contributions accepted, including interest or other income on those contributions, maintained in one or more accounts in which political contributions are deposited as of the last day of the reporting period;

(9) any credit, interest, rebate, refund, reimbursement, or return of a deposit fee resulting from the use of a political contribution or an asset purchased with a political contribution received during the reporting period and the amount of which exceeds $100;

(10) any proceeds of the sale of an asset purchased with a political contribution received during the reporting period and the amount of which exceeds $100;

(11) any investment purchased with a political contribution received during the reporting period and the amount of which exceeds $100;

(12) any other gain from a political contribution received during the reporting period and the amount of which exceeds $100; and

(13) the full name and address of each person from whom an amount described by Subdivision (9), (10), (11), or (12) is received, the date the amount is received, and the purpose for which the amount is received.

SECTION ____. Subchapter B, Chapter 254, Election Code, is amended by adding Section 254.0405 to read as follows:

Sec. 254.0405. AMENDMENT OF FILED REPORT. (a) A person who files a semiannual report under this chapter may amend the report.

(b) A semiannual report that is amended before the eighth day after the date the original report was filed is considered to have been filed on the date on which the original report was filed.

(c) A semiannual report that is amended on or after the eighth day after the original report was filed is considered to have been filed on the date on which the original report was filed if:

(1) the amendment is made before any complaint is filed with regard to the subject of the amendment; and

(2) the original report was made in good faith and without an intent to mislead or to misrepresent the information contained in the report.

SECTION ____. Section 254.041, Election Code, is amended by adding Subsection (d) to read as follows:

(d) It is an exception to the application of Subsection (a)(3) that:

(1) the information was required to be included in a semiannual report; and

(2) the person amended the report within the time prescribed by Section 254.0405(b) or under the circumstances described by Section 254.0405(c).

SECTION ____. Section 571.122, Government Code, is amended by adding Subsection (e) to read as follows:

(e) It is not a valid basis of a complaint to allege that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION ____. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1222 to read as follows:

Sec. 571.1222. DISMISSAL OF COMPLAINT CHALLENGING CERTAIN INFORMATION IN POLITICAL REPORT. At any stage of a proceeding under this subchapter, the commission shall dismiss a complaint to the extent the complaint alleges that a report required under Chapter 254, Election Code, contains the improper name or address of a person from whom a political contribution was received if the name or address in the report is the same as the name or address that appears on the check for the political contribution.

SECTION ____. Section 571.123(b), Government Code, is amended to read as follows:

(b) After a complaint is filed, the commission shall immediately attempt to contact and notify the respondent of the complaint by telephone or electronic mail. Not later than the fifth business day after the date a complaint is filed, the commission shall send written notice to the complainant and the respondent. The written notice to the complainant and the respondent must:

(1) state whether the complaint complies with the form requirements of Section 571.122;

(2) if the respondent is a candidate or officeholder, state the procedure by which the respondent may designate an agent with whom commission staff may discuss the complaint; [~~and~~]

(3) [~~(2)~~] if applicable, include the information required by Section 571.124(e).

SECTION ____. Subchapter E, Chapter 571, Government Code, is amended by adding Section 571.1231 to read as follows:

Sec. 571.1231. DESIGNATION OF AGENT BY CERTAIN RESPONDENTS. (a) This section applies only to a respondent who is a candidate or officeholder.

(b) A respondent to a complaint filed against the respondent may by writing submitted to the commission designate an agent with whom the commission staff may communicate regarding the complaint.

(c) For purposes of this subchapter, including Section 571.140, communications with the respondent's agent designated under this section are considered communications with the respondent.

SECTION ____. Section 159.003(b), Local Government Code, is amended to read as follows:

(b) The statement must:

(1) be filed with the county clerk of the county in which the officer, justice, or candidate resides; and

(2) comply with Sections 572.022 and 572.023, Government Code, and with any order of the commissioners court of the county requiring additional disclosures.

SECTION ____. Section 254.031(a), Election Code, as amended by this Act, applies only to a report under Chapter 254, Election Code, that is required to be filed on or after the effective date of this Act. A report under Chapter 254, Election Code, that is required to be filed before the effective date of this Act is governed by the law in effect on the date the report is required to be filed, and the former law is continued in effect for that purpose.

SECTION ____. Section 254.041, Election Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION ____. This Act takes effect September 1, 2011.

(2) Renumber the subsequent SECTIONS of the bill accordingly.

Floor Amendment No. 60

Amend Amendment No. 59 to **CSSB 1** by Geren (prefiled amendment packet, pages 172-177) on page 5, line 10, of the amendment by striking "[~~and~~]" and substituting "and".

Floor Amendment No. 61

Amend Amendment No. 59 to **CSSB 1** by Geren (prefiled amendment packet, pages 172-177) by adding the following appropriately numbered SECTION to the amendment and renumbering subsequent SECTIONS of the amendment accordingly:

SECTION ____. Section 253.0351(a), Election Code, is amended to read as follows:

(a) A candidate or officeholder who makes political expenditures from the candidate's or officeholder's personal funds may report the amount expended as all or part of a loan from the candidate or officeholder and may reimburse those personal funds from political contributions in the amount of all or part of the reported loan.

Floor Amendment No. 62

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of ARTICLE 1 of the bill accordingly:

SECTION 1.____. Section 2.013, Family Code, is amended by adding Subsection (g) to read as follows:

(g) The Health and Human Services Commission shall ensure that a premarital education course described by this section is made available to residents of this state, regardless of whether the legislature appropriates funds specifically for that purpose.

Floor Amendment No. 63

Amend Amendment No. 62 by Chisum to **CSSB 1** (page 178, prefiled amendment packet) by striking the text of the amendment and substituting the following:

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. PREMARITAL EDUCATION COURSES

SECTION ____.01 Section 2.013, Family Code, is amended by adding Subsection (g) to read as follows:

(g) The Health and Human Services Commission shall ensure that a premarital education course described by this section is made available to residents of this state, regardless of whether the legislature appropriates funds specifically for that purpose.

Floor Amendment No. 64

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE ____. SUITS AFFECTING THE PARENT-CHILD RELATIONSHIP

SECTION ____.01. Section 263.601, Family Code, is amended by amending Subdivision (1) and adding Subdivision (3-a) to read as follows:

(1) "Foster care" means a voluntary residential living arrangement with a foster parent or other residential child-care provider that is:

(A) licensed or approved by the department or verified by a licensed child-placing agency; and

(B) paid under a contract with the department.

(3-a) "Trial independence period" means a period of not less than six months, or a longer period as a court may order not to exceed 12 months, during which a young adult exits foster care with the option to return to foster care under the continuing extended jurisdiction of the court.

SECTION ____.02. Section 263.602, Family Code, is amended to read as follows:

Sec. 263.602. EXTENDED JURISDICTION. (a) A court that had continuing, exclusive jurisdiction over a young adult on the day before [~~may, at~~] the young adult's 18th birthday continues to have extended [~~request, render an order that extends the court's~~] jurisdiction over the young adult and shall retain the case on the court's docket while the young adult remains in extended foster care and during a trial independence period described [~~as provided~~] by this section [~~subchapter~~].

(b) A court with extended jurisdiction over a young adult who remains in extended foster care shall conduct extended foster care review hearings every six months for the purpose of reviewing and making findings regarding:

(1) whether the young adult's living arrangement is safe and appropriate and whether the department has made reasonable efforts to place the young adult in the least restrictive environment necessary to meet the young adult's needs;

(2) whether the department is making reasonable efforts to finalize the permanency plan that is in effect for the young adult, including a permanency plan for independent living;

(3) whether, for a young adult whose permanency plan is independent living:

(A) the young adult participated in the development of the plan of service;

(B) the young adult's plan of service reflects the independent living skills and appropriate services needed to achieve independence by the projected date; and

(C) the young adult continues to make reasonable progress in developing the skills needed to achieve independence by the projected date; and

(4) whether additional services that the department is authorized to provide are needed to meet the needs of the young adult [~~The extended jurisdiction of the court terminates on the earlier of:~~

[~~(1) the young adult's 21st birthday; or~~

[~~(2) the date the young adult withdraws consent to the extension of the court's jurisdiction in writing or in court~~].

(c) Not later than the 10th day before the date set for a hearing under this section, the department shall file with the court a copy of the young adult's plan of service and a report that addresses the issues described by Subsection (b).

(d) Notice of an extended foster care review hearing shall be given as provided by Rule 21a, Texas Rules of Civil Procedure, to the following persons, each of whom has a right to present evidence and be heard at the hearing:

(1) the young adult who is the subject of the suit;

(2) the department;

(3) the foster parent with whom the young adult is placed and the administrator of a child-placing agency responsible for placing the young adult, if applicable;

(4) the director of the residential child-care facility or other approved provider with whom the young adult is placed, if applicable;

(5) each parent of the young adult whose parental rights have not been terminated and who is still actively involved in the life of the young adult;

(6) a legal guardian of the young adult, if applicable; and

(7) the young adult's attorney ad litem, guardian ad litem, and volunteer advocate, the appointment of which has not been previously dismissed by the court.

(e) If, after reviewing the young adult's plan of service and the report filed under Subsection (c), and any additional testimony and evidence presented at the review hearing, the court determines that the young adult is entitled to additional services, the court may order the department to take appropriate action to ensure that the young adult receives those services.

(f) A court with extended jurisdiction over a young adult as described in Subsection (a) shall continue to have jurisdiction over the young adult and shall retain the case on the court's docket until the earlier of:

(1) the last day of the:

(A) sixth month after the date the young adult leaves foster care; or

(B) 12th month after the date the young adult leaves foster care if specified in a court order, for the purpose of allowing the young adult to pursue a trial independence period; or

(2) the young adult's 21st birthday.

(g) A court with extended jurisdiction described by this section is not required to conduct periodic hearings for a young adult during a trial independence period and may not compel a young adult who has exited foster care to attend a court hearing.

SECTION ____.03. Subchapter G, Chapter 263, Family Code, is amended by adding Section 263.6021 to read as follows:

Sec. 263.6021. VOLUNTARY EXTENDED JURISDICTION FOR YOUNG ADULT RECEIVING TRANSITIONAL LIVING SERVICES. (a) Notwithstanding Section 263.602, a court that had continuing, exclusive jurisdiction over a young adult on the day before the young adult's 18th birthday may, at the young adult's request, render an order that extends the court's jurisdiction beyond the end of a trial independence period if the young adult receives transitional living services from the department.

(b) The extended jurisdiction of the court under this section terminates on the earlier of:

(1) the young adult's 21st birthday; or

(2) the date the young adult withdraws consent to the extension of the court's jurisdiction in writing or in court.

(c) At the request of a young adult who is receiving transitional living services from the department and who consents to voluntary extension of the court's jurisdiction under this section, the court may hold a hearing to review the services the young adult is receiving.

(d) Before a review hearing scheduled under this section, the department must file with the court a report summarizing the young adult's transitional living services plan, services being provided to the young adult under that plan, and the young adult's progress in achieving independence.

(e) If, after reviewing the report and any additional testimony and evidence presented at the hearing, the court determines that the young adult is entitled to additional services, the court may order the department to take appropriate action to ensure that the young adult receives those services.

SECTION ____.04. Subsections (a) and (c), Section 263.603, Family Code, are amended to read as follows:

(a) Notwithstanding Section 263.6021 [~~263.602~~], if the court believes that a young adult may be incapacitated as defined by Section 601(14)(B), Texas Probate Code, the court may extend its jurisdiction on its own motion without the young adult's consent to allow the department to refer the young adult to the Department of Aging and Disability Services for guardianship services as required by Section 48.209, Human Resources Code.

(c) If the Department of Aging and Disability Services determines a guardianship is not appropriate, or the court with probate jurisdiction denies the application to appoint a guardian, the court under Subsection (a) may continue to extend its jurisdiction over the young adult only as provided by Section 263.602 or 263.6021.

SECTION ____.05. Section 263.609, Family Code, is repealed.

SECTION ____.06. This article takes 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, this article takes effect September 1, 2011.

Floor Amendment No. 65

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. VIDEO COMMUNICATIONS TECHNOLOGY IN DISTRICT COURT PROCEEDINGS

SECTION ____.01. Subchapter A, Chapter 24, Government Code, is amended by adding Section 24.035 to read as follows:

Sec. 24.035. CONDUCTING HEARINGS BY VIDEO. (a) In this section, "video communications technology" means technology that provides for communication between individuals in different locations, connected by electronic means, through both audio and video.

(b) Except as provided by Subsection (c), a district judge may conduct court proceedings, including hearings, by video communications technology.

(c) A district judge may not conduct a trial by video communications technology.

Floor Amendment No. 66

Amend **CSSB 1** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. (a) Section 322.007, Government Code, is amended to read as follows:

Sec. 322.007. ESTIMATES AND REPORTS. (a) Each institution, department, agency, officer, employee, or agent of the state shall submit to the board any estimate or report relating to appropriations requested by the board or under the board's direction.

(b) Each institution, department, and agency of this state that receives an appropriation shall submit to the board a zero-based budget plan that contains:

(1) a description of the discrete activities the entity is charged with conducting or performing together with a justification for each activity by reference to a statute or other legal authority;

(2) for each activity identified under Subdivision (1), a quantitative estimate of any adverse effects that reasonably may be expected to result if the activity were discontinued, together with a description of the methods by which the adverse effects were estimated;

(3) for each activity identified under Subdivision (1), an itemized account of expenditures required to maintain the activity at the minimum level of service required by the statute or other legal authority, together with a concise statement of the quantity and quality of service required at that minimum level;

(4) for each activity identified under Subdivision (1), an itemized account of expenditures required to maintain the activity at the current level of service, together with a concise statement of the quantity and quality of service provided at that level; and

(5) a ranking of activities identified under Subdivision (1) that illustrates the relative importance of each activity to the overall goals and purposes of the institution, department, or agency at current service levels.

(c) Each zero-based budget plan and each estimate or report shall be submitted at a time set by the board and in the manner and form prescribed by board rules.

(d) Each zero-based budget plan and each [~~(c) An~~] estimate or report required under this section is in addition to a budget plan or an estimate or report required by other law, including those estimates or reports relating to appropriations required by Chapter 401.

(b) Section 322.008(a), Government Code, is amended to read as follows:

(a) Based on information provided under Section 322.007, the [~~The~~] director, under the direction of the board, shall prepare the general appropriations bill for introduction at each regular legislative session.

(c) Section 401.0445(a), Government Code, is amended to read as follows:

(a) The governor shall compile the biennial appropriation budget using information:

(1) submitted to the governor in the uniform budget estimate forms; [~~and~~]

(2) obtained at public hearings, from inspections, and from other sources; and

(3) submitted to the Legislative Budget Board under Section 322.007.

(d) The changes in law made by this section apply only in regard to information for developing a biennial appropriation budget for a state fiscal biennium beginning on or after the effective date of this Act.

Floor Amendment No. 67

Amend **CSSB 1** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS accordingly:

ARTICLE ____. GENERAL APPROPRIATIONS ACT FORMAT

SECTION ____.01. Section 322.008, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The general appropriations bill must, for each state agency or other entity for which an appropriation is proposed under the bill:

(1) include a line item for each specific program or activity administered by the agency or entity or an organizational unit of the agency or entity, organized according to the organizational structure of the agency, entity, or unit, except that if a specific program or activity administered by the agency, entity, or unit includes identifiable components or subprograms, the bill must include a line item for each of those components or subprograms;

(2) specify the amount of the proposed appropriation for each line item; and

(3) include, for each line item that represents a specific program or activity or, if applicable, each group of line items representing the components or subprograms of a specific program or activity:

(A) a citation to the authorization in law for the program or activity; and

(B) a statement regarding whether the source of the proposed appropriation is nondedicated general revenue money, dedicated general revenue money, federal money, or another source.

Floor Amendment No. 68

Amend **CSSB 1** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION ____. Chapter 322, Government Code, is amended by adding Section 322.022 to read as follows:

Sec. 322.022. MEETING IN RESPONSE TO REPORTED DECLINES IN SALES AND USE TAX REVENUES. (a) As soon as practicable after the Legislative Budget Board is notified that the comptroller has reported a month-to-month decline in revenues from state sales and use taxes imposed under Chapter 151, Tax Code, for three consecutive months, the board shall meet to consider whether it is prudent to direct state agencies to reduce expenditures or to take other action to reduce state spending in response to declining state sales and use tax revenues.

(b) The comptroller shall send to the director of the Legislative Budget Board, by e-mail or other means as requested by the director, a monthly report showing whether total state sales and use tax revenues for the most recent month for which the information is available are less than the total state sales and use tax revenues for the preceding month.

Floor Amendment No. 74

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____. FEDERAL FUNDS DESIGNATION.

SECTION ____.01. Subchapter H, Chapter 418, Government Code, is amended by adding Section 418.187 to read as follows:

Sec. 418.187. FEDERAL FUNDS DESIGNATION. (a) The governor shall designate an agency or agencies, under the Omnibus Budget Reconciliation Act of 1981 (Pub.L. No. 97-35) and 24 CFR, Part 570, Subpart I, to administer the state's allocation of federal funds provided under the community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974. (42 U.S.C. Section 5301 et seq.).

(b) Notwithstanding any other provision of this Act, the governor retains his authority to designate any agency or agencies to administer all non-entitlement federal community development block grant program funds and federal community development block grant disaster recovery funds and to transfer such federal funds to any agency.

SECTION ____.02. The following sections are repealed:

(1) Section 487.051(a)(6), Government Code; and

(2) Subchapter I, Chapter 487, Government Code.

Floor Amendment No. 75

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. TEXAS COMMISSION ON FIRE PROTECTION FEES

SECTION ____.01. Section 419.026(d), Government Code, is amended to read as follows:

(d) The commission shall send the fees authorized by Subsection (a) and Section 419.033(b) to the comptroller. The comptroller [~~, who~~] shall deposit a portion [~~50 percent~~] of the fees collected [~~annually~~] into [~~the general revenue fund and 50 percent of the fees collected annually into~~] a special account in the general revenue fund dedicated for use by the commission. In any state fiscal biennium, the comptroller may not deposit into the account fees in an amount that exceeds the amount appropriated to the commission for that biennium, less any other amount appropriated to the commission from a source other than the fees. The account is exempt from the application of Section 403.095. The comptroller shall deposit the remainder of the fees in the general revenue fund. [~~Except as otherwise provided by this chapter, 50 percent of the special fund created under this subsection may be used only to defray the commission's costs in performing inspections under Section 419.027 and the other 50 percent may be used only to provide training assistance under Section 419.031.~~]

SECTION ____.02. The dedication of certain fees to a special account in the general revenue fund dedicated for use by the Texas Commission on Fire Protection under Section 419.026(d), Government Code, was abolished effective August 31, 1995, under former Section 403.094(h), Government Code, as enacted by Section 11.04, Chapter 4 (S.B. 3), Acts of the 72nd Legislature, 1st Called Session, 1991. Those fees are rededicated to that fund by this article.

SECTION ____.03. This article takes 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 this article to have immediate effect, this article takes effect October 1, 2011.

Floor Amendment No. 78

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. PROVISIONS RELATING TO THE CORRECTIONAL SYSTEM

SECTION ____.01. Section 495.027(d), Government Code, is amended to read as follows:

(d) Subject to board approval, the department shall adopt policies governing the use of the pay telephone service by an inmate confined in a facility operated by the department, including a policy governing the eligibility of an inmate to use the service. The policies adopted under this subsection may not unduly restrict calling patterns or volume and must allow for an average monthly call usage rate of not less than 480 minutes per month [~~eight calls, with each call having an average duration of not less than 10 minutes,~~] per eligible inmate.

Floor Amendment No. 79

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. TRANSFERRING TEXAS DEPARTMENT OF RURAL AFFAIRS TO OFFICE OF RURAL AFFAIRS WITHIN DEPARTMENT OF AGRICULTURE

SECTION ____.01. The heading to Chapter 487, Government Code, is amended to read as follows:

CHAPTER 487. OFFICE [~~TEXAS DEPARTMENT~~] OF RURAL AFFAIRS IN DEPARTMENT OF AGRICULTURE

SECTION ____.02. Section 487.001, Government Code, is amended to read as follows:

Sec. 487.001. DEFINITIONS. In this chapter:

(1) "Board" means the commissioner [~~board of the Texas Department of Rural Affairs~~].

(2) "Commissioner" means the commissioner of agriculture.

(3) "Department" means the office [~~Texas Department of Rural Affairs~~].

(4) "Office" means the Office of Rural Affairs established within the Department of Agriculture under Section 12.038, Agriculture Code.

SECTION ____.03. Subchapter A, Chapter 487, Government Code, is amended by adding Section 487.003 to read as follows:

Sec. 487.003. REFERENCE IN LAW. (a) A reference in this chapter or other law to the Texas Department of Rural Affairs or the Office of Rural Community Affairs means the office and a reference in this chapter or other law to the board of the Texas Department of Rural Affairs means the commissioner.

(b) A reference in law to the executive director of the Texas Department of Rural Affairs means the director of the Office of Rural Affairs appointed under Section 12.038, Agriculture Code.

SECTION ____.04. Section 487.026, Government Code, is amended to read as follows:

Sec. 487.026. [~~EXECUTIVE~~] DIRECTOR. (a) The [~~board may hire an executive~~] director serves [~~to serve~~] as the chief executive officer of the office [~~department~~] and performs [~~to perform~~] the administrative duties of the office [~~department~~].

(b) [~~The executive director serves at the will of the board.~~

[~~(c)~~] The [~~executive~~] director may hire staff within guidelines established by the commissioner [~~board~~].

SECTION ____.05. Section 487.051(a), Government Code, is amended to read as follows:

(a) The office [~~department~~] shall:

(1) assist rural communities in the key areas of economic development, community development, rural health, and rural housing;

(2) serve as a clearinghouse for information and resources on all state and federal programs affecting rural communities;

(3) in consultation with rural community leaders, locally elected officials, state elected and appointed officials, academic and industry experts, and the interagency work group created under this chapter, identify and prioritize policy issues and concerns affecting rural communities in the state;

(4) make recommendations to the legislature to address the concerns affecting rural communities identified under Subdivision (3);

(5) monitor developments that have a substantial effect on rural Texas communities, especially actions of state government, and compile an annual report describing and evaluating the condition of rural communities;

(6) administer the federal community development block grant nonentitlement program;

(7) administer programs supporting rural health care as provided by this chapter;

(8) perform research to determine the most beneficial and cost-effective ways to improve the welfare of rural communities;

(9) ensure that the office [~~department~~] qualifies as the state's office of rural health for the purpose of receiving grants from the Office of Rural Health Policy of the United States Department of Health and Human Services under 42 U.S.C. Section 254r;

(10) manage the state's Medicare rural hospital flexibility program under 42 U.S.C. Section 1395i-4;

(11) seek state and federal money available for economic development in rural areas for programs under this chapter;

(12) in conjunction with other offices and divisions of the Department of Agriculture, regularly cross-train office [~~department~~] employees with other employees of the Department of Agriculture regarding the programs administered and services provided [~~by each agency~~] to rural communities; and

(13) work with interested persons to assist volunteer fire departments and emergency services districts in rural areas.

SECTION ____.06. Section 487.0541(c), Government Code, is amended to read as follows:

(c) The work group shall meet at the call of the [~~executive~~] director of the office [~~department~~].

SECTION ____.07. Section 487.055, Government Code, is amended to read as follows:

Sec. 487.055. ADVISORY COMMITTEES. (a) The commissioner [~~board~~] may appoint advisory committees as necessary to assist the office [~~board~~] in performing its duties. An advisory committee may be composed of private citizens and representatives from state and local governmental entities. A state or local governmental entity shall appoint a representative to an advisory committee at the request of the commissioner [~~board~~].

(b) Chapter 2110 does not apply to an advisory committee created under this section.

SECTION ____.08. Section 487.351(d), Government Code, is amended to read as follows:

(d) An applicant for a grant, loan, or award under a community development block grant program may appeal a decision of the [~~executive~~] director by filing an appeal with the commissioner [~~board~~]. The commissioner [~~board~~] shall hold a hearing on the appeal and render a decision.

SECTION ____.09. Section 2306.1092(b), Government Code, is amended to read as follows:

(b) The council is composed of 16 members consisting of:

(1) the director;

(2) one representative from each of the following agencies, appointed by the head of that agency:

(A) the Office of Rural [~~Community~~] Affairs within the Department of Agriculture;

(B) the Texas State Affordable Housing Corporation;

(C) the Health and Human Services Commission;

(D) the Department of Assistive and Rehabilitative Services;

(E) the Department of Aging and Disability Services; and

(F) the Department of State Health Services;

(3) one representative from the Department of Agriculture who is:

(A) knowledgeable about the Texans Feeding Texans and Retire in Texas programs or similar programs; and

(B) appointed by the head of that agency;

(4) one member who is:

(A) a member of the Health and Human Services Commission Promoting Independence Advisory Committee; and

(B) appointed by the governor; and

(5) one representative from each of the following interest groups, appointed by the governor:

(A) financial institutions;

(B) multifamily housing developers;

(C) health services entities;

(D) nonprofit organizations that advocate for affordable housing and consumer-directed long-term services and support;

(E) consumers of service-enriched housing;

(F) advocates for minority issues; and

(G) rural communities.

SECTION ____.10. Sections 487.002, 487.021, 487.022, 487.023, 487.024, 487.025, 487.028, 487.029, 487.051(b), 487.058, and 487.352, Government Code, are repealed.

SECTION ____.11. (a) The Texas Department of Rural Affairs is abolished as an independent agency and transferred as a program to the Office of Rural Affairs in the Department of Agriculture. The board of the Texas Department of Rural Affairs is abolished.

(b) The validity of an action taken by the Texas Department of Rural Affairs or its board before either is abolished under Subsection (a) of this section is not affected by the abolishment.

(c) All rules, policies, procedures, and decisions of the Texas Department of Rural Affairs are continued in effect as rules, policies, procedures, and decisions of the Office of Rural Affairs in the Department of Agriculture until superseded by a rule, policy, procedure, or decision of the office.

(d) Any pending action or proceeding before the Texas Department of Rural Affairs becomes an action or proceeding before the Office of Rural Affairs in the Department of Agriculture.

SECTION ____.12. (a) On October 1, 2011:

(1) the position of executive director of the Texas Department of Rural Affairs is abolished, except that the director of the Office of Rural Affairs in the Department of Agriculture may hire the executive director for a position in the office;

(2) an employee of the Texas Department of Rural Affairs becomes an employee of the Office of Rural Affairs in the Department of Agriculture;

(3) a reference in law to the Texas Department of Rural Affairs means the Office of Rural Affairs in the Department of Agriculture;

(4) all money, contracts, leases, rights, and obligations of the Texas Department of Rural Affairs are transferred to the Office of Rural Affairs in the Department of Agriculture;

(5) all property, including records, in the custody of the Texas Department of Rural Affairs becomes the property of the Office of Rural Affairs in the Department of Agriculture; and

(6) all funds appropriated by the legislature to the Texas Department of Rural Affairs are transferred to the Office of Rural Affairs in the Department of Agriculture.

(b) A function or activity performed by the Texas Department of Rural Affairs is transferred to the Office of Rural Affairs in the Department of Agriculture as provided by this article.

SECTION ____.13. The Texas Department of Rural Affairs and the Department of Agriculture shall establish a transition plan for the transfer described in Sections __.11 and __.12 of this article.

SECTION ____.14. Notwithstanding any other provision of this article, the governor retains the authority to designate an agency to administer federal disaster recovery funds and to transfer the federal funds to any state agency. On the date the governor designates a state agency, other than the Texas Department of Rural Affairs, to administer the federal community development block grant disaster recovery funds received for Hurricanes Rita, Dolly, and Ike:

(1) a reference in law to the Texas Department of Rural Affairs related to the disaster recovery funds means the agency designated by the governor to administer the disaster recovery funds;

(2) all money, contracts, leases, rights, and obligations of the Texas Department of Rural Affairs related to the disaster recovery funds are transferred to the designated agency; and

(3) all property, including records, in the custody of the Texas Department of Rural Affairs related to the disaster recovery funds becomes the property of the designated agency.

Floor Amendment No. 80

Amend Amendment No. 79 by Callegari on page 222 to **CSSB 1** (house committee printing) by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ____.9. Chapter 487, Government Code, is amended by adding Subchapter R to read as follows:

SUBCHAPTER R. TEXAS RURAL HEALTH AND ECONOMIC DEVELOPMENT ADVISORY COUNCIL

Sec. 487.801. DEFINITION. In this subchapter, "advisory council" means the Texas Rural Health and Economic Development Advisory Council established under this subchapter.

Sec. 487.802. ESTABLISHMENT AND COMPOSITION OF ADVISORY COUNCIL; PRESIDING OFFICER. (a) The commissioner shall establish the Texas Rural Health and Economic Development Advisory Council, composed of the following members:

(1) one local official in this state with health care expertise, appointed by the commissioner;

(2) one county official in this state with health care expertise, appointed by the commissioner;

(3) one senator serving a predominately rural area, appointed by the lieutenant governor;

(4) one member of the house of representatives serving a predominantly rural area, appointed by the speaker of the house of representatives;

(5) a representative of an institution of higher education in this state that specializes in public health and community and economic development, appointed by the commissioner; and

(6) four public members with health care or economic development expertise, appointed by the commissioner.

(b) The members of the advisory council serve staggered three-year terms. A member of the council appointed by the commissioner serves at the pleasure of the commissioner.

(c) The commissioner shall serve as presiding officer of the advisory council and as a nonvoting member of the advisory council. The commissioner is not counted as a member of the advisory council for purposes of establishing a quorum.

Sec. 487.803. DUTIES OF ADVISORY COUNCIL. The advisory council shall:

(1) advise the commissioner, director, and office on rural policy priorities, including priorities for the use and allocation in this state of federal block grant money;

(2) review this state's existing rural policies and programs;

(3) meet with the representatives of state agencies that administer rural programs as necessary to conduct the review required under Subdivision (2);

(4) make recommendations to the office regarding the allocation in this state of federal block grant money; and

(5) establish a rural health task force composed of all or a portion of the members of the advisory council.

Sec. 487.804. RURAL POLICY PLAN. (a) Not later than December 1 of each even-numbered year, the advisory council shall develop a rural policy plan that includes:

(1) strategic initiatives for this state regarding economic development, community development, and rural health, including priorities for the use and allocation in this state of federal block grant money; and

(2) recommendations for legislation and program development or revision.

(b) Not later than January 1 of each even-numbered year, the commissioner shall submit to the legislature a report of the findings of the advisory council.

Sec. 487.805. RURAL HEALTH TASK FORCE. The rural health task force shall:

(1) assist the advisory council in its efforts to expand and improve access to health care in rural areas of this state; and

(2) develop a statewide rural health plan for this state that includes:

(A) strategic initiatives for this state regarding rural health; and

(B) recommendations for legislation and program development or revision.

Sec. 487.806. REIMBURSEMENT OF EXPENSES. A member of the advisory council may not receive compensation for service on the advisory council or rural health task force. Subject to availability of funds, an advisory council member may receive reimbursement for actual and necessary expenses incurred while conducting advisory council or task force business, as appropriate.

Floor Amendment No. 81

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. PROVISIONS RELATING TO CORRECTIONAL HEALTH CARE

SECTION ____.01. Subchapter C, Chapter 499, Government Code, is amended by adding Section 499.055 to read as follows:

Sec. 499.055. POPULATION MANAGEMENT BASED ON INMATE HEALTH. The department shall adopt policies designed to manage inmate population based on similar health conditions suffered by inmates. The policies adopted under this section must maximize organizational efficiencies and reduce health care costs to the department by housing inmates with similar health conditions in the same unit or units that are, if possible, served by or located near one or more specialty health care providers most likely to be needed for the treatment of the health condition.

SECTION ____.02. Section 501.063, Government Code, is amended to read as follows:

Sec. 501.063. INMATE FEE [~~COPAYMENTS~~] FOR [~~CERTAIN~~] HEALTH CARE [~~VISITS~~]. (a)(1) An inmate confined in a facility operated by or under contract with the department, other than a halfway house, who initiates a visit to a health care provider shall pay a health care services fee [~~make a copayment~~] to the department in the amount of $100 [~~$3~~].

(2) The fee imposed under Subdivision (1) covers all visits to a health care provider that the inmate initiates until the first anniversary of the imposition of the fee.

(3) The inmate shall pay [~~make~~] the fee [~~copayment~~] out of the inmate's trust fund. If the balance in the fund is insufficient to cover the fee [~~copayment~~], 50 percent of each deposit to the fund shall be applied toward the balance owed until the total amount owed is paid.

(b) [~~The department may not charge a copayment for health care:~~

[~~(1) provided in response to a life-threatening or emergency situation affecting the inmate's health;~~

[~~(2) initiated by the department;~~

[~~(3) initiated by the health care provider or consisting of routine follow-up, prenatal, or chronic care; or~~

[~~(4) provided under a contractual obligation that is established under the Interstate Corrections Compact or under an agreement with another state that precludes assessing a copayment.~~

[~~(c)~~] The department shall adopt policies to ensure that before any deductions are made from an inmate's trust fund under this section [~~an inmate initiates a visit to a health care provider~~], the inmate is informed that the health care services fee [~~a $3 copayment~~] will be deducted from the inmate's trust fund as required by Subsection (a).

(c) [~~(d)~~] The department may not deny an inmate access to health care as a result of the inmate's failure or inability to pay a fee under this section [~~make a copayment~~].

(d) [~~(e)~~] The department shall deposit money received under this section in an account in the general revenue fund that may be used only to pay the cost of correctional health care [~~administering this section~~]. At the beginning of each fiscal year, the comptroller shall transfer any surplus from the preceding fiscal year to the state treasury to the credit of the general revenue fund.

SECTION ____.03. Subchapter B, Chapter 501, Government Code, is amended by adding Section 501.067 to read as follows:

Sec. 501.067. AVAILABILITY OF CERTAIN MEDICATION. (a) In this section, "over-the-counter medication" means medication that may legally be sold and purchased without a prescription.

(b) The department shall make over-the-counter medication available for purchase by inmates in each inmate commissary operated by or under contract with the department.

(c) The department may not deny an inmate access to over-the-counter medications as a result of the inmate's inability to pay for the medication. The department shall pay for the cost of over-the-counter medication for inmates who are unable to pay for the medication out of the profits of inmate commissaries operated by or under contract with the department.

(d) The department may adopt policies concerning the sale and purchase of over-the-counter medication under this section as necessary to ensure the safety and security of inmates in the custody of, and employees of, the department, including policies concerning the quantities and types of over-the-counter medication that may be sold and purchased under this section.

SECTION ____.04. Subchapter E, Chapter 501, Government Code, is amended by adding Section 501.1485 to read as follows:

Sec. 501.1485. CORRECTIONS MEDICATION AIDES. (a) The department, in cooperation with The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center, shall develop and implement a training program for corrections medication aides that uses a curriculum specific to administering medication in a correctional setting.

(b) In developing the curriculum for the training program, the department, The University of Texas Medical Branch at Galveston, and the Texas Tech University Health Sciences Center shall:

(1) consider the content of the curriculum developed by the American Correctional Association for certified corrections nurses; and

(2) modify as appropriate the content of the curriculum developed under Chapter 242, Health and Safety Code, for medication aides administering medication in convalescent and nursing homes and related institutions to produce content suitable for administering medication in a correctional setting.

(c) The department shall submit an application for the approval of a training program developed under this section, including the curriculum, to the Department of Aging and Disability Services in the manner established by the executive commissioner of the Health and Human Services Commission under Section 161.083, Human Resources Code.

SECTION ____.05. Section 251.012, Health and Safety Code, as effective September 1, 2011, is amended to read as follows:

Sec. 251.012. EXEMPTIONS FROM LICENSING REQUIREMENT. The following facilities are not required to be licensed under this chapter:

(1) a home and community support services agency licensed under Chapter 142 with a home dialysis designation;

(2) a hospital licensed under Chapter 241 that provides dialysis only to individuals receiving:

(A) [~~individuals receiving~~] inpatient services from the hospital; or

(B) [~~individuals receiving~~] outpatient services due to a disaster declared by the governor or a federal disaster declared by the president of the United States occurring in this state or another state during the term of the disaster declaration; [~~or~~]

(3) a hospital operated by or on behalf of the state as part of the managed health care provider network established under Chapter 501, Government Code, that provides dialysis only to individuals receiving:

(A) inpatient services from the hospital; or

(B) outpatient services while serving a term of confinement in a facility operated by or under contract with the Texas Department of Criminal Justice;

(4) an end stage renal disease facility operated by or on behalf of the state as part of the managed health care provider network established under Chapter 501, Government Code, that provides dialysis only to individuals receiving those services while serving a term of confinement in a facility operated by or under contract with the Texas Department of Criminal Justice; or

(5) the office of a physician unless the office is used primarily as an end stage renal disease facility.

SECTION ____.06. Subchapter D, Chapter 161, Human Resources Code, is amended by adding Section 161.083 to read as follows:

Sec. 161.083. CORRECTIONS MEDICATION AIDES. (a) The executive commissioner shall establish:

(1) minimum standards and procedures for the approval of corrections medication aide training programs, including curricula, developed under Section 501.1485, Government Code;

(2) minimum requirements for the issuance, denial, renewal, suspension, and revocation of a permit to a corrections medication aide, including the payment of an application or renewal fee in an amount necessary to cover the costs incurred by the department in administering this section; and

(3) the acts and practices that are within and outside the scope of a permit issued under this section.

(b) Not later than the 90th day after receipt of an application for approval of a corrections medication aide training program developed under Section 501.1485, Government Code, the department shall:

(1) approve the program, if the program meets the minimum standards and procedures established under Subsection (a)(1); or

(2) provide notice to the Texas Department of Criminal Justice that the program is not approved and include in the notice a description of the actions that are required for the program to be approved.

(c) The department shall issue a permit to or renew the permit of an applicant who meets the minimum requirements established under Subsection (a)(2). The department shall coordinate with the Texas Department of Criminal Justice in the performance of the department's duties and functions under this subsection.

SECTION ____.07. (a) The Texas Department of Criminal Justice, in cooperation with The University of Texas Medical Branch at Galveston, the Texas Tech University Health Sciences Center, or a successor correctional managed health care provider, shall develop the training program required by Section 501.1485, Government Code, as added by this article, and the department shall submit an application for approval of that program, as required by Subsection (c) of that section, not later than January 1, 2012. If after the effective date of this Act and before the date the department develops the training program described by this subsection The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center are no longer represented on the Correctional Managed Health Care Committee, or no longer serve as correctional managed health care providers, the executive director of the department shall request and receive the cooperation of any other state agency determined by the executive director to be an appropriate resource in the development of the program.

(b) The change in law made by this article in amending Section 251.012, Health and Safety Code, applies only to dialysis services provided on or after the effective date of this Act. Dialysis services provided before the effective date of this Act are covered by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(c) The executive commissioner of the Health and Human Services Commission shall establish the minimum standards and requirements and the acts and practices allowed or prohibited, as required by Section 161.083, Human Resources Code, as added by this article, not later than January 1, 2012.

Floor Amendment No. 82

Amend Amendment No. 81 by Madden to **CSSB 1** (page 233 of the prefiled amendments packet) as follows:

(1) In SECTION ____.02 of the article added by the amendment, immediately preceding "Section 501.063" (page 1, line 17), insert "(a)".

(2) At the end of SECTION ____.02 of the article added by the amendment (page 2, between lines 29 and 30), insert the following:

(b) Effective September 1, 2015, Section 501.063, Government Code, is amended to read as follows:

Sec. 501.063. INMATE COPAYMENTS FOR CERTAIN HEALTH CARE VISITS. (a) An inmate confined in a facility operated by or under contract with the department, other than a halfway house, who initiates a visit to a health care provider shall make a copayment to the department in the amount of $3. The inmate shall make the copayment out of the inmate's trust fund. If the balance in the fund is insufficient to cover the copayment, 50 percent of each deposit to the fund shall be applied toward the balance owed until the total amount owed is paid.

(b) The department may not charge a copayment for health care:

(1) provided in response to a life-threatening or emergency situation affecting the inmate's health;

(2) initiated by the department;

(3) initiated by the health care provider or consisting of routine follow-up, prenatal, or chronic care; or

(4) provided under a contractual obligation that is established under the Interstate Corrections Compact or under an agreement with another state that precludes assessing a copayment.

(c) The department shall adopt policies to ensure that before an inmate initiates a visit to a health care provider, the inmate is informed that a $3 copayment will be deducted from the inmate's trust fund as required by Subsection (a).

(d) The department may not deny an inmate access to health care as a result of the inmate's failure or inability to make a copayment.

(e) The department shall deposit money received under this section in an account in the general revenue fund that may be used only to pay the cost of administering this section. At the beginning of each fiscal year, the comptroller shall transfer any surplus from the preceding fiscal year to the state treasury to the credit of the general revenue fund.

Floor Amendment No. 84

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. COUNTY HIV AND AIDS SERVICES MEDICAID WAIVER PROGRAM

SECTION ____.01. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.09721 to read as follows:

Sec. 531.09721. COUNTY HIV AND AIDS SERVICES MEDICAID WAIVER PROGRAM. (a) If feasible and cost-effective, the commission may apply for a waiver from the federal Centers for Medicare and Medicaid Services or another appropriate federal agency to more efficiently leverage the use of state and local funds in order to maximize the receipt of federal Medicaid matching funds by providing counties in the state with the flexibility to provide benefits under the Medicaid program to individuals who:

(1) have a net family income that is at or below 150 percent of the federal poverty level; and

(2) are eligible to receive medical treatment for HIV or AIDS through the county.

(b) In establishing the waiver program required under this section, the commission shall:

(1) ensure that the state is a prudent purchaser of the health care services that are needed for the individuals described by Subsection (a);

(2) solicit broad-based input from interested persons;

(3) ensure that the benefits received by an individual through the county are not reduced once the individual is enrolled in the waiver program; and

(4) employ the use of intergovernmental transfers and other procedures to maximize the receipt of federal Medicaid matching funds.

Floor Amendment No. 85

Amend **CSSB 1** (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. COUNTY MENTAL HEALTH SERVICES MEDICAID WAIVER PROGRAM

SECTION ____.01. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0226 to read as follows:

Sec. 531.0226. COUNTY MENTAL HEALTH SERVICES MEDICAID WAIVER PROGRAM. (a) If feasible and cost-effective, the commission may apply for a waiver from the federal Centers for Medicare and Medicaid Services or another appropriate federal agency to more efficiently leverage the use of state and local funds in order to maximize the receipt of federal Medicaid matching funds by providing counties in the state with the flexibility to provide benefits under the Medicaid program to individuals who:

(1) have a net family income that is at or below 200 percent of the federal poverty level; and

(2) are eligible to receive mental health services through the county.

(b) In establishing the waiver program under this section, the commission shall:

(1) ensure that the state is a prudent purchaser of the health care services that are needed for the individuals described by Subsection (a);

(2) solicit broad-based input from interested persons;

(3) ensure that the benefits received by an individual through the county are not reduced once the individual is enrolled in the waiver program; and

(4) employ the use of intergovernmental transfers and other procedures to maximize the receipt of federal Medicaid matching funds.

Floor Amendment No. 86

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. TEXAS HEALTH OPPORTUNITY POOL TRUST FUND.

(a) Sections 531.502(b) and (d), Government Code, are amended to read as follows:

(b) The executive commissioner may include the following federal money in the waiver:

(1) [all] money provided under the disproportionate share hospitals or [and] upper payment limit supplemental payment program, or both [programs];

(2) money provided by the federal government in lieu of some or all of the payments under one or both of the those programs;

(3) any combination of funds authorized to be pooled by Subdivisions (1) and (2); and

(4) any other money available for that purpose, including:

(A) federal money and money identified under Subsection (c);

(B) gifts, grants, or donations for that purpose;

(C) local funds received by this state through intergovernmental transfers; and

(D) if approved in the waiver, federal money obtained through the use of certified public expenditures.

(d) The terms of a waiver approved under this section must:

(1) include safeguards to ensure that the total amount of federal money provided under the disproportionate share hospitals or [and] upper payment limit supplemental payment program [programs] that is deposited as provided by Section 531.504 is, for a particular state fiscal year, at least equal to the greater of the annualized amount provided to this state under those supplemental payment programs during state fiscal year 2007, excluding amounts provided during that state fiscal year that are retroactive payments, or the state fiscal years during which the waiver is in effect; and

(2) allow for the development by this state of a methodology for allocating money in the fund to:

(A) offset, in part, the uncompensated health care costs incurred by hospitals;

(B) reduce the number of persons in this state who do not have health benefits coverage; and

(C) maintain and enhance the community public health infrastructure provided by hospitals.

(b) Section 531.504, Government Code, is amended to read as follows:

Sec. 531.504. DEPOSITS TO FUND. (a) The comptroller shall deposit in the fund:

(1) [all] federal money provided to this state under the disproportionate share hospitals supplemental payment program or [and] the hospital upper payment limit supplemental payment program, or both, other than money provided under those programs to state-owned and operated hospitals, and all other non-supplemental payment program federal money provided to this state that is included in the waiver authorized by Section 531.502; and

(2) state money appropriated to the fund.

(b) The commission and comptroller may accept gifts, grants, and donations from any source, and receive intergovernmental transfers, for purposes consistent with this subchapter and the terms of the waiver. The comptroller shall deposit a gift, grant, or donation made for those purposes in the fund.

(c) Section 531.508, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Money from the fund may not be used to finance the construction, improvement, or renovation of a building or land unless the construction, improvement, or renovation is approved by the commission, according to rules adopted by the executive commissioner for that purpose.

(d) Section 531.502(g), Government Code, is repealed.

Floor Amendment No. 87

Amend Amendment No. 86 by Zerwas to **CSSB 1** (pages 251-252, prefiled amendment packet) by striking the text of the amendment and substituting the following:

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. TEXAS HEALTH OPPORTUNITY POOL TRUST FUND

SECTION ____.01. (a) Subsections (b), (c), and (d), Section 531.502, Government Code, are amended to read as follows:

(b) The executive commissioner may include the following federal money in the waiver:

(1) [~~all~~] money provided under the disproportionate share hospitals or [~~and~~] upper payment limit supplemental payment program, or both [~~programs~~];

(2) money provided by the federal government in lieu of some or all of the payments under one or both of those programs;

(3) any combination of funds authorized to be pooled by Subdivisions (1) and (2); and

(4) any other money available for that purpose, including:

(A) federal money and money identified under Subsection (c);

(B) gifts, grants, or donations for that purpose;

(C) local funds received by this state through intergovernmental transfers; and

(D) if approved in the waiver, federal money obtained through the use of certified public expenditures.

(c) The commission shall seek to optimize federal funding by:

(1) identifying health care related state and local funds and program expenditures that, before September 1, 2011 [~~2007~~], are not being matched with federal money; and

(2) exploring the feasibility of:

(A) certifying or otherwise using those funds and expenditures as state expenditures for which this state may receive federal matching money; and

(B) depositing federal matching money received as provided by Paragraph (A) with other federal money deposited as provided by Section 531.504, or substituting that federal matching money for federal money that otherwise would be received under the disproportionate share hospitals and upper payment limit supplemental payment programs as a match for local funds received by this state through intergovernmental transfers.

(d) The terms of a waiver approved under this section must:

(1) include safeguards to ensure that the total amount of federal money provided under the disproportionate share hospitals or [~~and~~] upper payment limit supplemental payment program [~~programs~~] that is deposited as provided by Section 531.504 is, for a particular state fiscal year, at least equal to the greater of the annualized amount provided to this state under those supplemental payment programs during state fiscal year 2011 [~~2007~~], excluding amounts provided during that state fiscal year that are retroactive payments, or the state fiscal years during which the waiver is in effect; and

(2) allow for the development by this state of a methodology for allocating money in the fund to:

(A) be used to supplement Medicaid hospital reimbursements under a waiver that includes terms that are consistent with, or that produce revenues consistent with, disproportionate share hospital and upper payment limit principles [~~offset, in part, the uncompensated health care costs incurred by hospitals~~];

(B) reduce the number of persons in this state who do not have health benefits coverage; and

(C) maintain and enhance the community public health infrastructure provided by hospitals.

SECTION ____.02. Section 531.504, Government Code, is amended to read as follows:

Sec. 531.504. DEPOSITS TO FUND. (a) The comptroller shall deposit in the fund:

(1) [~~all~~] federal money provided to this state under the disproportionate share hospitals supplemental payment program or [~~and~~] the hospital upper payment limit supplemental payment program, or both, other than money provided under those programs to state-owned and operated hospitals, and all other non-supplemental payment program federal money provided to this state that is included in the waiver authorized by Section 531.502; and

(2) state money appropriated to the fund.

(b) The commission and comptroller may accept gifts, grants, and donations from any source, and receive intergovernmental transfers, for purposes consistent with this subchapter and the terms of the waiver. The comptroller shall deposit a gift, grant, or donation made for those purposes in the fund. Any intergovernmental transfer received, including associated federal matching funds, shall be used, if feasible, for the purposes intended by the transferring entity and in accordance with the terms of the waiver.

SECTION ____.03. Section 531.508, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Money from the fund may not be used to finance the construction, improvement, or renovation of a building or land unless the construction, improvement, or renovation is approved by the commission, according to rules adopted by the executive commissioner for that purpose.

SECTION ____.04. Subsection (g), Section 531.502, Government Code, is repealed.

Floor Amendment No. 88

Amend **CSSB 1** (House committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. DELIVERY OF MEDICAID MANAGED CARE SERVICES

SECTION ____.01. Section 533.0025(e), Government Code, is repealed.

Floor Amendment No. 89

Amend Amendment No. 88 by Zerwas to **CSSB 1** (page 253, prefiled amendment packet) by striking lines 6 through 7 and substituting the following:

SECTION ____.01. (a) Subsection (e), Section 533.0025, Government Code, is amended to read as follows:

(e) The commission shall determine the most cost-effective alignment of managed care service delivery areas. The commissioner may consider the number of lives impacted, the usual source of health care services for residents in an area, and other factors that impact the delivery of health care services in the area. [~~Notwithstanding Subsection (b)(1), the commission may not provide medical assistance using a health maintenance organization in Cameron County, Hidalgo County, or Maverick County.~~]

(b) Subchapter A, Chapter 533, Government Code, is amended by adding Sections 533.0027, 533.0028, and 533.0029 to read as follows:

Sec. 533.0027. PROCEDURES TO ENSURE CERTAIN RECIPIENTS ARE ENROLLED IN SAME MANAGED CARE PLAN. The commission shall ensure that all recipients who are children and who reside in the same household may, at the family's election, be enrolled in the same managed care plan.

Sec. 533.0028. EVALUATION OF CERTAIN STAR + PLUS MEDICAID MANAGED CARE PROGRAM SERVICES. The external quality review organization shall periodically conduct studies and surveys to assess the quality of care and satisfaction with health care services provided to enrollees in the STAR + PLUS Medicaid managed care program who are eligible to receive health care benefits under both the Medicaid and Medicare programs.

Sec. 533.0029. PROMOTION AND PRINCIPLES OF PATIENT-CENTERED MEDICAL HOMES FOR RECIPIENTS. (a) For purposes of this section, a "patient-centered medical home" means a medical relationship:

(1) between a primary care physician and a child or adult patient in which the physician:

(A) provides comprehensive primary care to the patient; and

(B) facilitates partnerships between the physician, the patient, acute care and other care providers, and, when appropriate, the patient's family; and

(2) that encompasses the following primary principles:

(A) the patient has an ongoing relationship with the physician, who is trained to be the first contact for the patient and to provide continuous and comprehensive care to the patient;

(B) the physician leads a team of individuals at the practice level who are collectively responsible for the ongoing care of the patient;

(C) the physician is responsible for providing all of the care the patient needs or for coordinating with other qualified providers to provide care to the patient throughout the patient's life, including preventive care, acute care, chronic care, and end-of-life care;

(D) the patient's care is coordinated across health care facilities and the patient's community and is facilitated by registries, information technology, and health information exchange systems to ensure that the patient receives care when and where the patient wants and needs the care and in a culturally and linguistically appropriate manner; and

(E) quality and safe care is provided.

(b) The commission shall, to the extent possible, work to ensure that managed care organizations:

(1) promote the development of patient-centered medical homes for recipients; and

(2) provide payment incentives for providers that meet the requirements of a patient-centered medical home.

(c) Section 533.003, Government Code, is amended to read as follows:

Sec. 533.003. CONSIDERATIONS IN AWARDING CONTRACTS. In awarding contracts to managed care organizations, the commission shall:

(1) give preference to organizations that have significant participation in the organization's provider network from each health care provider in the region who has traditionally provided care to Medicaid and charity care patients;

(2) give extra consideration to organizations that agree to assure continuity of care for at least three months beyond the period of Medicaid eligibility for recipients;

(3) consider the need to use different managed care plans to meet the needs of different populations; [~~and~~]

(4) consider the ability of organizations to process Medicaid claims electronically; and

(5) in the initial implementation of managed care in the South Texas service region, give extra consideration to an organization that either:

(A) is locally owned, managed, and operated, if one exists; or

(B) is in compliance with the requirements of Section 533.004.

(d) Section 533.005, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:

(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;

(2) capitation rates that ensure the cost-effective provision of quality health care;

(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;

(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;

(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;

(6) procedures for recipient outreach and education;

(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient under a managed care plan not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the managed care organization to process the claim, or within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization;

(8) a requirement that the commission, on the date of a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid certification date;

(9) a requirement that the managed care organization comply with Section 533.006 as a condition of contract retention and renewal;

(10) a requirement that the managed care organization provide the information required by Section 533.012 and otherwise comply and cooperate with the commission's office of inspector general;

(11) a requirement that the managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits for those usages relating to total inpatient admissions, total outpatient services, and emergency room admissions determined by the commission;

(12) if the commission finds that a managed care organization has violated Subdivision (11), a requirement that the managed care organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services, as determined under Sections 32.028 and 32.0281, Human Resources Code;

(13) a requirement that the organization use advanced practice nurses in addition to physicians as primary care providers to increase the availability of primary care providers in the organization's provider network;

(14) a requirement that the managed care organization reimburse a federally qualified health center or rural health clinic for health care services provided to a recipient outside of regular business hours, including on a weekend day or holiday, at a rate that is equal to the allowable rate for those services as determined under Section 32.028, Human Resources Code, if the recipient does not have a referral from the recipient's primary care physician; [~~and~~]

(15) a requirement that the managed care organization develop, implement, and maintain a system for tracking and resolving all provider appeals related to claims payment, including a process that will require:

(A) a tracking mechanism to document the status and final disposition of each provider's claims payment appeal;

(B) the contracting with physicians who are not network providers and who are of the same or related specialty as the appealing physician to resolve claims disputes related to denial on the basis of medical necessity that remain unresolved subsequent to a provider appeal; and

(C) the determination of the physician resolving the dispute to be binding on the managed care organization and provider;

(16) a requirement that a medical director who is authorized to make medical necessity determinations is available to the region where the managed care organization provides health care services;

(17) a requirement that the managed care organization ensure that a medical director and patient care coordinators and provider and recipient support services personnel are located in the South Texas service region, if the managed care organization provides a managed care plan in that region;

(18) a requirement that the managed care organization provide special programs and materials for recipients with limited English proficiency or low literacy skills;

(19) a requirement that the managed care organization develop and establish a process for responding to provider appeals in the region where the organization provides health care services;

(20) a requirement that the managed care organization develop and submit to the commission, before the organization begins to provide health care services to recipients, a comprehensive plan that describes how the organization's provider network will provide recipients sufficient access to:

(A) preventive care;

(B) primary care;

(C) specialty care;

(D) after-hours urgent care; and

(E) chronic care;

(21) a requirement that the managed care organization demonstrate to the commission, before the organization begins to provide health care services to recipients, that:

(A) the organization's provider network has the capacity to serve the number of recipients expected to enroll in a managed care plan offered by the organization;

(B) the organization's provider network includes:

(i) a sufficient number of primary care providers;

(ii) a sufficient variety of provider types; and

(iii) providers located throughout the region where the organization will provide health care services; and

(C) health care services will be accessible to recipients through the organization's provider network to a comparable extent that health care services would be available to recipients under a fee-for-service or primary care case management model of Medicaid managed care; and

(22) a requirement that the managed care organization develop a monitoring program for measuring the quality of the health care services provided by the organization's provider network that:

(A) incorporates the National Committee for Quality Assurance's Healthcare Effectiveness Data and Information Set (HEDIS) measures;

(B) focuses on measuring outcomes; and

(C) includes the collection and analysis of clinical data relating to prenatal care, preventive care, mental health care, and the treatment of acute and chronic health conditions and substance abuse.

(e) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0066 to read as follows:

Sec. 533.0066. PROVIDER INCENTIVES. The commission shall, to the extent possible, work to ensure that managed care organizations provide payment incentives to health care providers in the organizations' networks whose performance in promoting recipients' use of preventive services exceeds minimum established standards.

(f) Section 533.0071, Government Code, is amended to read as follows:

Sec. 533.0071. ADMINISTRATION OF CONTRACTS. The commission shall make every effort to improve the administration of contracts with managed care organizations. To improve the administration of these contracts, the commission shall:

(1) ensure that the commission has appropriate expertise and qualified staff to effectively manage contracts with managed care organizations under the Medicaid managed care program;

(2) evaluate options for Medicaid payment recovery from managed care organizations if the enrollee dies or is incarcerated or if an enrollee is enrolled in more than one state program or is covered by another liable third party insurer;

(3) maximize Medicaid payment recovery options by contracting with private vendors to assist in the recovery of capitation payments, payments from other liable third parties, and other payments made to managed care organizations with respect to enrollees who leave the managed care program;

(4) decrease the administrative burdens of managed care for the state, the managed care organizations, and the providers under managed care networks to the extent that those changes are compatible with state law and existing Medicaid managed care contracts, including decreasing those burdens by:

(A) where possible, decreasing the duplication of administrative reporting requirements for the managed care organizations, such as requirements for the submission of encounter data, quality reports, historically underutilized business reports, and claims payment summary reports;

(B) allowing managed care organizations to provide updated address information directly to the commission for correction in the state system;

(C) promoting consistency and uniformity among managed care organization policies, including policies relating to the preauthorization process, lengths of hospital stays, filing deadlines, levels of care, and case management services; [~~and~~]

(D) reviewing the appropriateness of primary care case management requirements in the admission and clinical criteria process, such as requirements relating to including a separate cover sheet for all communications, submitting handwritten communications instead of electronic or typed review processes, and admitting patients listed on separate notifications; and

(E) providing a single portal through which providers in any managed care organization's provider network may submit claims; and

(5) reserve the right to amend the managed care organization's process for resolving provider appeals of denials based on medical necessity to include an independent review process established by the commission for final determination of these disputes.

(g) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0073 to read as follows:

Sec. 533.0073. MEDICAL DIRECTOR QUALIFICATIONS. A person who serves as a medical director for a managed care plan must be a physician licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

SECTION ____.02. If before implementing any provision of this article a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

Floor Amendment No. 90

Amend Amendment No. 88 to **CSSB 1** by Zerwas (prefiled amendment packet, page 253) by adding the following to the amendment:

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. CONSIDERATIONS IN AWARDING MEDICAID MANAGED CARE CONTRACTS

SECTION ____.01. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0696 to read as follows:

Sec. 531.0696. CONSIDERATIONS IN AWARDING CERTAIN CONTRACTS. The commission may not contract with a managed care organization, including a health maintenance organization, or a pharmacy benefit manager if, in the preceding three years, the organization or pharmacy benefit manager, in connection with a bid, proposal, or contract with a governmental entity:

(1) made a material misrepresentation or committed fraud;

(2) was convicted of violating a state or federal law; or

(3) was assessed a penalty or fine in the amount of $500,000 or more in a state or federal administrative proceeding.

SECTION ____.02. If before implementing any provision of this article a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

Floor Amendment No. 92

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. QUALIFIED TRANSPORTATION BENEFITS

SECTION ____.01. Section 659.102, Government Code, is amended by adding Subsection (b-1) and amending Subsection (c) to read as follows:

(b-1) The supplemental optional benefits program must include a qualified transportation benefit.

(c) The supplemental optional benefits program may include permanent life insurance, catastrophic illness insurance, disability insurance, or prepaid legal services[~~, or a qualified transportation benefit~~].

SECTION ____.02. This article takes effect January 1, 2013.

Floor Amendment No. 93

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. INTERLOCAL COOPERATION CONTRACTS

SECTION ____.01. Section 791.011, Government Code, is amended by adding Subsections (h-1) and (h-2) to read as follows:

(h-1) In this subsection, "roofing materials or services" includes materials or services for repair or replacement of a roof. An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase roofing materials or services from a person who provided consulting services to the cooperative on the contract, including providing specifications for bids on the contract. This prohibition also applies to:

(1) a person that is an agent, subsidiary, or parent company of the person who consulted with the cooperative; or

(2) a person related in the second degree of consanguinity or affinity to a person who consulted with the cooperative.

(h-2) The prohibition under Subsection (h-1) does not apply to a renewal of a contract based on a request for proposal submitted, or substantially similar to a request for proposal submitted, before October 1, 2011, if the contract is renewed before October 1, 2012. This subsection expires October 1, 2012.

SECTION ____.02. The change in law made by this article to Section 791.011, Government Code, applies only to an interlocal contract or an amendment to, supplement to, or waiver of a provision of a contract made on or after the effective date of this article. An interlocal contract or an amendment to, supplement to, or waiver of a provision of a contract made before the effective date of this article is governed by the law in effect when the contract or amendment, supplement, or waiver was made, and the former law is continued for that purpose.

SECTION ____.03. This article takes effect October 1, 2011.

Floor Amendment No. 94

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered article to the bill and renumbering subsequent articles and sections of those articles accordingly:

ARTICLE ____. TEACHER RETIREMENT SYSTEM OF TEXAS: SUPPLEMENTAL PAYMENT

SECTION ____.01. This article is not intended to supplant the power or discretion of the legislature to provide supplemental payments to annuitants of the Teacher Retirement System of Texas. This article provides an additional tool by which the legislature, in enacting this law, may provide those annuitants with a much-needed one-time supplemental payment without requesting additional funds from general revenue.

SECTION ____.02. Section 821.006, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) Notwithstanding Subsections (a) and (b), the retirement system may provide a one-time supplemental payment to an annuitant eligible to receive:

(1) a standard retirement annuity payment;

(2) an optional retirement annuity payment as either a retiree or beneficiary;

(3) a life annuity payment under Section 824.402(a)(4);

(4) an annuity for a guaranteed period of 60 months under Section 824.402(a)(3); or

(5) an alternate payee annuity payment under Section 804.005.

(d) A one-time supplemental payment under Subsection (c) is authorized, even if the amortization period for the unfunded actuarial liabilities of the retirement system exceeds 30 years by one or more years, only if the board of trustees determines that at the time of the supplemental payment the payment can be made while preserving the ability of the retirement system to meet at least 80 percent of the system's pension obligations.

(e) The funding for a one-time supplemental payment under Subsection (c) must come from the earnings the retirement system makes on its investments as provided by this subsection. The supplemental payment may be made at any time during the period beginning October 1, 2011, and ending December 31, 2013, only if, during the preceding fiscal year, the return on investments, as provided by the actuarial valuation on August 31 of that year, exceeds eight percent by an amount sufficient to pay for the supplemental payment. Subsections (c) and (d) and this subsection expire January 1, 2014.

SECTION ____.03. Section 825.402, Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) Subsection (c) does not apply to a supplemental payment authorized by Sections 821.006(c), (d), and (e). This subsection expires January 1, 2014.

SECTION ____.04. (a) The Teacher Retirement System of Texas shall make a one-time supplemental payment of a retirement or death benefit, as provided by Section 821.006, Government Code, as amended by this article, and this section.

(b) The supplemental payment is payable not later than December 31, 2013, and, to the extent practicable, on a date or dates that coincide with the regular annuity payment payable to each eligible annuitant.

(c) The amount of the supplemental payment is equal to the lesser of:

(1) the gross amount of the regular annuity payment to which the eligible annuitant is otherwise entitled for the month of August 2011; or

(2) $2,400.

(d) The supplemental payment is payable without regard to any forfeiture of benefits under Section 824.601, Government Code. The Teacher Retirement System of Texas shall make applicable tax withholding and other legally required deductions before disbursing the supplemental payment. A supplemental payment under this section is in addition to and not in lieu of the regular monthly annuity payment to which the eligible annuitant is otherwise entitled.

(e) Subject to Subsection (f) of this section, to be eligible for the supplemental payment, a person must be, for the month of August 2011, and disregarding any forfeiture of benefits under Section 824.601, Government Code, an annuitant eligible to receive:

(1) a standard retirement annuity payment;

(2) an optional retirement annuity payment as either a retiree or beneficiary;

(3) a life annuity payment under Section 824.402(a)(4), Government Code;

(4) an annuity for a guaranteed period of 60 months under Section 824.402(a)(3), Government Code; or

(5) an alternate payee annuity payment under Section 804.005, Government Code.

(f) If the annuitant is a retiree or a beneficiary under an optional retirement payment plan, to be eligible for the supplemental payment, the effective date of the retirement of the member of the Teacher Retirement System of Texas must have been on or before December 31, 2008. If the annuitant is a beneficiary under Section 824.402(a)(3) or (4), Government Code, to be eligible for the supplemental payment, the date of death of the member of the retirement system must have been on or before December 31, 2008. The supplemental payment shall be made to an alternate payee who is an annuitant under Section 804.005, Government Code, only if the annuity payment to the alternate payee commenced on or before December 31, 2008. The supplemental payment is in addition to the guaranteed number of payments under Section 824.402(a)(3), 824.204(c)(3) or (4), or 824.308(c)(3) or (4), Government Code, and may not be counted as one of the guaranteed monthly payments.

(g) The supplemental payment does not apply to payments under:

(1) Section 824.304(a), Government Code, relating to disability retirees with less than 10 years of service credit;

(2) Section 824.804(b), Government Code, relating to participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts;

(3) Section 824.501(a), Government Code, relating to retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or

(4) Section 824.404(a), Government Code, relating to active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute.

(h) Except as provided by this section, the board of trustees of the Teacher Retirement System of Texas shall determine the eligibility for and the amount and timing of a supplemental payment and the manner in which the payment is made.

SECTION ____.05. This article takes effect October 1, 2011.

Floor Amendment No. 95

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. ADVERTISING ON STATE ELECTRONIC INTERNET PORTALS

SECTION ____.01. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.064 to read as follows:

Sec. 2054.064. ADVERTISING ON STATE ELECTRONIC INTERNET PORTALS. (a) In this section:

(1) "Department" means the Department of Information Resources or a successor agency.

(2) "State agency" means any department, board, commission, or other agency in the executive branch of state government, including the office of the governor. The term does not include an institution of higher education, as defined by Section 61.003, Education Code.

(b) In accordance with rules adopted by the department and to the extent allowed under federal law:

(1) a state agency shall contract with a private entity to lease advertising space on the agency's official electronic Internet portal; and

(2) the department shall contract with a private entity by awarding a 10-year license to the entity to lease advertising space on the official electronic Internet portal for the State of Texas.

(c) The department shall develop a standard contract for the lease of advertising space on an electronic Internet portal under this section. The standard contract developed by the department must include terms that:

(1) provide for the payment of a fee by the person leasing the advertising space in an amount set by department rule; and

(2) require the advertisements to comply with the rules adopted by the department relating to content and composition.

(d) The department shall adopt rules to implement this section. The rules must establish:

(1) guidelines relating to the content and composition of advertisements that may be placed on an electronic Internet portal;

(2) procedures for procuring advertisements that relate, to the greatest extent practicable, to the stated purpose of the state agency;

(3) policies that require:

(A) each advertisement to be clearly labeled on the electronic Internet portal as an advertisement; and

(B) a disclaimer on each electronic Internet portal that clearly states that the State of Texas does not endorse the products or services advertised on the state agency electronic Internet portal;

(4) a schedule of fees to be charged for the lease of advertising space under this section; and

(5) the amount of the lease payment that a private entity may retain for administering the lease contract.

(e) A private entity administering a lease under this section shall collect the fees due from the leasing entity. After deduction of the private entity's fees, the remainder of the fees collected under this section shall be forwarded to the comptroller to be deposited to the credit of the foundation school fund.

(f) Before entering into a contract under this section, a state agency or the department must evaluate:

(1) the effect of the contract on the bandwidth that the agency or the department requires to perform its official duties; and

(2) whether the contract increases vulnerability to malware or other potential threats to the security of the electronic Internet portal or computer network.

(g) Except as provided by Subsection (h), using the results of the evaluation required under Subsection (f), a state agency or the department shall develop and implement a plan to ensure that state electronic Internet portals and computer networks are secure and that sufficient bandwidth is available to host the advertising required under the contract and to allow for performance of official duties. The plan must include provisions to:

(1) prevent inappropriate content on electronic Internet portals and computer networks associated with this state;

(2) efficiently route data used by the agency or the department to perform its official duties;

(3) manage and reduce the quantity of bandwidth used by the agency or the department; and

(4) ensure the continued security and integrity of electronic Internet portals, computer networks, and confidential and sensitive data associated with this state.

(h) A state agency or the department may accept free or discounted services to assist in performing the evaluation and planning requirements under Subsections (f) and (g) from a provider designated as qualified by the department. The department shall maintain a list of qualified providers on the department's electronic Internet portal.

(i) A state agency or the department is not required to implement a plan developed under Subsection (g) if:

(1) money appropriated to the agency or the department may not be lawfully spent for the purposes of this section; or

(2) the agency or the department determines that the cost of implementing the plan will exceed the income received from a contract under this section.

Floor Amendment No. 96

Amend Amendment No. 95 by Brown to **CSSB 1** (page 303 of the prefiled amendment packet - barcode no. 825224) as follows:

(1) On page 1 of the amendment, line 2, strike "ARTICLE" and substitute "ARTICLES".

(2) On page 1 of the amendment, between lines 4 and 5, insert the following:

ARTICLE ____. SECURITY TECHNOLOGY

SECTION ____.01. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.061 to read as follows:

Sec. 2054.061. SECURITY TECHNOLOGY. (a) In this section, "cyber assets" includes privileged interfaces.

(b) The department shall provide to a state agency technology that secures the consoles of cyber assets under all conditions regardless of the operating state or operating mode of the cyber asset.

(c) The technology provided under Subsection (b) must:

(1) automatically capture and retain records of all actions taken by users, including privileged users, over the consoles of cyber assets; and

(2) provide reporting and audit management for security, regulatory, and compliance purposes.

(d) In addition to any other use authorized by law, revenue collected from the fees authorized under Section 2054.2591(a), as added by Chapter 1260 (H.B. 2048), Acts of the 79th Legislature, Regular Session, 2005, may be used to implement this section.

SECTION ____.02. Not later than October 31, 2011, the Department of Information Technologies shall provide the technology required by Section 2054.061, Government Code, as added by this article.

Floor Amendment No. 97

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. COST-EFFICIENCY SUGGESTIONS AND IDEAS FOR STATE AGENCIES

SECTION ____.01. Subchapter F, Chapter 2054, Government Code, is amended by adding Section 2054.1266 to read as follows:

Sec. 2054.1266. POSTING OF COST-EFFICIENCY SUGGESTIONS AND IDEAS ON STATE AGENCY WEBSITE. (a) In this section, "state agency" does not include an institution of higher education, as defined by Section 61.003, Education Code.

(b) Except as provided by Subsection (d), each state agency that has 1,500 or more employees shall post on the agency's intranet website or generally accessible Internet website an electronic form or link allowing an employee of the agency to submit suggestions and ideas on how to make the agency more cost-efficient.

(c) Except as provided by Subsection (d), each state agency shall post on the agency's generally accessible Internet website a link allowing members of the public to:

(1) monitor, in real time or on a weekly or monthly basis, submissions made under Subsection (b); and

(2) vote for the public's favorite submission.

(d) The department may exclude from the requirements of this section a state agency if the agency has a preexisting program or link that the department determines substantially meets the requirements of this section.

(e) The department shall adopt rules establishing procedures and required formats for implementing this section.

Floor Amendment No. 98

Amend Floor Amendment No. 97 by Gallego to **CSSB 1** (page 307, prefiled amendments packet) as follows:

(1) In the recital to Section ____.01 of the added article (page 1, line 8) strike "Section 2054.1266" and substitute "Sections 2054.1266 and 2054.1267".

(2) At the end of Section ____.01 of the added article, immediately following added Section 2054.1266, Government Code, add the following:

Sec. 2054.1267. POSTING HIGH-VALUE DATA SETS ON INTERNET. (a) In this section:

(1) "High-value data set" means information that can be used to increase state agency accountability and responsiveness, improve public knowledge of the agency and its operations, further the core mission of the agency, create economic opportunity, or respond to need and demand as identified through public consultation. The term does not include information that is confidential or protected from disclosure under state or federal law.

(2) "State agency" means a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code.

(b) Each state agency shall post on a generally accessible Internet website maintained by or for the agency each high-value data set created or maintained by the agency, if the agency:

(1) determines that, using existing resources, the agency can post the data set on the Internet website at no additional cost to the state;

(2) enters into a contract advantageous to the state under which the contractor posts the data set on the Internet website at no additional cost to the state; or

(3) receives a gift or grant specifically for the purpose of posting one or more of the agency's high-value data sets on the Internet website.

(c) A high-value data set posted by a state agency under this section must be raw data in open standard format that allows the public to search, extract, organize, and analyze the information.

(d) The web page on which a state agency's high-value data set is posted must:

(1) use the agency's Internet website home page address and include the uniform resource locator suffix "data"; and

(2) have a conspicuously displayed link on either the agency's Internet website home page or another intuitive location accessible from the agency's Internet website home page.

(e) A state agency may accept a gift or grant for the purpose of posting one or more of the agency's high-value data sets on an Internet website.

SECTION ____.02. Chapter 322, Government Code, is amended by adding Section 322.0081 to read as follows:

Sec. 322.0081. BUDGET DOCUMENTS ONLINE. (a) The board shall post on the board's Internet website documents prepared by the board that are provided to a committee, subcommittee, or conference committee of either house of the legislature in connection with an appropriations bill.

(b) The board shall post a document to which this section applies as soon as practicable after the document is provided to a committee, subcommittee, or conference committee.

(c) The document must be downloadable and provide data in a format that allows the public to search, extract, organize, and analyze the information in the document.

(d) The requirement under Subsection (a) does not supersede any exceptions provided under Chapter 552.

(e) The board shall promulgate rules to implement the provisions of this section.

Floor Amendment No. 99

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. ABOLISHING STATE KIDS INSURANCE PROGRAM.

(a) Section 62.101, Health and Safety Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A child who is the dependent of an employee of an agency of this state and who meets the requirements of Subsection (a) may be eligible for health benefits coverage in accordance with 42 U.S.C. Section 1397jj(b)(6) and any other applicable law or regulations.

(b) Sections 1551.159 and 1551.312, Insurance Code, are repealed.

(c) The State Kids Insurance Program operated by the Employees Retirement System of Texas is abolished on the effective date of this Act. The Health and Human Services Commission shall:

(1) establish a process in cooperation with the Employees Retirement System of Texas to facilitate the enrollment of eligible children in the child health plan program established under Chapter 62, Health and Safety Code, on or before the date those children are scheduled to stop receiving dependent child coverage under the State Kids Insurance Program; and

(2) modify any applicable administrative procedures to ensure that children described by this subsection maintain continuous health benefits coverage while transitioning from enrollment in the State Kids Insurance Program to enrollment in the child health plan program.

Floor Amendment No. 100

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. STATE FUNDING FOR CERTAIN MEDICAL PROCEDURES

SECTION ____.01. The heading to Subchapter M, Chapter 285, Health and Safety Code, is amended to read as follows:

SUBCHAPTER M. REGULATION [~~PROVISION~~] OF SERVICES

SECTION ____.02. Subchapter M, Chapter 285, Health and Safety Code, is amended by adding Section 285.202 to read as follows:

Sec. 285.202. USE OF TAX REVENUE FOR ABORTIONS; EXCEPTION FOR MEDICAL EMERGENCY. (a) In this section, "medical emergency" means a condition exists that, in a physician's good faith clinical judgment, complicates the medical condition of the pregnant woman and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function.

(b) Except in the case of a medical emergency, a hospital district created under general or special law that uses tax revenue of the district to finance the performance of an abortion may not receive state funding.

(c) A physician who performs an abortion in a medical emergency at a hospital or other health care facility owned or operated by a hospital district that receives state funds shall:

(1) include in the patient's medical records a statement signed by the physician certifying the nature of the medical emergency; and

(2) not later than the 30th day after the date the abortion is performed, certify to the Department of State Health Services the specific medical condition that constituted the emergency.

(d) The statement required under Subsection (c)(1) shall be placed in the patient's medical records and shall be kept by the hospital or other health care facility where the abortion is performed until:

(1) the seventh anniversary of the date the abortion is performed; or

(2) if the pregnant woman is a minor, the later of:

(A) the seventh anniversary of the date the abortion is performed; or

(B) the woman's 21st birthday.

(e) A hospital district created by general or special law that receives state funding may not:

(1) make a charitable donation or financial contribution from tax revenue of the district to an organization, agency, or entity that provides or refers for abortion or abortion-related services; or

(2) contract or affiliate with other organizations, agencies, or entities that provide or refer for abortion or abortion related services.

Floor Amendment No. 101

Amend Amendment No. 100 by Christian to **CSSB 1** (page 314 of the prefiled amendment packet) as follows:

(1) Strike added Section 285.202(a), Health and Safety Code (page 1, lines 13-18 of the amendment), and substitute:

(a) In this section, "medical emergency" means a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

(2) In added Section 285.202(e)(1), Health and Safety Code (page 2, line 18 of the amendment), strike "or abortion-related services".

(3) In added Section 285.202(e)(2), Health and Safety Code (page 2, lines 20-21 of the amendment), strike "or abortion related services".

Floor Amendment No. 102

Amend **CSSB 1** as follows:

Amend Section 771, Health and Safety Code, as follows:

SECTION 1. Section 771.001, Health and Safety Code, is amended by deleting Subsection (4), and by renumbering Subsections (5) through (13) as Subsections (4) through (12), respectively.

SECTION 2. Section 771.001, Health and Safety Code, is further amended by amending Subsection (12) and adding a new Subsection (13), to read as follows:

(12) "Wireless telecommunications connection" means any voice-capable wireless communication mobile station [~~assigned a number containing an area code assigned to Texas by the North American Numbering Plan Administrator that connects a wireless service provider to the local exchange~~] that is provided to a customer by a wireless service provider.

(13) "Service provider" means a local exchange service provider, a wireless service provider, and any other provider of local exchange access lines or equivalent local exchange access lines.

SECTION 3. Subsection (e) of Section 771.071, Health and Safety Code, is amended to read as follows:

(e) A [~~local exchange~~] service provider shall collect the fees imposed on its customers under this section. Not later than the 30th day after the last day of the month in which the fees are collected, the [~~local exchange~~] service provider shall deliver the fees to the comptroller. The comptroller shall deposit money from the fees to the credit of the 9-1-1 services fee account in the general revenue fund. The comptroller may establish alternative dates for payment of fees under this section, provided that the required payment date be no earlier than the 30th day after the last day of the reporting period in which the fees are collected.

SECTION 4. Subsections (a) through (e) of Section 771.072, Health and Safety Code, are amended to read as follows:

(a) [~~In~~] On and after September 1, 2011, in addition to the [~~fee~~] fees imposed under [~~Section~~] Sections 771.071 and 771.0711, the commission shall impose a 9-1-1 equalization surcharge on each [~~customer receiving intrastate long distance service, including customers in an area served by an emergency communication district, even if the district is not participating in the regional plan~~] local exchange access line or equivalent local exchange access line, and each wireless telecommunications connection. The surcharge may not be imposed on a line to coin-operated public telephone equipment or to public telephone equipment operated by coin or by card

reader. The surcharge may also not be imposed on any line that the commission excluded from the definition of a local exchange access line or an equivalent local exchange access line pursuant to Section 771.063. The surcharge may also not be imposed on any wireless telecommunications connection that constitutes prepaid wireless telecommunications service subject to Section 771.0712.

(b) The [~~amount of the surcharge may not exceed one and three tenths of one percent of the charges for intrastate long distance service, as defined by the commission~~] surcharge shall be a fixed amount, not to exceed 10 cents per month for each local exchange access line or equivalent local exchange access line, or wireless telecommunications connection.

(c) Except as provided by Section 771.073(f), [~~an intrastate long distance~~] each service provider shall collect the surcharge imposed on its customers under this section and shall deliver the surcharges to the comptroller not later than the date specified by the comptroller, provided that the required payment date be no earlier than the 30th day after the last day of the reporting period in which the surcharge is collected. If the comptroller does not specify a date, the provider shall deliver the surcharges to the comptroller not later than the 30th day after the last day of the month in which the surcharges are collected.

(d) From the revenue received from the surcharge imposed under this section, not more than 40 percent of the amount derived from the application of the surcharge [~~at a rate of not more than .5 percent~~] shall be allocated to regional planning commissions or other public agencies designated by the regional planning commissions for use in carrying out the regional plans provided for by this chapter. The allocations to the regional planning commissions are not required to be equal, but should be made to carry out the policy of this chapter to implement 9-1-1 service statewide. Money collected under this section may be allocated to an emergency communication district regardless of whether the district is participating in the applicable regional plan.

(e) From the revenue received from the surcharge imposed by this section, not more than 60 percent of the amount derived from the application of the surcharge [~~at a rate of not more than .8 percent~~] shall be periodically allocated to fund grants awarded under Section 777.009 and other activities related to the poison control centers as required by Chapter 777.

SECTION 5. A new subsection (e) is added to Section 771.0725, Health and Safety Code, to read as follows:

(e) With respect to the equalization surcharge imposed under Section 771.072, the commission shall establish the rate as of September 1, 2011, and not more than once every state fiscal biennium thereafter, so that the aggregate of the surcharges collected from all customers for the next 12 months is not expected to exceed the aggregate of the surcharges collected from all customers during the preceding 12 months. Any change in the equalization surcharge rate shall be made effective not earlier than 90 days after notice of such change is provided by the commission to service providers.

SECTION 6. Subsection (a) of Section 771.073, Health and Safety Code, is amended to read as follows:

(a) A customer on which a fee or surcharge is imposed under this subchapter is liable for the fee or surcharge in the same manner as the customer is liable for the charges for services provided by the service provider. The service provider shall collect the fees and surcharges in the same manner it collects those charges for service, except that the service provider is not required to take legal action to enforce the collection of the fees or surcharges. [~~A~~] Other than the fee imposed under section 771.0712, a fee or surcharge imposed under this subchapter must either be stated separately on the customer's bill, or combined into an appropriately labeled single line item on the customer's bill with all other fees and surcharges that are imposed under this subchapter or that are imposed for a 9-1-1 emergency service by a political subdivision. A service provider that combines such fees and surcharges into a single line for billing purposes shall maintain books and records reflecting the collection of each fee and surcharge.

SECTION 7. Subsection (3) of Section 771.0735, Health and Safety Code, is amended to read as follows:

(3) the fee and the surcharge imposed on wireless telecommunications bills shall be administered in accordance with Section 151.061, Tax Code.

SECTION 8. This Act takes effect September 1, 2011.

Floor Amendment No. 105

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering existing ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. EMPLOYMENT SERVICES PROGRAM FOR CERTAIN CHILD SUPPORT OBLIGORS

SECTION ____.01. Subtitle B, Title 4, Labor Code, is amended by adding Chapter 314 to read as follows:

CHAPTER 314. EMPLOYMENT SERVICES PROGRAM FOR CERTAIN CHILD SUPPORT OBLIGORS

Sec. 314.001. DEFINITIONS. In this chapter:

(1) "Nonrecipient parent" has the meaning assigned by Section 31.0021, Human Resources Code.

(2) "Obligor" has the meaning assigned by Section 101.022, Family Code.

(3) "Title IV-D agency" has the meaning assigned by Section 101.033, Family Code.

(4) "Title IV-D case" has the meaning assigned by Section 101.034, Family Code.

Sec. 314.002. PROGRAM. (a) The commission and the Title IV-D agency jointly shall develop and administer an employment services program to provide eligible child support obligors with assistance in obtaining employment so that the obligors may satisfy their child support obligations. The program shall:

(1) provide an eligible obligor employment services similar to those services provided to a recipient or nonrecipient parent under Chapter 31, Human Resources Code; and

(2) direct eligible obligors, in appropriate cases, to local workforce development boards for skills assessment, job training, job placement, and job monitoring.

(b) A referral of an eligible obligor to employment services under this chapter may be made in conjunction with a referral by the Title IV-D agency under Section 231.117, Family Code.

Sec. 314.003. ELIGIBILITY. The commission, in collaboration with the Title IV-D agency, by rule shall prescribe criteria for determining a child support obligor's eligibility to participate in the program. The criteria must include the requirement that a child support obligor be unemployed or underemployed.

Sec. 314.004. REQUIRED PARTICIPATION BY CERTAIN OBLIGORS. (a) On a determination by the Title IV-D agency that an obligor in a Title IV-D case who is eligible to participate in the program is delinquent in paying a child support obligation, the agency may request a court of competent jurisdiction to render an order requiring the obligor to participate in the program. In making requests under this subsection, the Title IV-D agency shall give priority to making requests in regard to obligors who are the parent of a current or former recipient of financial assistance under Chapter 31, Human Resources Code, or medical assistance under Chapter 32, Human Resources Code.

(b) If the court orders an obligor to participate in the program, the commission shall:

(1) direct the obligor to an appropriate workforce development board for skills assessment, job training, job placement, and job monitoring; and

(2) monitor the obligor's participation in any required program activities.

(c) An obligor who fails to participate in the program as required by a court order shall be reported to the Title IV-D agency for the imposition of any penalty authorized by law.

Sec. 314.005. FUNDING. The commission may allocate for the development, implementation, and administration of the program any money available to the commission through the grant provided under Section 403, Social Security Act (42 U.S.C. Section 603), and may use any other federal or state funds available for that purpose.

Sec. 314.006. RULES. The commission, in collaboration with the Title IV-D agency, shall adopt rules as necessary for the administration of this chapter, including rules:

(1) for directing eligible child support obligors to the employment services provided by the program; and

(2) prescribing the job monitoring and reporting requirements under the program.

SECTION ____.02. As soon as practicable after the effective date of this article, the Texas Workforce Commission, in collaboration with the Title IV-D agency, shall adopt rules for the administration of Chapter 314, Labor Code, as added by this article.

Floor Amendment No. 107

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 4 of the bill and renumbering subsequent SECTIONS of ARTICLE 4 accordingly:

SECTION 4.____. Section 74.501(d), Property Code, is amended to read as follows:

(d) On receipt of a claim form and all necessary documentation and as may be appropriate under the circumstances, the comptroller may approve the claim of:

(1) the reported owner of the property;

(2) if the reported owner died testate:

(A) the appropriate legal beneficiaries of the owner as provided by the last will and testament of the owner that has been accepted into probate or filed as a muniment of title; or

(B) the executor of the owner's last will and testament who holds current letters testamentary;

(3) if the reported owner died intestate:

(A) the legal heirs of the owner as provided by Section 38, Texas Probate Code; or

(B) the court-appointed administrator of the owner's estate;

(4) the legal heirs of the reported owner as established by an affidavit of heirship order signed by a judge of the county probate court or by a county judge;

(5) if the reported owner is a minor child or an adult who has been adjudged incompetent by a court of law, the parent or legal guardian of the child or adult;

(6) if the reported owner is a corporation:

(A) the president or chair of the board of directors of the corporation, on behalf of the corporation; or

(B) any person who has legal authority to act on behalf of the corporation;

(7) if the reported owner is a corporation that has been dissolved or liquidated:

(A) the sole surviving shareholder of the corporation, if there is only one surviving shareholder;

(B) the surviving shareholders of the corporation in proportion to their ownership of the corporation, if there is more than one surviving shareholder;

(C) the corporation's bankruptcy trustee; or

(D) the court-ordered receiver for the corporation; or

(8) any other person that is entitled to receive the unclaimed property under other law or comptroller policy or rule.

Floor Amendment No. 109

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered article to the bill and renumbering subsequent articles and sections accordingly:

ARTICLE ____. GUARDIANSHIP MATTERS AND PROCEEDINGS

SECTION ____.01. Section 612, Texas Probate Code, is amended to read as follows:

Sec. 612. APPLICATION FOR TRANSFER OF GUARDIANSHIP TO ANOTHER COUNTY. When a guardian or any other person desires to transfer [~~remove~~] the transaction of the business of the guardianship from one county to another, the person shall file a written application in the court in which the guardianship is pending stating the reason for the transfer [~~moving the transaction of business~~].

SECTION ____.02. Section 613(a), Texas Probate Code, is amended to read as follows:

(a) On filing an application to transfer [~~remove~~] a guardianship to another county, the sureties on the bond of the guardian shall be cited by personal service to appear and show cause why the application should not be granted.

SECTION ____.03. Sections 614, 615, 616, 617, and 618, Texas Probate Code, are amended to read as follows:

Sec. 614. COURT ACTION. (a) On hearing an application under Section 612 of this code, if good cause is not shown to deny the application and it appears that transfer [~~removal~~] of the guardianship is in the best interests of the ward, the court shall enter an order authorizing the transfer [~~removal~~] on payment on behalf of the estate of all accrued costs.

(b) In an order entered under Subsection (a) of this section, the court shall require the guardian, not later than the 20th day after the date the order is entered, to:

(1) give a new bond payable to the judge of the court to which the guardianship is transferred; or

(2) file a rider to an existing bond noting the court to which the guardianship is transferred.

Sec. 615. TRANSFER OF RECORD. When an order of transfer [~~removal~~] is made under Section 614 of this code, the clerk shall record any unrecorded papers of the guardianship required to be recorded. On payment of the clerk's fee, the clerk shall transmit to the county clerk of the county to which the guardianship was ordered transferred [~~removed~~]:

(1) the case file of the guardianship proceedings; and

(2) a certified copy of the index of the guardianship records.

Sec. 616. TRANSFER [~~REMOVAL~~] EFFECTIVE. The order transferring [~~removing~~] a guardianship does not take effect until:

(1) the case file and a certified copy of the index required by Section 615 of this code are filed in the office of the county clerk of the county to which the guardianship was ordered transferred [~~removed~~]; and

(2) a certificate under the clerk's official seal and reporting the filing of the case file and a certified copy of the index is filed in the court ordering the transfer [~~removal~~] by the county clerk of the county to which the guardianship was ordered transferred [~~removed~~].

Sec. 617. CONTINUATION OF GUARDIANSHIP. When a guardianship is transferred [~~removed~~] from one county to another in accordance with this subpart, the guardianship proceeds in the court to which it was transferred [~~removed~~] as if it had been originally commenced in that court. It is not necessary to record in the receiving court any of the papers in the case that were recorded in the court from which the case was transferred [~~removed~~].

Sec. 618. NEW GUARDIAN APPOINTED ON TRANSFER [~~REMOVAL~~]. If it appears to the court that transfer [~~removal~~] of the guardianship is in the best interests of the ward, but that because of the transfer [~~removal~~] it is not in the best interests of the ward [~~will be unduly expensive or unduly inconvenient to the estate~~] for the guardian of the estate to continue to serve in that capacity, the court may in its order of

transfer [~~removal~~] revoke the letters of guardianship and appoint a new guardian, and the former guardian shall account for and deliver the estate as provided by this chapter in a case in which a guardian resigns.

SECTION ____.04. Subpart B, Part 2, Chapter XIII, Texas Probate Code, is amended by adding Section 619 to read as follows:

Sec. 619. REVIEW OF TRANSFERRED GUARDIANSHIP. Not later than the 90th day after the date the transfer of the guardianship takes effect under Section 616 of this code, the court to which the guardianship was transferred shall hold a hearing to consider modifying the rights, duties, and powers of the guardian or any other provisions of the transferred guardianship.

SECTION ____.05. Section 892, Texas Probate Code, is amended by amending Subsections (a) and (e) and adding Subsection (f-1) to read as follows:

(a) A guardian appointed by a foreign court to represent an incapacitated person who is residing in this state or intends to move to this state may file an application with a court in which the ward resides or intends to reside to have the guardianship transferred to the court. The application must have attached a certified copy of all papers of the guardianship filed and recorded in the foreign court.

(e) The [~~On the court's own motion or on the motion of the ward or any interested person, the~~] court shall hold a hearing to:

(1) consider the application for receipt and acceptance of a foreign guardianship; and

(2) consider modifying the administrative procedures or requirements of the proposed transferred guardianship in accordance with local and state law.

(f-1) At the time of granting an application for receipt and acceptance of a foreign guardianship, the court may also modify the administrative procedures or requirements of the transferred guardianship in accordance with local and state law.

SECTION ____.06. Section 894(b), Texas Probate Code, is amended to read as follows:

(b) A court that delays further action in a guardianship proceeding under Subsection (a) of this section shall determine whether venue of the proceeding is more suitable in that court or in the foreign court. In making that determination, the court may consider:

(1) the interests of justice;

(2) the best interests of the ward or proposed ward; [~~and~~]

(3) the convenience of the parties; and

(4) the preference of the ward or proposed ward, if the ward or proposed ward is 12 years of age or older.

SECTION ____.07. Subpart G, Part 5, Chapter XIII, Texas Probate Code, is amended by adding Section 895 to read as follows:

Sec. 895. DETERMINATION OF MOST APPROPRIATE FORUM FOR CERTAIN GUARDIANSHIP PROCEEDINGS. (a) If at any time a court of this state determines that it acquired jurisdiction of a proceeding for the appointment of a guardian of the person or estate, or both, of a ward or proposed ward because of unjustifiable conduct, the court may:

(1) decline to exercise jurisdiction;

(2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the ward or proposed ward or the protection of the ward's or proposed ward's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

(3) continue to exercise jurisdiction after considering:

(A) the extent to which the ward or proposed ward and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(B) whether the court of this state is a more appropriate forum than the court of any other state after considering the factors described by Section 894(b) of this code; and

(C) whether the court of any other state would have jurisdiction under the factual circumstances of the matter.

(b) If a court of this state determines that it acquired jurisdiction of a proceeding for the appointment of a guardian of the person or estate, or both, of a ward or proposed ward because a party seeking to invoke the court's jurisdiction engaged in unjustifiable conduct, the court may assess against that party necessary and reasonable expenses, including attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against this state or a governmental subdivision, agency, or instrumentality of this state unless authorized by other law.

SECTION ____.08. Section 893, Texas Probate Code, is repealed.

SECTION ____.09. Sections 612, 613, 614, 615, 616, 617, and 618, Texas Probate Code, as amended by this article, and Section 619, Texas Probate Code, as added by this article, apply only to an application for the transfer of a guardianship to another county filed on or after the effective date of this Act. An application for the transfer of a guardianship to another county filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION ____.10. The changes in law made by this article to Sections 892 and 893, Texas Probate Code, apply only to an application for receipt and acceptance of a foreign guardianship filed on or after the effective date of this Act. An application for receipt and acceptance of a foreign guardianship filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION ____.11. Section 894, Texas Probate Code, as amended by this article, and Section 895, Texas Probate Code, as added by this article, apply only to a guardianship proceeding filed on or after the effective date of this Act. A guardianship proceeding filed before the effective date of this Act is governed by the law in effect on the date the proceeding was filed, and the former law is continued in effect for that purpose.

Floor Amendment No. 115

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLES to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. PURCHASES BY EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 151.310(a)(1) AND (a)(2), TAX CODE.

SECTION 1. Section 151.006, Tax Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) Notwithstanding Section 151.310(c-2), an organization that qualifies for exemption under Section 151.310(a)(1) or (a)(2) may issue a resale certificate to a seller when acquiring a taxable item to be sold by the organization as part of a fundraising drive if the organization:

(1) acquires the taxable item for the purpose of reselling it at a tax-free sale or auction authorized by Section 151.310(c) or at a sale that is not tax-free;

(2) is identified on an invoice or receipt as the purchaser of the taxable item;

(3) pays a wholesale price stated on an invoice or receipt for the taxable item;

(4) bears the risk of loss with respect to the taxable item after the purchase; and

(5) is not contractually obligated to resell the taxable item at a price established by the person from whom the organization obtains the taxable item.

(d) An organization does not fail to meet the requirements of Subsection (c) solely because the organization:

(1) returns a taxable item to the person from whom the item was purchased in exchange for a refund of the purchase price; or

(2) resells a taxable item at a price suggested or recommended by the person from whom the item was purchased.

SECTION 2. Section 151.310, Tax Code, is amended by adding Subsections (c-2) and (c-3) to read as follows:

(c-2) For purposes of Subsection (c) of this section, an organization that qualifies for an exemption under Subsection (a)(1) or (a)(2) of this section may issue an exemption certificate to a seller when obtaining taxable items to be sold by the organization during a tax-free sale authorized under Subsection (c).

(c-3) The exemption in Subsection (c) of this section does not apply to the sale of a taxable item promoted by an organization described in Subsection (a)(1) or (a)(2) if the organization is acting as the agent of the person for whom the organization promotes the taxable item as provided under Section 151.024. Notwithstanding 151.024, an organization is not acting as an agent for purposes of this subsection if the organization purchases the taxable item in a transaction that qualifies as a sale for resale under Section 151.006(c).

SECTION 3. This article takes effect immediately if this Act receives a vote of two-thirds of all 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 article takes effect September 1, 2011.

(2) Renumber ARTICLES of the bill appropriately.

Floor Amendment No. 116

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. SALES AND USE TAX EXEMPTION FOR CERTAIN COINS AND PRECIOUS METALS

SECTION ____.01. Section 151.336, Tax Code, is amended to read as follows:

Sec. 151.336. CERTAIN COINS AND PRECIOUS METALS. [~~(a)~~] The sale of gold, silver, or numismatic coins or of platinum, gold, or silver bullion is exempted from the taxes [~~sales tax~~] imposed by this chapter [~~Subchapter C at any sale to a purchaser in which the total sales price of all of the items sold equals $1,000 or more~~].

[~~(b) An item exempt under Subsection (a) is exempt from the use tax imposed by Subchapter D to the purchaser until the item is subsequently transferred.~~]

SECTION ____.02. The change in law made by this article does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this article does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this article had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

Floor Amendment No. 117

Amend **CSSB 1** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 1. Subchapter I, Chapter 151, Tax Code, is amended by adding Section 151.4292 to read as follows:

Sec. 151.4292. TAX REFUNDS FOR QUALIFIED DATA CENTERS. (a) In this section:

(1) "County average weekly wage" means the average weekly wage in a county for all jobs during the most recent four quarterly periods for which data is available, as computed by the Texas Workforce Commission, at the time a data center creates a job used to qualify under this section.

(2) "Data center" means a facility:

(A) located in this state on or after September 1, 2011;

(B) composed of one or more buildings specifically constructed or refurbished and actually used primarily to house servers and related equipment and support staff;

(C) used or to be used primarily by a business engaged in:

(i) data processing, hosting, and related services described by industry code 518210 of the North American Industry Classification System; or

(ii) an Internet activity described by industry code 519130 of the North American Industry Classification System; and

(D) that as an uninterruptible power source, a generator backup power, a sophisticated fire suppression and prevention system, and enhanced physical security that includes restricted access, permanent security guards, video surveillance, and electronic systems.

(3) "Permanent job" means an employment position that will exist for at least five years after the date the job is created.

(4) "Qualifying data center" means a data center that meets the qualifications prescribed by Subsection (d).

(5) "Qualifying job" means a full-time, permanent job that pays at least 150 percent of the county average weekly wage in the county in which the job is based.

(b) Except as provided by Subsection (c), a qualifying data center is entitled to receive a refund in the amount provided by this section of the taxes imposed by this chapter on tangible personal property purchased by the data center that is necessary to manage or operate the data center, including:

(1) electricity;

(2) an electrical system;

(3) a cooling system;

(4) an emergency generator;

(5) hardware or a distributed mainframe computer or server;

(6) a data storage device;

(7) network connectivity equipment;

(8) a peripheral component or system; and

(9) a component part of tangible personal property described by Subdivisions (2) - (8).

(c) This section does not apply to:

(1) office equipment or supplies; or

(2) equipment or supplies used in sales or distribution activities or in transportation activities.

(d) A data center is a qualifying data center for purposes of this section if the data center has:

(1) created, on or after September 1, 2011, at least 25 qualifying jobs in the county in which the data center is located; and

(2) invested, on or after September 1, 2011, at least $100 million in the data center facility over a five-year period after initial construction of the data center facility.

(e) Beginning on the date a data center becomes a qualifying data center, the data center is entitled to receive a refund as provided by this section for the purchase of tangible personal property occurring on or after the date the center made the initial investment described by Subsection (d)(2) and before the 10th anniversary of that date.

(f) The amount of the refund authorized by this section with respect to the taxes imposed on the purchase of an item of tangible personal property to which this section applies is equal to the greater of:

(1) an amount equal to the amount by which the taxes paid under this chapter exceed the amount of taxes that would have been imposed under this chapter on the purchase of the item if the rate of the tax imposed under this chapter were one percent; or

(2) the amount by which the taxes paid under this chapter exceed $80.

(g) To receive a refund as provided by this section, a data center must apply to the comptroller.

(h) The comptroller shall adopt rules necessary to implement this section, including rules relating to the:

(1) qualification of a data center under this section;

(2) determination of the date a data center initially qualifies for a refund as provided by this section; and

(3) reporting and other procedures necessary to ensure that the qualifying data center complies with this section and remains entitled to receive a refund as provided by this section.

SECTION 2. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. This Act takes effect September 1, 2011.

Floor Amendment No. 118

Amend **CSSB 1** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. (a) Section 23.51(7), Tax Code, is amended to read as follows:

(7) "Wildlife management" means:

(A) actively using land that at the time the wildlife-management use began was appraised as qualified open-space land under this subchapter or as qualified timber land under Subchapter E in at least three of the following ways to propagate a sustaining breeding, migrating, or wintering population of indigenous wild animals for human use, including food, medicine, or recreation:

(i) habitat control;

(ii) erosion control;

(iii) predator control;

(iv) providing supplemental supplies of water;

(v) providing supplemental supplies of food;

(vi) providing shelters; [~~and~~]

(vii) making of census counts to determine population; and

(viii) supporting outdoor education;

(B) actively using land to protect federally listed endangered species under a federal permit if the land is:

(i) included in a habitat preserve and is subject to a conservation easement created under Chapter 183, Natural Resources Code; or

(ii) part of a conservation development under a federally approved habitat conservation plan that restricts the use of the land to protect federally listed endangered species; or

(C) actively using land for a conservation or restoration project to provide compensation for natural resource damages pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. Section 2701 et seq.), the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), or Chapter 40, Natural Resources Code.

(b) This section applies only to the appraisal of land for ad valorem tax purposes for a tax year that begins on or after the effective date of this section.

(c) This section takes effect January 1, 2012.

Floor Amendment No. 119

Amend Amendment No. 118 by Kleinschmidt on page 363 to **CSSB 1** (house committee printing) by adding the following appropriately numbered item to the amendment and renumbering the subsequent items of the amendment accordingly:

(____) Add the following appropriately numbered ARTICLE to the bill and renumber the subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. SUPPORT FOR HABITAT PROTECTION MEASURES

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

SUBCHAPTER Q. SUPPORT FOR HABITAT PROTECTION MEASURES

Sec. 403.451. DEFINITIONS. In this subchapter,

(1) "Candidate species" means a species identified by the U.S. Department of Interior as appropriate for listing as threatened or endangered;

(2) "Candidate conservation plan" means a plan to implement such actions as necessary for the conservation of one or more candidate species or species likely to become a candidate species in the near future; and

(3) "Endangered species," "federal permit," "habitat conservation plan," and "mitigation fee" have the meanings assigned by Section 83.011, Parks and Wildlife Code.

Sec. 403.452. COMPTROLLER POWERS AND DUTIES. (a) To promote compliance with federal law protecting endangered species and candidate species in a manner consistent with this state's economic development and fiscal stability, the comptroller may:

(1) develop or coordinate the development of a habitat conservation plan or candidate conservation plan;

(2) apply for and hold a federal permit issued in connection with a habitat conservation plan or candidate conservation plan developed by the comptroller or the development of which is coordinated by the comptroller;

(3) enter into an agreement for the implementation of a candidate conservation plan with the United States Department of the Interior or assist another entity in entering into such an agreement;

(4) establish the habitat protection fund, to be held by the comptroller outside the treasury, to be used to support the development or coordination of the development of a habitat conservation plan, a candidate conservation plan, or to pay the costs of monitoring or administering in implementation of such a plan;

(5) impose or provide for the imposition of a mitigation fee in connection with a habitat conservation plan or such fees as is necessary or advisable for a candidate conservation plan developed by the comptroller or the development of which is coordinated by the comptroller; and

(6) implement, monitor, or support the implementation of a habitat conservation plan or candidate conservation plan developed by the comptroller or the development of which is coordinated by the comptroller.

(b) The comptroller may solicit and accept appropriations, fees under this subchapter, gifts, or grants from any public or private source, including the federal government, this state, a public agency, or a political subdivision of this state, for deposit to the credit of the fund established under this section.

(c) The legislature finds that expenditures described by Subsection (a)(4) serve public purposes, including economic development in this state.

(d) The comptroller may establish a nonprofit corporation or contract with a third party to perform one or more of the comptroller's functions under this section.

Sec. 403.453. STATE AGENCY POWERS AND DUTIES. (a) Upon consideration of the factors identified in Subsection (b), the comptroller may designate one of the following agencies to undertake the functions identified in Subsections 403.452(a)(1), (2), (3), (5) or (6):

(1) the Agriculture Department;

(2) the Parks and Wildlife Department;

(3) the Department of Transportation;

(4) the State Soil and Water Conservation Board; or

(5) any agency receiving funds through Article VI (Natural Resources) of the 2012-2013 appropriations bill.

(b) In designating an agency pursuant to Subsection (a), the comptroller shall consider the following factors:

(1) the economic sectors impacted by the species of interest that will be included in the habitat conservation plan or candidate conservation plan;

(2) the identified threats to the species of interest; and

(3) the location of the species of interest.

(c) The comptroller may enter into a memorandum of understanding or interagency contract with any of the agencies listed in this section to implement this subchapter and to provide for the use of the habitat protection fund.

Sec. 403.454. CONFIDENTIAL INFORMATION. Information collected under this subchapter by an agency, or an entity acting on the agency's behalf, from a private landowner or other participant or potential participant in a habitat conservation plan, proposed habitat conservation plan, candidate conservation plan, or proposed candidate conservation plan is not subject to Chapter 552 and may not be disclosed to any person, including a state or federal agency, if the information relates to the specific location, species identification, or quantity of any animal or plant life for which a plan is under consideration or development or has been established under this section. The agency may disclose information described by this section only to the person who provided the information unless the person consents in writing to full or specified partial disclosure of the information.

Sec. 403.455. RULES. The comptroller or agencies identified in Sec. 403.453 may adopt rules as necessary for the administration of this subchapter.

Floor Amendment No. 121

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLES to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. FRANCHISE TAX APPLICABILITY AND EXCLUSIONS

SECTION ____.01. Section 171.0001, Tax Code, is amended by adding Subdivisions (1-a), (10-a), (10-b), and (11-b) to read as follows:

(1-a) "Artist" means a natural person or an entity that contracts to perform or entertain at a live entertainment event.

(10-a) "Live entertainment event" means an event that occurs on a specific date to which tickets are sold in advance by a third-party vendor and at which:

(A) a natural person or a group of natural persons, physically present at the venue, performs for the purpose of entertaining a ticket holder who is present at the event;

(B) a traveling circus or animal show performs for the purpose of entertaining a ticket holder who is present at the event; or

(C) a historical, museum-quality artifact is on display in an exhibition.

(10-b) "Live event promotion services" means services related to the promotion, coordination, operation, or management of a live entertainment event. The term includes services related to:

(A) the provision of staff for the live entertainment event; or

(B) the scheduling and promotion of an artist performing or entertaining at the live entertainment event.

(11-b) "Qualified live event promotion company" means a taxable entity that:

(A) receives at least 50 percent of the entity's annual total revenue from the provision or arrangement for the provision of three or more live event promotion services;

(B) maintains a permanent nonresidential office from which the live event promotion services are provided or arranged;

(C) employs 10 or more full-time employees during all or part of the period for which taxable margin is calculated;

(D) does not provide services for a wedding or carnival; and

(E) is not a movie theater.

SECTION ____.02. Section 171.1011, Tax Code, is amended by adding Subsections (g-5) and (g-7) to read as follows:

(g-5) A taxable entity that is a qualified live event promotion company shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), a payment made to an artist in connection with the provision of a live entertainment event or live event promotion services.

(g-7) A taxable entity that is a qualified courier and logistics company shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), subcontracting payments made by the taxable entity to nonemployee agents for the performance of delivery services on behalf of the taxable entity. For purposes of this subsection, "qualified courier and logistics company" means a taxable entity that:

(1) receives at least 80 percent of the taxable entity's annual total revenue from its entire business from a combination of at least two of the following courier and logistics services:

(A) expedited same-day delivery of an envelope, package, parcel, roll of architectural drawings, box, or pallet;

(B) temporary storage and delivery of the property of another entity, including an envelope, package, parcel, roll of architectural drawings, box, or pallet; and

(C) brokerage of same-day or expedited courier and logistics services to be completed by a person or entity under a contract that includes a contractual obligation by the taxable entity to make payments to the person or entity for those services;

(2) during the period on which margin is based, is registered as a motor carrier under Chapter 643, Transportation Code, and if the taxable entity operates on an interstate basis, is registered as a motor carrier or broker under the unified carrier registration system, as defined by Section 643.001, Transportation Code, during that period;

(3) maintains an automobile liability insurance policy covering individuals operating vehicles owned, hired, or otherwise used in the taxable entity's business, with a combined single limit for each occurrence of at least $1 million;

(4) maintains at least $25,000 of cargo insurance;

(5) maintains a permanent nonresidential office from which the courier and logistics services are provided or arranged;

(6) has at least five full-time employees during the period on which margin is based;

(7) is not doing business as a livery service, floral delivery service, motor coach service, taxicab service, building supply delivery service, water supply service, fuel or energy supply service, restaurant supply service, commercial moving and storage company, or overnight delivery service; and

(8) is not delivering items that the taxable entity or an affiliated entity sold.

SECTION ____.03. This article applies only to a report originally due on or after January 1, 2012.

SECTION ____.04. This article takes effect January 1, 2012.

Floor Amendment No. 122

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. FRANCHISE TAX LIABILITY OF CERTAIN TAXABLE ENTITIES

SECTION ____.01. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.0024 to read as follows:

Sec. 171.0024. TAX LIABILITY OF CERTAIN TAXABLE ENTITIES. (a) In this section, "taxable income" means:

(1) for a taxable entity treated for federal income tax purposes as a corporation, the amount reportable as taxable income on line 30, Internal Revenue Service Form 1120;

(2) for a taxable entity treated for federal income tax purposes as a partnership, the amount reportable as ordinary business income or loss on line 22, Internal Revenue Service Form 1065; or

(3) for a taxable entity other than a taxable entity treated for federal income tax purposes as a corporation or partnership, an amount determined in a manner substantially equivalent to the amount for Subdivision (1) or (2) determined by rules the comptroller shall adopt.

(b) Except as provided by Subsection (c), a taxable entity is not required to pay any tax and is not considered to owe any tax for a period on which margin is based if the taxable entity's taxable income for the period is zero or less.

(c) Subsection (b) does not apply to a taxable entity that is a member of a combined group.

(d) Section 171.1011(a) applies to a reference in this section to an Internal Revenue Service form, and Section 171.1011(b) applies to a reference in this section to an amount reportable on a line number on an Internal Revenue Service form.

(e) The comptroller shall adopt rules as necessary to accomplish the legislative intent prescribed by this section.

SECTION ____.02. Section 171.204(b), Tax Code, is amended to read as follows:

(b) The comptroller may require a taxable entity that does not owe any tax because of the application of Section 171.002(d)(2) to file an abbreviated information report with the comptroller stating the amount of the taxable entity's total revenue from its entire business. The comptroller may require a taxable entity that does not owe any tax because of the application of Section 171.0024 to file an abbreviated information report with the comptroller stating the amount of the taxable entity's taxable income as defined by that section. The comptroller may not require a taxable entity described by this subsection to file an information report that requires the taxable entity to report or compute its margin.

SECTION ____.03. This article applies only to a report originally due on or after the effective date of this article.

SECTION ____.04. This article takes effect January 1, 2012.

Floor Amendment No. 125

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. MIXED BEVERAGE TAX REIMBURSEMENTS

SECTION ____.01. Effective September 1, 2013, Section 183.051(b), Tax Code, is amended to read as follows:

(b) The comptroller shall issue to each county described in Subsection (a) a warrant drawn on the general revenue fund in an amount appropriated by the legislature that may not be less [~~greater~~] than 10.7143 percent of receipts from permittees within the county during the quarter and shall issue to each incorporated municipality described in Subsection (a) a warrant drawn on that fund in an amount appropriated by the legislature that may not be less [~~greater~~] than 10.7143 percent of receipts from permittees within the incorporated municipality during the quarter.

Floor Amendment No. 126

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill appropriately:

SECTION ____. Section 313.007, Tax Code, is amended to read as follows:

Sec. 313.007. EXPIRATION. Subchapters B, C, and D expire December 31, 2016 [~~2014~~].

Floor Amendment No. 130

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. STATE FINANCING OF PUBLIC TRANSPORTATION

SECTION ____.01. Section 456.003, Transportation Code, is amended to read as follows:

Sec. 456.003. PARTICIPATION INELIGIBILITY. A transit authority is ineligible to participate in the formula or discretionary program provided by this chapter unless the authority was created under Chapter 453 or former Article 1118z, Revised Statutes, by a municipality having a population of less than 200,000 at the time the authority is created.

SECTION ____.02. Section 456.006, Transportation Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) Notwithstanding Subsection (b), an urban transit district that was not included in an urbanized area containing a transit authority according to the 2000 federal decennial census but, as a result of the 2010 federal decennial census urban and rural classification, is included in an urbanized area that contains one or more transit authorities may receive money from the formula or discretionary program in an amount that does not exceed the amount of funds allocated to the district during the fiscal biennium ending August 31, 2011. This subsection expires August 31, 2018.

(b-2) The population of a municipality that was considered part of an urban transit district for purposes of the state transit funding formula for the fiscal biennium ending August 31, 2011, but that is included in a large urbanized area as a result of the 2010 federal decennial census, continues to be considered part of the urban transit district for purposes of the state transit funding formula. This subsection expires August 31, 2018.

SECTION ____.03. Subchapter B, Chapter 456, Transportation Code, is amended by adding Section 456.0221 to read as follows:

Sec. 456.0221. ALLOCATION TO CERTAIN RECIPIENTS AFFECTED BY NATURAL DISASTER. (a) The commission shall consider as an urban transit district for the purposes of the allocation of funds under this chapter a designated recipient:

(1) that received money under the formula as an urban transit district for the fiscal biennium ending August 31, 2011;

(2) whose population according to the most recent decennial census is less than 50,000; and

(3) whose population loss over the preceding 10-year period is primarily the result of a natural disaster.

(b) This section expires August 31, 2018.

Floor Amendment No. 131

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. LICENSE PLATES ISSUED FOR CERTAIN GOLF CARTS.

SECTION ____.01. If H.B. No. 2702, Acts of the 82nd Legislature, Regular Session, 2011, does not become law, Section 504.510(d), Transportation Code, is amended to read as follows:

(d) This section applies only to an owner of a golf cart who resides[~~:~~]

[~~(1)~~] on real property that is owned or under the control of the United States Corps of Engineers and is required by that agency to register the owner's golf cart under this chapter[~~; and~~

[~~(2) in a county that borders another state and has a population of more than 110,000 but less than 111,000~~].

SECTION ____.02. If H.B. No. 2702, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, Section 504.510(d), Transportation Code, is amended to read as follows:

(d) This section applies only to an owner of a golf cart who resides[~~:~~]

[~~(1)~~] on real property that is owned or under the control of the United States Corps of Engineers and is required by that agency to register the owner's golf cart under this chapter[~~; and~~

[~~(2) in a county that borders another state and has a population of more than 120,750 but less than 121,000~~].

Floor Amendment No. 132

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CERTIFICATES

SECTION ____.01. Subchapter A, Chapter 521, Transportation Code, is amended by adding Section 521.007 to read as follows:

Sec. 521.007. TEMPORARY VISITOR STATIONS. (a) The department shall designate as temporary visitor stations certain driver's license offices.

(b) A driver's license office designated as a temporary visitor station under this section must have at least two staff members who have completed specialized training on the temporary visitor issuance guide published by the department.

(c) A driver's license office designated as a temporary visitor station shall provide information and assistance to other driver's license offices in the state.

SECTION ____.02. Subsection (b), Section 521.041, Transportation Code, is amended to read as follows:

(b) The department shall maintain suitable indexes, in alphabetical or numerical order, that contain:

(1) each denied application and the reasons for the denial;

(2) each application that is granted; [~~and~~]

(3) the name of each license holder whose license has been suspended, canceled, or revoked and the reasons for that action; and

(4) the citizenship status of each holder of a license or personal identification certificate.

SECTION ____.03. Section 521.101, Transportation Code, is amended by adding Subsections (d-1), (f-2), (f-3), and (k) and amending Subsection (f) to read as follows:

(d-1) Unless the information has been previously provided to the department, the department shall require each applicant for an original, renewal, or duplicate personal identification certificate to furnish to the department:

(1) proof of the applicant's United States citizenship; or

(2) documentation described by Subsection (f-2).

(f) A personal identification certificate:

(1) for an applicant who is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States:

(A) expires on a date specified by the department if the applicant is younger than 60 years of age; or

(B) does not expire if the applicant is 60 years of age or older; or

(2) for an applicant not described by Subdivision (1), expires on:

(A) the earlier of:

(i) a date specified by the department; or

(ii) the expiration date of the applicant's authorized stay in the United States; or

(B) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's authorized stay in the United States[~~, except that a certificate issued to a person 60 years of age or older does not expire~~].

(f-2) An applicant who is not a citizen of the United States must present to the department documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(f-3) The department may not issue a personal identification certificate to an applicant who fails or refuses to comply with Subsection (f-2).

(k) Except as provided by this section, each personal identification certificate issued by the department:

(1) must:

(A) be in the same format;

(B) have the same appearance and orientation; and

(C) contain the same type of information; and

(2) may not include any information that this chapter does not reference or require.

SECTION ____.04. Section 521.103, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) Sections 521.101(f-2) and (f-3) apply to a personal identification certificate for which application is made under this section.

SECTION ____.05. Section 521.121, Transportation Code, is amended by adding subsection (e) to read as follows:

(e) Except as provided by this section, each driver's license issued under this chapter:

(1) must:

(A) be in the same format;

(B) have the same appearance and orientation; and

(C) contain the same type of information; and

(2) may not include any information that this chapter does not reference or require.

SECTION ____.06. Subsections (a) and (e), Section 521.142, Transportation Code, are amended to read as follows:

(a) An application for an original license must state the applicant's full name and place and date of birth. This information must be verified by presentation of proof of identity satisfactory to the department. An applicant who is not a citizen of the United States must present to the department documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States before the applicant may be issued a driver's license. The department must accept as satisfactory proof of identity under this subsection an offender identification card or similar form of identification issued to an inmate by the Texas Department of Criminal Justice if the applicant also provides supplemental verifiable records or documents that aid in establishing identity.

(e) The application must include any other information the department requires to determine the applicant's identity, residency, competency, and eligibility as required by the department or state law.

SECTION ____.07. Section 521.1425, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (b) and (c), the department may require each applicant for an original, renewal, or duplicate driver's license to furnish to the department the information required by Section 521.142.

(c) Unless the information has been previously provided to the department, the department shall require each applicant for an original, renewal, or duplicate driver's license to furnish to the department:

(1) proof of the applicant's United States citizenship; or

(2) documentation described by Section 521.142(a).

SECTION ____.08. Section 521.271, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-2), (a-3), and (a-4) to read as follows:

(a) Each original driver's license, [~~and~~] provisional license, instruction permit, or occupational driver's license issued to an applicant who is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires as follows:

(1) except as provided by Section 521.2711, a driver's license expires on the first birthday of the license holder occurring after the sixth anniversary of the date of the application;

(2) a provisional license expires on the 18th birthday of the license holder;

(3) an instruction permit expires on the 18th birthday of the license holder;

(4) an occupational driver's license expires on the first anniversary of the court order granting the license; and

(5) unless an earlier date is otherwise provided, a driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

(a-2) Each original driver's license issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on:

(1) the earlier of:

(A) the first birthday of the license holder occurring after the sixth anniversary of the date of the application; or

(B) the expiration date of the license holder's lawful presence in the United States as determined by the appropriate United States agency in compliance with federal law; or

(2) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's authorized stay in the United States.

(a-3) Each original provisional license or instruction permit issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on the earliest of:

(1) the 18th birthday of the license holder;

(2) the first birthday of the license holder occurring after the date of the application; or

(3) the expiration of the license holder's lawful presence in the United States as determined by the United States agency responsible for citizenship and immigration in compliance with federal law.

(a-4) Each original occupational driver's license issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on the earlier of:

(1) the first anniversary of the date of issuance; or

(2) the expiration of the license holder's lawful presence in the United States as determined by the appropriate United States agency in compliance with federal law.

(b) Except as provided by Section 521.2711, a driver's license that is renewed expires on the earlier of:

(1) the sixth anniversary of the expiration date before renewal if the applicant is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States;

(1-a) for an applicant not described by Subdivision (1):

(A) the earlier of:

(i) the sixth anniversary of the expiration date before renewal; or

(ii) the expiration date of the applicant's authorized stay in the United States; or

(B) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's authorized stay in the United States; or

(2) for a renewal driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility, the first birthday of the license holder occurring after the first anniversary of the date of issuance unless an earlier date is otherwise provided.

SECTION ____.09. Section 521.2711, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsections (a) and (b), an original or renewal driver's license issued to an applicant who is 85 years of age or older and not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on:

(1) the earlier of:

(A) the second anniversary of the expiration date before renewal; or

(B) the expiration date of the applicant's authorized stay in the United States; or

(2) the first anniversary of the date of issuance if there is no definite expiration date for the applicant's authorized stay in the United States.

SECTION ____.10. Section 521.272, Transportation Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Notwithstanding Sections [~~Section~~] 521.271 and 521.2711, a driver's license issued under this section, including a renewal, duplicate, or corrected license, expires:

(1) if the license holder is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States, on the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application; or

(2) if the applicant is not described by Subdivision (1), on the earlier of:

(A) the expiration date of the applicant's authorized stay in the United States; or

(B) the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application.

(d) Subsection (c) [~~This subsection~~] does not apply to:

(1) a provisional license;

(2) an instruction permit issued under Section 521.222; or

(3) a hardship license issued under Section 521.223.

SECTION ____.11. Section 521.421, Transportation Code, is amended by adding Subsection (a-3) to read as follows:

(a-3) Except as provided by Subsections (a-1) and (a-2), the fee for a driver's license or personal identification certificate that is issued to a person who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States and that is valid for not more than one year is $24.

SECTION ____.12. Section 522.005, Transportation Code, is amended to read as follows:

Sec. 522.005. RULEMAKING AUTHORITY. The department may adopt rules necessary to carry out this chapter and the federal act and to maintain compliance with 49 C.F.R. Parts 383 and 384.

SECTION ____.13. Section 522.030, Transportation Code, is amended to read as follows:

Sec. 522.030. CONTENT OF LICENSE. (a) A commercial driver's license must:

(1) be marked "Commercial Driver License" or "CDL";

(2) be, to the extent practicable, tamper-proof; and

(3) include:

(A) the name and mailing address of the person to whom it is issued;

(B) the person's color photograph;

(C) a physical description of the person, including sex, height, and eye color;

(D) the person's date of birth;

(E) a number or identifier the department considers appropriate;

(F) the person's signature;

(G) each class of commercial motor vehicle that the person is authorized to drive, with any endorsements or restrictions;

(H) the name of this state; and

(I) the dates between which the license is valid.

(b) Except as provided by this section, each personal commercial driver's license issued under this chapter:

(1) must:

(A) be in the same format;

(B) have the same appearance and orientation; and

(C) contain the same type of information; and

(2) may not include any information that this chapter does not reference or require.

(c) To the extent of a conflict or inconsistency between this section and Section 522.013 or 522.051, Section 522.013 or 522.051 controls.

SECTION ____.14. Subsection (b), Section 522.033, Transportation Code, is amended to read as follows:

(b) Notwithstanding Section 522.051, a commercial driver's license or commercial driver learner's permit issued under this section, including a renewal, duplicate, or corrected license, expires:

(1) if the license or permit holder is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States, on the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application; or

(2) if the applicant is not described by Subdivision (1), on the earlier of:

(A) the expiration date of the applicant's authorized stay in the United States; or

(B) the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application.

SECTION ____.15. Section 522.052, Transportation Code, is amended by adding Subsection (i) to read as follows:

(i) Unless the information has been previously provided to the department, the department shall require each applicant for a renewal or duplicate commercial driver's license to furnish to the department:

(1) proof of the applicant's United States citizenship; or

(2) documentation described by Section 521.142(a).

SECTION ____.16. Not later than January 1, 2013, the Department of Public Safety of the State of Texas shall submit to the legislature a report evaluating the effectiveness of the temporary visitor stations established under Section 521.007, Transportation Code, as added by this Act.

SECTION ____.17. The changes in law made by this Act to Chapters 521 and 522, Transportation Code, apply only to a driver's license, personal identification certificate, commercial driver's license, or commercial driver learner's permit issued, reissued, reinstated, or renewed on or after the effective date of this Act. A driver's license, personal identification certificate, commercial driver's license, or commercial driver learner's permit issued, reissued, reinstated, or renewed before the effective date of this Act is governed by the law in effect when the license, certificate, or permit was issued, reissued, reinstated, or renewed, and the former law is continued in effect for that purpose.

Floor Amendment No. 136

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. CERTAIN COURT COSTS ASSOCIATED WITH THE OFFENSE OF FAILING TO SECURE A CHILD PASSENGER IN A MOTOR VEHICLE

SECTION ____.01. The following laws are repealed:

(1) Section 545.412(b-1), Transportation Code;

(2) Section 102.104, Government Code; and

(3) Section 102.122, Government Code.

SECTION ____.02. The change in law made by this article applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed 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 Act if any element of the offense was committed before that date.

Floor Amendment No. 139

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE ____. FISCAL MATTERS RELATING TO CERTAIN GROUNDWATER CONSERVATION DISTRICTS

SECTION ____.01. Section 36.0151, Water Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) Before September 1, 2015, the commission may not create a groundwater conservation district under this section in a county:

(1) in which the annual amount of surface water used is more than 50 times the annual amount of groundwater produced;

(2) that is located in a priority groundwater management area; and

(3) that has a population greater than 2.3 million.

(g) To the extent of a conflict between Subsection (f) and Section 35.012, Subsection (f) prevails.

(h) The commission may charge an annual fee not to exceed $500 to a county described by Subsection (f) for the purpose of studying compliance with that subsection in that county and the overall groundwater consumption in that county.

Floor Amendment No. 141

Amend **CSSB 1** by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE ____. STATE COSTS FOR ATTORNEYS AD LITEM AND GUARDIANS AD LITEM APPOINTED TO REPRESENT MINORS IN JUDICIAL BYPASS ABORTION PROCEEDINGS

SECTION ____.01. (a) Not later than December 1, 2011, the supreme court by rule shall establish procedures for the supreme court and each county court at law, court having probate jurisdiction, district court, and court of appeals in this state to conduct a financial audit to determine for the state fiscal year beginning September 1, 2011, the amount of state funds used to pay the costs of attorneys ad litem and guardians ad litem appointed to represent minors under Section 33.003 or 33.004, Family Code.

(b) In the procedures adopted under Subsection (a) of this section, the supreme court must require each court to submit to the supreme court a report on the results of the financial audit conducted by each court not later than November 1, 2012.

(c) Not later than January 1, 2013, the supreme court shall submit to the lieutenant governor and the speaker of the house of representatives a report that summarizes the results of financial audits conducted pursuant to Subsections (a) and (b) of this section.

Floor Amendment No. 143

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered SECTION to ARTICLE 56 of the bill and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 56.____. (a) This section applies only to a juvenile justice alternative education program that, for the 2005-2006 school year, received funding as a result of an agreement between school districts under Subchapter E, Chapter 41, Education Code.

(b) A juvenile justice alternative education program is entitled to state aid under this section in an amount equal to:

(1) for the 2011-2012 school year, the difference between:

(A) the funding the program received as a result of all agreements between school districts under Subchapter E, Chapter 41, Education Code, for the 2005-2006 school year; and

(B) the funding the program receives as a result of all agreements between school districts under Subchapter E, Chapter 41, Education Code, for the 2011-2012 school year; and

(2) for the 2012-2013 school year, the difference between:

(A) the funding the program received as a result of all agreements between school districts under Subchapter E, Chapter 41, Education Code, for the 2005-2006 school year; and

(B) the funding the program receives as a result of all agreements between school districts under Subchapter E, Chapter 41, Education Code, for the 2012-2013 school year.

(c) The commissioner of education shall:

(1) determine the amount of state aid to which a juvenile justice alternative education program is entitled under this section; and

(2) distribute the aid in 10 equal monthly installments:

(A) for the 2011-2012 school year, beginning with September 2011 and ending with June 2012; and

(B) for the 2012-2013 school year, beginning with September 2012 and ending with June 2013.

(d) To fund a distribution authorized under Subsection (c)(2), the commissioner of education may reallocate money in the Texas Education Agency's budget, to the extent otherwise authorized by law, or use other available funds.

(e) The commissioner of education shall adopt rules to implement this section.

(f) A determination of the commissioner of education under this section is final and may not be appealed.

Floor Amendment No. 144

Amend Amendment No. 143 by McClendon to **CSSB 1** (barcode no. 825122):

(1) On page 2 of the amendment, strike lines 12-13.

(2) On page 2 of the amendment, line 14, strike "(f)" and substitute "(e)".

Floor Amendment No. 145

Amend Amendment No. 143 by McClendon to **CSSB 1** (page 423 of the pre-filed amendment packet) as follows:

(1) On page 1, line 1, before "Amend C.S.S.B. No. 1" insert "(1)".

(2) Add the following at the end of the amendment:

(2) Amend C.S.S.B. No. 1 by adding the following appropriately numbered ARTICLE and renumbering the remaining ARTICLES and SECTIONS accordingly:

ARTICLE ____. JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAMS

SECTION ____.01. Section 37.011, Education Code, is amended by adding Subsection (a-3) to read as follows:

(a-3) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

(1) has a population of more than 200,000 and less than 220,000;

(2) has five or more school districts located wholly within the county's boundaries; and

(3) has located in the county a juvenile justice alternative education program that, on May 1, 2011, served fewer than 15 students.

Floor Amendment No. 146

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered article to the bill:

ARTICLE ____. TEXAS JUVENILE PROBATION COMMISSION

SECTION ____.01. (a) The Texas Education Agency and the Department of Family and Protective Services each may enter into an interagency agreement with the Texas Juvenile Probation Commission to perform prevention and intervention services described by **SB 653**, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011, during the state fiscal biennium beginning September 1, 2011.

(b) Each fiscal year of the state fiscal biennium beginning September 1, 2011, the Texas Education Agency may transfer to the Texas Juvenile Probation Commission or its successor agency not more than $10 million from money appropriated to the Texas Education Agency that is available for that purpose. The unexpended balance of the money transferred during the state fiscal year ending August 31, 2012, may be spent for the same purpose during the state fiscal year beginning September 1, 2012.

(c) Each fiscal year of the state fiscal biennium beginning September 1, 2011, the Department of Family and Protective Services may transfer to the Texas Juvenile Probation Commission or its successor agency not more than $28 million from money appropriated to the Department of Family and Protective Services that is available for that purpose. The unexpended balance of the money transferred during the state fiscal year ending August 31, 2012, may be spent for the same purpose during the state fiscal year beginning September 1, 2012.

(d) Of money transferred under Subsection (b) or (c), the Texas Juvenile Probation Commission or its successor agency may use not more than $250,000 for an external evaluation of the current methods of delivering at-risk youth services in Texas. The evaluation must include recommendations for a model system of at-risk youth service delivery with clear accountability measures. The recommendations may include recommendations to state agencies regarding program functions of those agencies that the Texas Juvenile Probation Commission or its successor agency may perform. Notwithstanding any other law, a state agency identified by a recommendation made under this subsection may enter into an interagency agreement with the Texas Juvenile Probation Commission or its successor agency for the Texas Juvenile Probation Commission or its successor agency to perform the identified program functions.

Floor Amendment No. 155

Amend **CSSB 1** (house committee report) as follows:

(1) In the recital to SECTION 1.01 of the bill (page 1, lines 5 and 6), strike "Subsections (c), (d), and (f), Section 42.259, Education Code, are amended" and substitute "Section 42.259, Education Code, is amended by amending Subsections (c), (d), and (f) and adding Subsection (f-1)".

(2) In SECTION 1.01 of the bill, following amended Section 42.259(f), Education Code (page 2, immediately following line 27), add the following:

(f-1) Notwithstanding Subsection (c)(8) or (d)(3), if the comptroller finds that sufficient money is available for the purposes after making necessary Medicaid payments due on or before the 25th day of August, the payments described by Subsections (c)(8) and (d)(3) shall be made on or before the 25th day of August.

Floor Amendment No. 156

Amend Floor Amendment No. 155 by Isaac to **CSSB 1** (page 8, prefiled amendment packet), by striking page 1 of the amendment, lines 2-14, and substituting the following:

(1) Strike SECTION 1.01 of the bill, amending Section 42.259, Education Code (page 1, line 5, through page 2, line 27), and substitute the following:

SECTION 1.01. Section 42.259, Education Code, is amended by adding Subsections (d-1), (d-2), and (d-3) to read as follows:

(d-1) Notwithstanding Subsection (c)(8) or (d)(3), all or a portion of the payments described by those subsections may be deferred and made after the 5th day of September and not later than the 10th day of September of the subsequent fiscal year in accordance with this subsection and Subsections (d-2) and (d-3). Beginning with the payments otherwise required to be made under Subsections (c)(8) and (d)(3) in August 2013 and continuing for each odd-numbered year thereafter, the Legislative Budget Board shall determine, based on the comptroller's biennial revenue estimate and any revisions to that estimate, the percentage of the payments that can be made in August with available state revenue remaining after providing for any necessary Medicaid payments due on or before the 25th day of August. The percentage determined by the Legislative Budget Board shall be paid as provided by Subsections (c)(8) and (d)(3), and the remaining portion shall be deferred and paid as provided by this subsection. Beginning with the percentage determined by the Legislative Budget Board for August 2015 payments, the percentage paid as provided by Subsections (c)(8) and (d)(3) may not be less than the corresponding percentage determined for August of the preceding odd-numbered year.

(d-2) Beginning with the payments otherwise required to be to be made under Subsections (c)(8) and (d)(3) in August 2014, payments in August of each even-numbered year shall be made in the manner in which payments were made in August of the preceding year.

(d-3) When the percentage determined by the Legislative Budget Board in accordance with Subsection (d-1) equals 100 percent, Subsections (d-1) and (d-2) and this subsection cease to apply, and the authority to defer payments described by Subsections (c)(8) and (d)(3) expires.

Floor Amendment No. 159

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. VIRTUAL SCHOOL NETWORK

SECTION ____.01. Subchapter A, Chapter 30A, Education Code, is amended by adding Section 30A.0021 to read as follows:

Sec. 30A.0021. ADULT ELIGIBILITY. (a) A person who resides in this state and is at least 21 years of age on September 1 of the school year is eligible to enroll in one or more courses provided through the state virtual school network.

(b) The commissioner may not limit the number of courses a person eligible under this section may take through the state virtual school network.

(c) A person who enrolls in a course under this section must pay to the administering authority a fee in an amount established by the commissioner. The fee under this subsection must include the cost of the course established by the administering authority under Section 30A.105(b). Section 30A.155 does not apply to enrollment under this section.

SECTION ____.02. Section 30A.107(a), Education Code, is amended to read as follows:

(a) A provider school district or school may offer electronic courses to:

(1) students and adults who reside in this state; and

(2) students who reside outside this state and who meet the eligibility requirements under Section 30A.002(c).

Floor Amendment No. 160

Amend Amendment No. 159 by Madden to **CSSB 1** (page 119 of the prefiled amendment packet) on page 1 of the amendment, by striking lines 6-20 and substituting the following:

SECTION ____.01. Section 30A.002(a), Education Code, is amended to read as follows:

(a) A student is eligible to enroll in a course provided through the state virtual school network only if the student:

(1)[~~is younger than 21 years of age~~] on September 1 of the school year:

(A) is younger than 21 years of age; or

(B) is younger than 26 years of age and entitled to the benefits of the Foundation School Program under Section 42.003;

(2) has not graduated from high school; and

(3) is otherwise eligible to enroll in a public school in this state.

Floor Amendment No. 163

Amend **CSSB 1** (house committee report) in ARTICLE 56 of the bill as follows:

(1) In SECTION 56.05 of the bill, strike the recital (page 143, lines 2 and 3) and substitute "Section 41.002, Education Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:".

(2) In SECTION 56.05 of the bill, immediately following amended Section 41.002(a), Education Code (page 144, between lines 3 and 4), insert the following:

(a-1) Notwithstanding Subsection (a), a school district that imposed a maintenance and operations tax for the 2010 tax year at the maximum rate permitted under Section 45.003 may not have a wealth per student that exceeds $339,500 for the district's maintenance and operations tax effort described by Subsection (a)(3). This subsection expires September 1, 2012.

(3) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS in ARTICLE 56 accordingly:

SECTION 56.____. Section 42.302, Education Code, is amended by adding Subsection (a-3) to read as follows:

(a-3) Notwithstanding Subsections (a) and (a-1), for a school district that imposed a maintenance and operations tax for the 2010 tax year at the maximum rate permitted under Section 45.003, the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort ("GL") for the district's maintenance and operations tax effort described by Subsection (a-1)(2) is $33.95. This subsection expires September 1, 2012.

Floor Amendment No. 164

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. REIMBURSEMENT FOR CERTAIN SERVICES UNDER THE MEDICAID MANAGED CARE PROGRAM

SECTION ____.01. Section 533.01315, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Subject to Subsection (b-1), the [~~The~~] commission shall ensure that a federally qualified health center, physician office, urgent care facility, rural health clinic, or municipal health department's public clinic is reimbursed for health care services provided to a recipient outside of regular business hours, including on a weekend or holiday, at a rate that is equal to the allowable rate for those services as determined under Section 32.028, Human Resources Code, regardless of whether the recipient has a referral from the recipient's primary care provider.

(b-1) A physician who is a specialist may not be reimbursed under this section for the provision of specialty services.

SECTION ____.02. If before implementing any provision of this article a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

Floor Amendment No. 165

Amend Amendment No. 164 by Guillen to **CSSB 1** (page 254 of the prefiled amendment packet) by striking the text of the amendment and substituting the following:

Amend **CSSB 1** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. MEDICAID SERVICES

SECTION ____.01_. (a) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0065 to read as follows:

Sec. 533.0065. EYE HEALTH CARE SERVICE PROVIDERS. Subject to Section 32.047, Human Resources Code, but notwithstanding any other law, if the commission determines that access to optometrists, therapeutic optometrists, or ophthalmologists under the Medicaid managed care model or arrangement in a particular region of the state is not adequate, the commission shall require that each managed care organization that contracts with the commission under any Medicaid managed care model or arrangement to provide health care services to recipients in the region include in the organization's provider network each optometrist, therapeutic optometrist, and ophthalmologist who:

(1) agrees to comply with the terms and conditions of the organization;

(2) agrees to accept the prevailing provider contract rate of the organization;

(3) agrees to abide by the standards of care required by the organization; and

(4) has the credentials required by the organization.

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

Floor Amendment No. 166

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. INTERNET ACCESS TO CERTAIN SCHOOL DISTRICT FINANCIAL INFORMATION

SECTION ____.01. Subchapter A, Chapter 44, Education Code, is amended by adding Section 44.0031 to read as follows:

Sec. 44.0031. INTERNET ACCESS TO FINANCIAL DATA. (a) Except as otherwise provided by this section, a school district shall post on the district's Internet website or on an Internet website hosted by the district's business or financial services department for viewing by interested persons a copy of the district's:

(1) annual budget;

(2) end-of-year financial report; and

(3) checking account transaction register.

(b) A school district may not include in the district's checking account transaction register under Subsection (a)(3) a check issued to a district employee in payment of salary, wages, or an employment stipend.

(c) A school district may not post any information protected by state or federal law regarding confidentiality of health or education records.

(d) The superintendent and chief financial officer of a school district shall jointly notify the commissioner when the financial data required under Subsection (a) is available to interested persons. The notification must include information regarding the current and expected costs associated with implementing and maintaining the requirements of this section.

(e) If a school district is unable to post all or part of the financial data required under Subsection (a), the superintendent and chief financial officer of the school district shall jointly submit a letter to the commissioner explaining why the district is unable to post the financial data, including the results of any applicable cost analysis performed by or for the district.

SECTION ____.02. This article takes effect January 1, 2012.

Floor Amendment No. 169

Amend **CSSB 1** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. AD VALOREM TAXATION OF LOW-INCOME OR MODERATE-INCOME HOUSING

SECTION ____.01. Section 11.182(a), Tax Code, is amended by adding Subdivision (3) to read as follows:

(3) "Control" means having the power to manage, direct, superintend, restrict, regulate, govern, or oversee.

SECTION ____.02. Section 11.182, Tax Code, is amended by adding Subsections (a-1), (b-1), and (b-2) to read as follows:

(a-1) An organization is considered to own property for purposes of this section and the provisions of Section 2, Article VIII, Texas Constitution, authorizing the legislature by general law to exempt from taxation property owned by an institution engaged primarily in performing public charitable functions, if the organization has legal or equitable title to the property.

(b-1) Notwithstanding Subsection (b) or (e), an owner of real property that is not an organization described by that subsection is entitled to an exemption from taxation of property under this section if the property otherwise qualifies for the exemption and the owner is:

(1) a limited partnership of which an organization that meets the requirements of Subsection (b) controls 100 percent of the general partner interest; or

(2) an entity the parent of which is an organization that meets the requirements of Subsection (b).

(b-2) A reference in this section to an organization includes an entity described by Subsection (b) or (b-1). For purposes of this section, an organization that is entitled to an exemption under Subsection (b-1) shall be treated as an organization that is entitled to an exemption under Subsection (b).

SECTION ____.03. Section 11.1825, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) In this section, "control" means having the power to manage, direct, superintend, restrict, regulate, govern, or oversee.

(a-1) An organization is considered to own property for purposes of this section and the provisions of Section 2, Article VIII, Texas Constitution, authorizing the legislature by general law to exempt from taxation property owned by an institution engaged primarily in performing public charitable functions, if the organization has legal or equitable title to the property.

(a-2) An organization is entitled to an exemption from taxation of real property owned by the organization that the organization constructs or rehabilitates and uses to provide housing to individuals or families meeting the income eligibility requirements of this section.

SECTION ____.04. This article may not be construed to permit a refund of ad valorem taxes paid before the effective date of this article on property determined to be eligible for an exemption under Section 11.182 or 11.1825, Tax Code, as amended by this article.

SECTION ____.05. This article applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this article.

SECTION ____.06. This article takes effect January 1, 2013.

Floor Amendment No. 170

Amend Amendment No. 169 by Menendez to **CSSB 1** (page 356, prefiled amendment packet) as follows:

(1) On page 1, line 12, between "(a-1)," and "(b-1)", insert "(a-2),".

(2) On page 1, between lines 12 and 13, insert the following:

(a-1) Subsections (a-2), (b-1), and (b-2) do not apply to property located in a county with a population of 3.3 million or more.

(3) On page 1, line 13, strike "(a-1)" and substitute "(a-2)".

(4) On page 2, line 13, between "(a-1)" and "An", insert the following:

This subsection does not apply to property located in a county with a population of 3.3 million or more.

Floor Amendment No. 172

Amend **CSSB 1** (house committee printing) by striking ARTICLE 12 of the bill (page 30, line 19, through page 35, line 21) and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 1** (house committee printing) on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Subchapter C, Chapter 2171, Government Code, is amended by adding Section 2171.1011 to read as follows:

Sec. 2171.1011. FLEET PLANNING AND OPTIMIZATION PROGRAM.

(a) This section does not apply to a state agency that utilizes fleet vehicles for law enforcement, safety, or emergency response purposes.

(b) The comptroller may enter into a contract with a vendor to provide fleet planning, routing, scheduling, and dispatch services for a state agency that utilizes fleet vehicles that average more than three stops per day.

(c) A contract entered into under this section must:

(1) specify the state agency for which the vendor is to provide the services described by Subsection (b);

(2) require the vendor to have:

(A) at least five years of experience providing the services described by Subsection (b); and

(B) the ability to utilize a model-based artificial intelligence program to provide fleet planning services; and

(3) provide that:

(A) the comptroller may not make a payment to the vendor under the contract until the vendor has achieved a five percent reduction in the total cost of that state agency's vehicle fleet services described by Subsection (b); and

(B) the total compensation payable to the vendor under the contract may not exceed the amount of total cost savings attributable to the vendor's vehicle fleet services described by Subsection (b).

(d) In accordance with an agreement between the comptroller and a state agency, the comptroller may use funds appropriated to the state agency for the purposes of fleet management for the purpose of contracting with a vendor to provide vehicle fleet services described by Subsection (b).

Floor Amendment No. 6 on Third Reading

Amend **CSSB 1** on third reading by striking SECTIONS 40.01, 40.03, and 40.06 as amended on second reading by Amendment No. 1 by Pitts and substitute the following SECTIONS:

SECTION 40.01. Subsection (a), Section 501.133, Government Code, is amended to read as follows:

(a) The committee consists of five voting [~~nine~~] members and one nonvoting member [~~appointed~~] as follows:

(1) one member [~~two members~~] employed full-time by the department, [~~at least one of whom is a physician,~~] appointed by the executive director;

(2) one member who is a physician and [~~two members~~] employed full-time by The University of Texas Medical Branch at Galveston, [~~at least one of whom is a physician,~~] appointed by the president of the medical branch;

(3) one member who is a physician and [~~two members~~] employed full-time by the Texas Tech University Health Sciences Center, [~~at least one of whom is a physician,~~] appointed by the president of the university; [~~and~~]

(4) two [~~three~~] public members appointed by the governor who are not affiliated with the department or with any entity with which the committee has contracted to provide health care services under this chapter, at least one [~~two~~] of whom is [~~are~~] licensed to practice medicine in this state; and

(5) the state Medicaid director, to serve ex officio as a nonvoting member.

SECTION 40.03. Section 501.136, Government Code, is amended to read as follows:

Sec. 501.136. TERMS OF OFFICE FOR PUBLIC MEMBERS. Committee members appointed by the governor serve staggered four-year [~~six-year~~] terms, with the term of one of those members expiring on February 1 of each odd-numbered year. Other committee members serve at the will of the appointing official or until termination of the member's employment with the entity the member represents.

SECTION 40.06. (a) The Correctional Managed Health Care Committee established under Section 501.133, Government Code, as that section existed before amendment by this article, is abolished effective November 30, 2011.

(b) An appointing official under Section 501.133, Government Code, shall appoint the members of the Correctional Managed Health Care Committee under Section 501.133, Government Code, as amended by this Act, not later than November 30, 2011. The governor shall appoint one public member to serve a term that expires February 1, 2013, and one public member to serve a term that expires February 1, 2015.

(c) The term of a person who is serving as a member of the Correctional Managed Health Care Committee immediately before the abolition of that committee under Subsection (a) of this section expires on November 30, 2011. Such a person is eligible for appointment by an appointing official to the new committee under Section 501.133, Government Code, as amended by this article.

The amendments were read.

Senator Duncan moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Deuell, Hinojosa, Shapiro, and Williams.

SENATE BILL 7 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 7** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 7** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the administration, quality, and efficiency of health care, health and human services, and health benefits programs in this state.

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

ARTICLE 1. ADMINISTRATION OF AND EFFICIENCY, COST-SAVING, AND FRAUD PREVENTION MEASURES FOR CERTAIN HEALTH AND HUMAN SERVICES AND HEALTH BENEFITS PROGRAMS

SECTION 1.01. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.02417, 531.024171, and 531.024172 to read as follows:

Sec. 531.02417. MEDICAID NURSING SERVICES ASSESSMENTS. (a) In this section, "acute nursing services" means home health skilled nursing services, home health aide services, and private duty nursing services.

(b) If cost-effective, the commission shall develop an objective assessment process for use in assessing a Medicaid recipient's needs for acute nursing services. If the commission develops an objective assessment process under this section, the commission shall require that:

(1) the assessment be conducted:

(A) by a state employee or contractor who is not the person who will deliver any necessary services to the recipient and is not affiliated with the person who will deliver those services; and

(B) in a timely manner so as to protect the health and safety of the recipient by avoiding unnecessary delays in service delivery; and

(2) the process include:

(A) an assessment of specified criteria and documentation of the assessment results on a standard form;

(B) an assessment of whether the recipient should be referred for additional assessments regarding the recipient's needs for therapy services, as defined by Section 531.024171, attendant care services, and durable medical equipment; and

(C) completion by the person conducting the assessment of any documents related to obtaining prior authorization for necessary nursing services.

(c) If the commission develops the objective assessment process under Subsection (b), the commission shall:

(1) implement the process within the Medicaid fee-for-service model and the primary care case management Medicaid managed care model; and

(2) take necessary actions, including modifying contracts with managed care organizations under Chapter 533 to the extent allowed by law, to implement the process within the STAR and STAR + PLUS Medicaid managed care programs.

(d) An assessment under Subsection (b)(2)(B) of whether a recipient should be referred for additional therapy services shall be waived if the recipient's need for therapy services has been established by a recommendation from a therapist providing care prior to discharge of the recipient from a licensed hospital or nursing home. The assessment may not be waived if the recommendation is made by a therapist who will deliver any services to the recipient or is affiliated with a person who will deliver those services when the recipient is discharged from the licensed hospital or nursing home.

(e) The executive commissioner shall adopt rules providing for a process by which a provider of acute nursing services who disagrees with the results of the assessment conducted under Subsection (b) may request and obtain a review of those results.

Sec. 531.024171. THERAPY SERVICES ASSESSMENTS. (a) In this section, "therapy services" includes occupational, physical, and speech therapy services.

(b) After implementing the objective assessment process for acute nursing services in accordance with Section 531.02417, the commission shall consider whether implementing age- and diagnosis-appropriate objective assessment processes for assessing the needs of a Medicaid recipient for therapy services would be feasible and beneficial.

(c) If the commission determines that implementing age- and diagnosis-appropriate processes with respect to one or more types of therapy services is feasible and would be beneficial, the commission may implement the processes within:

(1) the Medicaid fee-for-service model;

(2) the primary care case management Medicaid managed care model; and

(3) the STAR and STAR + PLUS Medicaid managed care programs.

(d) An objective assessment process implemented under this section must include a process that allows a provider of therapy services to request and obtain a review of the results of an assessment conducted as provided by this section that is comparable to the process implemented under rules adopted under Section 531.02417(e).

Sec. 531.024172. ELECTRONIC VISIT VERIFICATION SYSTEM. (a) In this section, "acute nursing services" has the meaning assigned by Section 531.02417.

(b) If it is cost-effective and feasible, the commission shall implement an electronic visit verification system to electronically verify and document, through a telephone or computer-based system, basic information relating to the delivery of Medicaid acute nursing services, including:

(1) the provider's name;

(2) the recipient's name; and

(3) the date and time the provider begins and ends each service delivery visit.

(b) Not later than September 1, 2012, the Health and Human Services Commission shall implement the electronic visit verification system required by Section 531.024172, Government Code, as added by this section, if the commission determines that implementation of that system is cost-effective and feasible.

SECTION 1.02. (a) Subsection (e), Section 533.0025, Government Code, is amended to read as follows:

(e) The commission shall determine the most cost-effective alignment of managed care service delivery areas. The commissioner may consider the number of lives impacted, the usual source of health care services for residents in an area, and other factors that impact the delivery of health care services in the area. [~~Notwithstanding Subsection (b)(1), the commission may not provide medical assistance using a health maintenance organization in Cameron County, Hidalgo County, or Maverick County.~~]

(b) Subchapter A, Chapter 533, Government Code, is amended by adding Sections 533.0027, 533.0028, and 533.0029 to read as follows:

Sec. 533.0027. PROCEDURES TO ENSURE CERTAIN RECIPIENTS ARE ENROLLED IN SAME MANAGED CARE PLAN. The commission shall ensure that all recipients who are children and who reside in the same household may, at the family's election, be enrolled in the same managed care plan.

Sec. 533.0028. EVALUATION OF CERTAIN STAR + PLUS MEDICAID MANAGED CARE PROGRAM SERVICES. The external quality review organization shall periodically conduct studies and surveys to assess the quality of care and satisfaction with health care services provided to enrollees in the STAR + PLUS Medicaid managed care program who are eligible to receive health care benefits under both the Medicaid and Medicare programs.

Sec. 533.0029. PROMOTION AND PRINCIPLES OF PATIENT-CENTERED MEDICAL HOMES FOR RECIPIENTS. (a) For purposes of this section, a "patient-centered medical home" means a medical relationship:

(1) between a primary care physician and a child or adult patient in which the physician:

(A) provides comprehensive primary care to the patient; and

(B) facilitates partnerships between the physician, the patient, acute care and other care providers, and, when appropriate, the patient's family; and

(2) that encompasses the following primary principles:

(A) the patient has an ongoing relationship with the physician, who is trained to be the first contact for the patient and to provide continuous and comprehensive care to the patient;

(B) the physician leads a team of individuals at the practice level who are collectively responsible for the ongoing care of the patient;

(C) the physician is responsible for providing all of the care the patient needs or for coordinating with other qualified providers to provide care to the patient throughout the patient's life, including preventive care, acute care, chronic care, and end-of-life care;

(D) the patient's care is coordinated across health care facilities and the patient's community and is facilitated by registries, information technology, and health information exchange systems to ensure that the patient receives care when and where the patient wants and needs the care and in a culturally and linguistically appropriate manner; and

(E) quality and safe care is provided.

(b) The commission shall, to the extent possible, work to ensure that managed care organizations:

(1) promote the development of patient-centered medical homes for recipients; and

(2) provide payment incentives for providers that meet the requirements of a patient-centered medical home.

(c) Section 533.003, Government Code, is amended to read as follows:

Sec. 533.003. CONSIDERATIONS IN AWARDING CONTRACTS. (a) In awarding contracts to managed care organizations, the commission shall:

(1) give preference to organizations that have significant participation in the organization's provider network from each health care provider in the region who has traditionally provided care to Medicaid and charity care patients;

(2) give extra consideration to organizations that agree to assure continuity of care for at least three months beyond the period of Medicaid eligibility for recipients;

(3) consider the need to use different managed care plans to meet the needs of different populations; [~~and~~]

(4) consider the ability of organizations to process Medicaid claims electronically; and

(5) in the initial implementation of managed care in the South Texas service region, give extra consideration to an organization that either:

(A) is locally owned, managed, and operated, if one exists; or

(B) is in compliance with the requirements of Section 533.004.

(b) The commission, in considering approval of a subcontract between a managed care organization and a pharmacy benefit manager for the provision of prescription drug benefits under the Medicaid program, shall review and consider whether the pharmacy benefit manager has been in the preceding three years:

(1) convicted of an offense involving a material misrepresentation or an act of fraud or of another violation of state or federal criminal law;

(2) adjudicated to have committed a breach of contract; or

(3) assessed a penalty or fine in the amount of $500,000 or more in a state or federal administrative proceeding.

(d) Section 533.005, Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:

(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;

(2) capitation rates that ensure the cost-effective provision of quality health care;

(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;

(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;

(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;

(6) procedures for recipient outreach and education;

(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient under a managed care plan not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the managed care organization to process the claim, or within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization;

(8) a requirement that the commission, on the date of a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid certification date;

(9) a requirement that the managed care organization comply with Section 533.006 as a condition of contract retention and renewal;

(10) a requirement that the managed care organization provide the information required by Section 533.012 and otherwise comply and cooperate with the commission's office of inspector general and the office of the attorney general;

(11) a requirement that the managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits for those usages relating to total inpatient admissions, total outpatient services, and emergency room admissions determined by the commission;

(12) if the commission finds that a managed care organization has violated Subdivision (11), a requirement that the managed care organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services, as determined under Sections 32.028 and 32.0281, Human Resources Code;

(13) a requirement that the organization use advanced practice nurses in addition to physicians as primary care providers to increase the availability of primary care providers in the organization's provider network;

(14) a requirement that the managed care organization reimburse a federally qualified health center or rural health clinic for health care services provided to a recipient outside of regular business hours, including on a weekend day or holiday, at a rate that is equal to the allowable rate for those services as determined under Section 32.028, Human Resources Code, if the recipient does not have a referral from the recipient's primary care physician; [~~and~~]

(15) a requirement that the managed care organization develop, implement, and maintain a system for tracking and resolving all provider appeals related to claims payment, including a process that will require:

(A) a tracking mechanism to document the status and final disposition of each provider's claims payment appeal;

(B) the contracting with physicians who are not network providers and who are of the same or related specialty as the appealing physician to resolve claims disputes related to denial on the basis of medical necessity that remain unresolved subsequent to a provider appeal; and

(C) the determination of the physician resolving the dispute to be binding on the managed care organization and provider;

(16) a requirement that a medical director who is authorized to make medical necessity determinations is available to the region where the managed care organization provides health care services;

(17) a requirement that the managed care organization ensure that a medical director and patient care coordinators and provider and recipient support services personnel are located in the South Texas service region, if the managed care organization provides a managed care plan in that region;

(18) a requirement that the managed care organization provide special programs and materials for recipients with limited English proficiency or low literacy skills;

(19) a requirement that the managed care organization develop and establish a process for responding to provider appeals in the region where the organization provides health care services;

(20) a requirement that the managed care organization develop and submit to the commission, before the organization begins to provide health care services to recipients, a comprehensive plan that describes how the organization's provider network will provide recipients sufficient access to:

(A) preventive care;

(B) primary care;

(C) specialty care;

(D) after-hours urgent care; and

(E) chronic care;

(21) a requirement that the managed care organization demonstrate to the commission, before the organization begins to provide health care services to recipients, that:

(A) the organization's provider network has the capacity to serve the number of recipients expected to enroll in a managed care plan offered by the organization;

(B) the organization's provider network includes:

(i) a sufficient number of primary care providers;

(ii) a sufficient variety of provider types; and

(iii) providers located throughout the region where the organization will provide health care services; and

(C) health care services will be accessible to recipients through the organization's provider network to a comparable extent that health care services would be available to recipients under a fee-for-service or primary care case management model of Medicaid managed care;

(22) a requirement that the managed care organization develop a monitoring program for measuring the quality of the health care services provided by the organization's provider network that:

(A) incorporates the National Committee for Quality Assurance's Healthcare Effectiveness Data and Information Set (HEDIS) measures;

(B) focuses on measuring outcomes; and

(C) includes the collection and analysis of clinical data relating to prenatal care, preventive care, mental health care, and the treatment of acute and chronic health conditions and substance abuse;

(23) subject to Subsection (a-1), a requirement that the managed care organization develop, implement, and maintain an outpatient pharmacy benefit plan for its enrolled recipients:

(A) that exclusively employs the vendor drug program formulary and preserves the state's ability to reduce waste, fraud, and abuse under the Medicaid program;

(B) that adheres to the applicable preferred drug list adopted by the commission under Section 531.072;

(C) that includes the prior authorization procedures and requirements prescribed by or implemented under Sections 531.073(b), (c), and (g) for the vendor drug program;

(D) for purposes of which the managed care organization:

(i) may not negotiate or collect rebates associated with pharmacy products on the vendor drug program formulary; and

(ii) may not receive drug rebate or pricing information that is confidential under Section 531.071;

(E) that complies with the prohibition under Section 531.089;

(F) under which the managed care organization may not prohibit, limit, or interfere with a recipient's selection of a pharmacy or pharmacist of the recipient's choice for the provision of pharmaceutical services under the plan through the imposition of different copayments;

(G) that allows the managed care organization or any subcontracted pharmacy benefit manager to contract with a pharmacist or pharmacy providers separately for specialty pharmacy services, except that:

(i) the managed care organization and pharmacy benefit manager are prohibited from allowing exclusive contracts with a specialty pharmacy owned wholly or partly by the pharmacy benefit manager responsible for the administration of the pharmacy benefit program; and

(ii) the managed care organization and pharmacy benefit manager must adopt policies and procedures for reclassifying prescription drugs from retail to specialty drugs, and those policies and procedures must be consistent with rules adopted by the executive commissioner and include notice to network pharmacy providers from the managed care organization;

(H) under which the managed care organization may not prevent a pharmacy or pharmacist from participating as a provider if the pharmacy or pharmacist agrees to comply with the financial terms and conditions of the contract as well as other reasonable administrative and professional terms and conditions of the contract;

(I) under which the managed care organization may include mail-order pharmacies in its networks, but may not require enrolled recipients to use those pharmacies, and may not charge an enrolled recipient who opts to use this service a fee, including postage and handling fees; and

(J) under which the managed care organization or pharmacy benefit manager, as applicable, must pay claims in accordance with Section 843.339, Insurance Code; and

(24) a requirement that the managed care organization and any entity with which the managed care organization contracts for the performance of services under a managed care plan disclose, at no cost, to the commission and, on request, the office of the attorney general all discounts, incentives, rebates, fees, free goods, bundling arrangements, and other agreements affecting the net cost of goods or services provided under the plan.

(a-1) The requirements imposed by Subsections (a)(23)(A), (B), and (C) do not apply, and may not be enforced, on and after August 31, 2013.

(e) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0066 to read as follows:

Sec. 533.0066. PROVIDER INCENTIVES. The commission shall, to the extent possible, work to ensure that managed care organizations provide payment incentives to health care providers in the organizations' networks whose performance in promoting recipients' use of preventive services exceeds minimum established standards.

(f) Section 533.0071, Government Code, is amended to read as follows:

Sec. 533.0071. ADMINISTRATION OF CONTRACTS. The commission shall make every effort to improve the administration of contracts with managed care organizations. To improve the administration of these contracts, the commission shall:

(1) ensure that the commission has appropriate expertise and qualified staff to effectively manage contracts with managed care organizations under the Medicaid managed care program;

(2) evaluate options for Medicaid payment recovery from managed care organizations if the enrollee dies or is incarcerated or if an enrollee is enrolled in more than one state program or is covered by another liable third party insurer;

(3) maximize Medicaid payment recovery options by contracting with private vendors to assist in the recovery of capitation payments, payments from other liable third parties, and other payments made to managed care organizations with respect to enrollees who leave the managed care program;

(4) decrease the administrative burdens of managed care for the state, the managed care organizations, and the providers under managed care networks to the extent that those changes are compatible with state law and existing Medicaid managed care contracts, including decreasing those burdens by:

(A) where possible, decreasing the duplication of administrative reporting requirements for the managed care organizations, such as requirements for the submission of encounter data, quality reports, historically underutilized business reports, and claims payment summary reports;

(B) allowing managed care organizations to provide updated address information directly to the commission for correction in the state system;

(C) promoting consistency and uniformity among managed care organization policies, including policies relating to the preauthorization process, lengths of hospital stays, filing deadlines, levels of care, and case management services; [~~and~~]

(D) reviewing the appropriateness of primary care case management requirements in the admission and clinical criteria process, such as requirements relating to including a separate cover sheet for all communications, submitting handwritten communications instead of electronic or typed review processes, and admitting patients listed on separate notifications; and

(E) providing a single portal through which providers in any managed care organization's provider network may submit claims; and

(5) reserve the right to amend the managed care organization's process for resolving provider appeals of denials based on medical necessity to include an independent review process established by the commission for final determination of these disputes.

(g) Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0073 to read as follows:

Sec. 533.0073. MEDICAL DIRECTOR QUALIFICATIONS. A person who serves as a medical director for a managed care plan must be a physician licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(h) Subsections (a) and (c), Section 533.0076, Government Code, are amended to read as follows:

(a) Except as provided by Subsections (b) and (c), and to the extent permitted by federal law, [~~the commission may prohibit~~] a recipient enrolled [~~from disenrolling~~] in a managed care plan under this chapter may not disenroll from that plan and enroll [~~enrolling~~] in another managed care plan during the 12-month period after the date the recipient initially enrolls in a plan.

(c) The commission shall allow a recipient who is enrolled in a managed care plan under this chapter to disenroll from [~~in~~] that plan and enroll in another managed care plan:

(1) at any time for cause in accordance with federal law; and

(2) once for any reason after the periods described by Subsections (a) and (b).

(i) Subsections (a), (b), (c), and (e), Section 533.012, Government Code, are amended to read as follows:

(a) Each managed care organization contracting with the commission under this chapter shall submit the following, at no cost, to the commission and, on request, the office of the attorney general:

(1) a description of any financial or other business relationship between the organization and any subcontractor providing health care services under the contract;

(2) a copy of each type of contract between the organization and a subcontractor relating to the delivery of or payment for health care services;

(3) a description of the fraud control program used by any subcontractor that delivers health care services; and

(4) a description and breakdown of all funds paid to or by the managed care organization, including a health maintenance organization, primary care case management provider, pharmacy benefit manager, and [~~an~~] exclusive provider organization, necessary for the commission to determine the actual cost of administering the managed care plan.

(b) The information submitted under this section must be submitted in the form required by the commission or the office of the attorney general, as applicable, and be updated as required by the commission or the office of the attorney general, as applicable.

(c) The commission's office of investigations and enforcement or the office of the attorney general, as applicable, shall review the information submitted under this section as appropriate in the investigation of fraud in the Medicaid managed care program.

(e) Information submitted to the commission or the office of the attorney general, as applicable, under Subsection (a)(1) is confidential and not subject to disclosure under Chapter 552, Government Code.

(j) The heading to Section 32.046, Human Resources Code, is amended to read as follows:

Sec. 32.046. [~~VENDOR DRUG PROGRAM;~~] SANCTIONS AND PENALTIES RELATED TO THE PROVISION OF PHARMACY PRODUCTS.

(k) Subsection (a), Section 32.046, Human Resources Code, is amended to read as follows:

(a) The executive commissioner of the Health and Human Services Commission [~~department~~] shall adopt rules governing sanctions and penalties that apply to a provider who participates in the vendor drug program or is enrolled as a network pharmacy provider of a managed care organization contracting with the commission under Chapter 533, Government Code, or its subcontractor and who submits an improper claim for reimbursement under the program.

(l) Subsection (d), Section 533.012, Government Code, is repealed.

(m) Not later than December 1, 2013, the Health and Human Services Commission shall submit a report to the legislature regarding the commission's work to ensure that Medicaid managed care organizations promote the development of patient-centered medical homes for recipients of medical assistance as required under Section 533.0029, Government Code, as added by this section.

(n) The Health and Human Services Commission shall, in a contract between the commission and a managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this Act, include the provisions required by Subsection (a), Section 533.005, Government Code, as amended by this section.

(o) Section 533.0073, Government Code, as added by this section, applies only to a person hired or otherwise retained as the medical director of a Medicaid managed care plan on or after the effective date of this Act. A person hired or otherwise retained before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(p) Subsections (a) and (c), Section 533.0076, Government Code, as amended by this section, apply only to a request for disenrollment from a Medicaid managed care plan under Chapter 533, Government Code, made by a recipient on or after the effective date of this Act. A request made by a recipient before that date is governed by the law in effect on the date the request was made, and the former law is continued in effect for that purpose.

SECTION 1.03. (a) Section 62.101, Health and Safety Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A child who is the dependent of an employee of an agency of this state and who meets the requirements of Subsection (a) may be eligible for health benefits coverage in accordance with 42 U.S.C. Section 1397jj(b)(6) and any other applicable law or regulations.

(b) Sections 1551.159 and 1551.312, Insurance Code, are repealed.

(c) The State Kids Insurance Program operated by the Employees Retirement System of Texas is abolished on the effective date of this Act. The Health and Human Services Commission shall:

(1) establish a process in cooperation with the Employees Retirement System of Texas to facilitate the enrollment of eligible children in the child health plan program established under Chapter 62, Health and Safety Code, on or before the date those children are scheduled to stop receiving dependent child coverage under the State Kids Insurance Program; and

(2) modify any applicable administrative procedures to ensure that children described by this subsection maintain continuous health benefits coverage while transitioning from enrollment in the State Kids Insurance Program to enrollment in the child health plan program.

SECTION 1.04. (a) Subchapter B, Chapter 31, Human Resources Code, is amended by adding Section 31.0326 to read as follows:

Sec. 31.0326. VERIFICATION OF IDENTITY AND PREVENTION OF DUPLICATE PARTICIPATION. The Health and Human Services Commission shall use appropriate technology to:

(1) confirm the identity of applicants for benefits under the financial assistance program; and

(2) prevent duplicate participation in the program by a person.

(b) Chapter 33, Human Resources Code, is amended by adding Section 33.0231 to read as follows:

Sec. 33.0231. VERIFICATION OF IDENTITY AND PREVENTION OF DUPLICATE PARTICIPATION IN SNAP. The department shall use appropriate technology to:

(1) confirm the identity of applicants for benefits under the supplemental nutrition assistance program; and

(2) prevent duplicate participation in the program by a person.

(c) Section 531.109, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Absent an allegation of fraud, waste, or abuse, the commission may conduct an annual review of claims under this section only after the commission has completed the prior year's annual review of claims.

(d) If H.B. No. 710, Acts of the 82nd Legislature, Regular Session, 2011, does not become law, Section 31.0325, Human Resources Code, is repealed.

(e) If H.B. No. 710, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, Section 31.0326, Human Resources Code, as added by this section, has no effect.

(f) If H.B. No. 710, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, Section 33.0231, Human Resources Code, as added by that Act, is repealed.

SECTION 1.05. (a) Section 242.033, Health and Safety Code, is amended by amending Subsection (d) and adding Subsection (g) to read as follows:

(d) Except as provided by Subsection (f), a license is renewable every three [~~two~~] years after:

(1) an inspection, unless an inspection is not required as provided by Section 242.047;

(2) payment of the license fee; and

(3) department approval of the report filed every three [~~two~~] years by the licensee.

(g) The executive commissioner by rule shall adopt a system under which an appropriate number of licenses issued by the department under this chapter expire on staggered dates occurring in each three-year period. If the expiration date of a license changes as a result of this subsection, the department shall prorate the licensing fee relating to that license as appropriate.

(b) Subsection (e-1), Section 242.159, Health and Safety Code, is amended to read as follows:

(e-1) An institution is not required to comply with Subsections (a) and (e) until September 1, 2014 [~~2012~~]. This subsection expires January 1, 2015 [~~2013~~].

(c) The executive commissioner of the Health and Human Services Commission shall adopt the rules required under Section 242.033(g), Health and Safety Code, as added by this section, as soon as practicable after the effective date of this Act, but not later than December 1, 2012.

SECTION 1.06. (a) Section 161.081, Human Resources Code, as effective September 1, 2011, is amended to read as follows:

Sec. 161.081. LONG-TERM CARE MEDICAID WAIVER PROGRAMS; STREAMLINING AND UNIFORMITY. (a) In this section, "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b) The department, in consultation with the commission, shall streamline the administration of and delivery of services through Section 1915(c) waiver programs. In implementing this subsection, the department, subject to Subsection (c), may consider implementing the following streamlining initiatives:

(1) reducing the number of forms used in administering the programs;

(2) revising program provider manuals and training curricula;

(3) consolidating service authorization systems;

(4) eliminating any physician signature requirements the department considers unnecessary;

(5) standardizing individual service plan processes across the programs; [~~and~~]

(6) if feasible:

(A) concurrently conducting program certification and billing audit and review processes and other related audit and review processes;

(B) streamlining other billing and auditing requirements;

(C) eliminating duplicative responsibilities with respect to the coordination and oversight of individual care plans for persons receiving waiver services; and

(D) streamlining cost reports and other cost reporting processes; and

(7) any other initiatives that will increase efficiencies in the programs.

(c) The department shall ensure that actions taken under Subsection (b) [~~this section~~] do not conflict with any requirements of the commission under Section 531.0218, Government Code.

(d) The department and the commission shall jointly explore the development of uniform licensing and contracting standards that would:

(1) apply to all contracts for the delivery of Section 1915(c) waiver program services;

(2) promote competition among providers of those program services; and

(3) integrate with other department and commission efforts to streamline and unify the administration and delivery of the program services, including those required by this section or Section 531.0218, Government Code.

(b) Subchapter D, Chapter 161, Human Resources Code, is amended by adding Section 161.082 to read as follows:

Sec. 161.082. LONG-TERM CARE MEDICAID WAIVER PROGRAMS: UTILIZATION REVIEW. (a) In this section, "Section 1915(c) waiver program" has the meaning assigned by Section 531.001, Government Code.

(b) The department shall perform a utilization review of services in all Section 1915(c) waiver programs. The utilization review must include, at a minimum, reviewing program recipients' levels of care and any plans of care for those recipients that exceed service level thresholds established in the applicable waiver program guidelines.

SECTION 1.07. Subchapter D, Chapter 161, Human Resources Code, is amended by adding Section 161.086 to read as follows:

Sec. 161.086. ELECTRONIC VISIT VERIFICATION SYSTEM. If it is cost-effective, the department shall implement an electronic visit verification system under appropriate programs administered by the department under the Medicaid program that allows providers to electronically verify and document basic information relating to the delivery of services, including:

(1) the provider's name;

(2) the recipient's name;

(3) the date and time the provider begins and ends the delivery of services; and

(4) the location of service delivery.

SECTION 1.08. (a) Subdivision (1), Section 247.002, Health and Safety Code, is amended to read as follows:

(1) "Assisted living facility" means an establishment that:

(A) furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment;

(B) provides:

(i) personal care services; or

(ii) administration of medication by a person licensed or otherwise authorized in this state to administer the medication; [~~and~~]

(C) may provide assistance with or supervision of the administration of medication; and

(D) may provide skilled nursing services for the following limited purposes:

(i) coordination of resident care with outside home and community support services agencies and other health care professionals;

(ii) provision or delegation of personal care services and medication administration as described by this subdivision;

(iii) assessment of residents to determine the care required; and

(iv) for periods of time as established by department rule, delivery of temporary skilled nursing treatment for a minor illness, injury, or emergency.

(b) Section 247.004, Health and Safety Code, as effective September 1, 2011, is amended to read as follows:

Sec. 247.004. EXEMPTIONS. This chapter does not apply to:

(1) a boarding home facility as defined by Section 260.001;

(2) an establishment conducted by or for the adherents of the Church of Christ, Scientist, for the purpose of providing facilities for the care or treatment of the sick who depend exclusively on prayer or spiritual means for healing without the use of any drug or material remedy if the establishment complies with local safety, sanitary, and quarantine ordinances and regulations;

(3) a facility conducted by or for the adherents of a qualified religious society classified as a tax-exempt organization under an Internal Revenue Service group exemption ruling for the purpose of providing personal care services without charge solely for the society's professed members or ministers in retirement, if the facility complies with local safety, sanitation, and quarantine ordinances and regulations; or

(4) a facility that provides personal care services only to persons enrolled in a program that:

(A) is funded in whole or in part by the department and that is monitored by the department or its designated local mental retardation authority in accordance with standards set by the department; or

(B) is funded in whole or in part by the Department of State Health Services and that is monitored by that department, or by its designated local mental health authority in accordance with standards set by the department.

(c) Subsection (b), Section 247.067, Health and Safety Code, is amended to read as follows:

(b) Unless otherwise prohibited by law, a [~~A~~] health care professional may be employed by an assisted living facility to provide at the facility to the facility's residents services that are authorized by this chapter and that are within the professional's scope of practice [~~to a resident of an assisted living facility at the facility~~]. This subsection does not authorize a facility to provide ongoing services comparable to the services available in an institution licensed under Chapter 242. A health care professional providing services under this subsection shall maintain medical records of those services in accordance with the licensing, certification, or other regulatory standards applicable to the health care professional under law.

SECTION 1.09. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.086 and 531.0861 to read as follows:

Sec. 531.086. STUDY REGARDING PHYSICIAN INCENTIVE PROGRAMS TO REDUCE HOSPITAL EMERGENCY ROOM USE FOR NON-EMERGENT CONDITIONS. (a) The commission shall conduct a study to evaluate physician

incentive programs that attempt to reduce hospital emergency room use for non-emergent conditions by recipients under the medical assistance program. Each physician incentive program evaluated in the study must:

(1) be administered by a health maintenance organization participating in the STAR or STAR + PLUS Medicaid managed care program; and

(2) provide incentives to primary care providers who attempt to reduce emergency room use for non-emergent conditions by recipients.

(b) The study conducted under Subsection (a) must evaluate:

(1) the cost-effectiveness of each component included in a physician incentive program; and

(2) any change in statute required to implement each component within the Medicaid fee-for-service payment model.

(c) Not later than August 31, 2013, the executive commissioner shall submit to the governor and the Legislative Budget Board a report summarizing the findings of the study required by this section.

(d) This section expires September 1, 2014.

Sec. 531.0861. PHYSICIAN INCENTIVE PROGRAM TO REDUCE HOSPITAL EMERGENCY ROOM USE FOR NON-EMERGENT CONDITIONS. (a) If cost-effective, the executive commissioner by rule shall establish a physician incentive program designed to reduce the use of hospital emergency room services for non-emergent conditions by recipients under the medical assistance program.

(b) In establishing the physician incentive program under Subsection (a), the executive commissioner may include only the program components identified as cost-effective in the study conducted under Section 531.086.

(c) If the physician incentive program includes the payment of an enhanced reimbursement rate for routine after-hours appointments, the executive commissioner shall implement controls to ensure that the after-hours services billed are actually being provided outside of normal business hours.

(b) Section 32.0641, Human Resources Code, is amended to read as follows:

Sec. 32.0641. RECIPIENT ACCOUNTABILITY PROVISIONS; COST-SHARING REQUIREMENT TO IMPROVE APPROPRIATE UTILIZATION OF [~~COST-SHARING FOR CERTAIN HIGH-COST MEDICAL~~] SERVICES. (a) To [~~If the department determines that it is feasible and cost-effective, and to~~] the extent permitted under and in a manner that is consistent with Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.) and any other applicable law or regulation or under a federal waiver or other authorization, the executive commissioner of the Health and Human Services Commission shall adopt, after consulting with the Medicaid and CHIP Quality-Based Payment Advisory Committee established under Section 536.002, Government Code, cost-sharing provisions that encourage personal accountability and appropriate utilization of health care services, including a cost-sharing provision applicable to [~~require~~] a recipient who chooses to receive a nonemergency [~~a high-cost~~] medical service [~~provided~~] through a hospital emergency room [~~to pay a copayment, premium payment, or other cost-sharing payment for the high-cost medical service if:~~

[~~(1) the hospital from which the recipient seeks service:~~

[~~(A) performs an appropriate medical screening and determines that the recipient does not have a condition requiring emergency medical services;~~

[~~(B) informs the recipient:~~

[~~(i) that the recipient does not have a condition requiring emergency medical services;~~

[~~(ii) that, if the hospital provides the nonemergency service, the hospital may require payment of a copayment, premium payment, or other cost-sharing payment by the recipient in advance; and~~

[~~(iii) of the name and address of a nonemergency Medicaid provider who can provide the appropriate medical service without imposing a cost-sharing payment; and~~

[~~(C) offers to provide the recipient with a referral to the nonemergency provider to facilitate scheduling of the service; and~~

[~~(2) after receiving the information and assistance described by Subdivision (1) from the hospital, the recipient chooses to obtain emergency medical services despite having access to medically acceptable, lower-cost medical services~~].

(b) The department may not seek a federal waiver or other authorization under this section [~~Subsection (a)~~] that would:

(1) prevent a Medicaid recipient who has a condition requiring emergency medical services from receiving care through a hospital emergency room; or

(2) waive any provision under Section 1867, Social Security Act (42 U.S.C. Section 1395dd).

[~~(c) If the executive commissioner of the Health and Human Services Commission adopts a copayment or other cost-sharing payment under Subsection (a), the commission may not reduce hospital payments to reflect the potential receipt of a copayment or other payment from a recipient receiving medical services provided through a hospital emergency room.~~]

(c) If H.B. No. 2245, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, Sections 531.086 and 531.0861, Government Code, as added by that Act, are repealed.

SECTION 1.10. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.024131 to read as follows:

Sec. 531.024131. EXPANSION OF BILLING COORDINATION AND INFORMATION COLLECTION ACTIVITIES. (a) If cost-effective, the commission may:

(1) contract to expand all or part of the billing coordination system established under Section 531.02413 to process claims for services provided through other benefits programs administered by the commission or a health and human services agency;

(2) expand any other billing coordination tools and resources used to process claims for health care services provided through the Medicaid program to process claims for services provided through other benefits programs administered by the commission or a health and human services agency; and

(3) expand the scope of persons about whom information is collected under Section 32.042, Human Resources Code, to include recipients of services provided through other benefits programs administered by the commission or a health and human services agency.

(b) Notwithstanding any other state law, each health and human services agency shall provide the commission with any information necessary to allow the commission or the commission's designee to perform the billing coordination and information collection activities authorized by this section.

SECTION 1.11. (a) Subsections (b), (c), and (d), Section 531.502, Government Code, are amended to read as follows:

(b) The executive commissioner may include the following federal money in the waiver:

(1) [~~all~~] money provided under the disproportionate share hospitals or [~~and~~] upper payment limit supplemental payment program, or both [~~programs~~];

(2) money provided by the federal government in lieu of some or all of the payments under one or both of those programs;

(3) any combination of funds authorized to be pooled by Subdivisions (1) and (2); and

(4) any other money available for that purpose, including:

(A) federal money and money identified under Subsection (c);

(B) gifts, grants, or donations for that purpose;

(C) local funds received by this state through intergovernmental transfers; and

(D) if approved in the waiver, federal money obtained through the use of certified public expenditures.

(c) The commission shall seek to optimize federal funding by:

(1) identifying health care related state and local funds and program expenditures that, before September 1, 2011 [~~2007~~], are not being matched with federal money; and

(2) exploring the feasibility of:

(A) certifying or otherwise using those funds and expenditures as state expenditures for which this state may receive federal matching money; and

(B) depositing federal matching money received as provided by Paragraph (A) with other federal money deposited as provided by Section 531.504, or substituting that federal matching money for federal money that otherwise would be received under the disproportionate share hospitals and upper payment limit supplemental payment programs as a match for local funds received by this state through intergovernmental transfers.

(d) The terms of a waiver approved under this section must:

(1) include safeguards to ensure that the total amount of federal money provided under the disproportionate share hospitals or [~~and~~] upper payment limit supplemental payment program [~~programs~~] that is deposited as provided by Section 531.504 is, for a particular state fiscal year, at least equal to the greater of the annualized amount provided to this state under those supplemental payment programs

during state fiscal year 2011 [~~2007~~], excluding amounts provided during that state fiscal year that are retroactive payments, or the state fiscal years during which the waiver is in effect; and

(2) allow for the development by this state of a methodology for allocating money in the fund to:

(A) be used to supplement Medicaid hospital reimbursements under a waiver that includes terms that are consistent with, or that produce revenues consistent with, disproportionate share hospital and upper payment limit principles [~~offset, in part, the uncompensated health care costs incurred by hospitals~~];

(B) reduce the number of persons in this state who do not have health benefits coverage; and

(C) maintain and enhance the community public health infrastructure provided by hospitals.

(b) Section 531.504, Government Code, is amended to read as follows:

Sec. 531.504. DEPOSITS TO FUND. (a) The comptroller shall deposit in the fund:

(1) [~~all~~] federal money provided to this state under the disproportionate share hospitals supplemental payment program or [~~and~~] the hospital upper payment limit supplemental payment program, or both, other than money provided under those programs to state-owned and operated hospitals, and all other non-supplemental payment program federal money provided to this state that is included in the waiver authorized by Section 531.502; and

(2) state money appropriated to the fund.

(b) The commission and comptroller may accept gifts, grants, and donations from any source, and receive intergovernmental transfers, for purposes consistent with this subchapter and the terms of the waiver. The comptroller shall deposit a gift, grant, or donation made for those purposes in the fund. Any intergovernmental transfer received, including associated federal matching funds, shall be used, if feasible, for the purposes intended by the transferring entity and in accordance with the terms of the waiver.

(c) Section 531.508, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Money from the fund may not be used to finance the construction, improvement, or renovation of a building or land unless the construction, improvement, or renovation is approved by the commission, according to rules adopted by the executive commissioner for that purpose.

(d) Subsection (g), Section 531.502, Government Code, is repealed.

SECTION 1.12. (a) Subtitle I, Title 4, Government Code, is amended by adding Chapter 536, and Section 531.913, Government Code, is transferred to Subchapter D, Chapter 536, Government Code, redesignated as Section 536.151, Government Code, and amended to read as follows:

CHAPTER 536. MEDICAID AND CHILD HEALTH PLAN PROGRAMS: QUALITY-BASED OUTCOMES AND PAYMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 536.001. DEFINITIONS. In this chapter:

(1) "Advisory committee" means the Medicaid and CHIP Quality-Based Payment Advisory Committee established under Section 536.002.

(2) "Alternative payment system" includes:

(A) a global payment system;

(B) an episode-based bundled payment system; and

(C) a blended payment system.

(3) "Blended payment system" means a system for compensating a physician or other health care provider that includes at least one or more features of a global payment system and an episode-based bundled payment system, but that may also include a system under which a portion of the compensation paid to a physician or other health care provider is based on a fee-for-service payment arrangement.

(4) "Child health plan program," "commission," "executive commissioner," and "health and human services agencies" have the meanings assigned by Section 531.001.

(5) "Episode-based bundled payment system" means a system for compensating a physician or other health care provider for arranging for or providing health care services to child health plan program enrollees or Medicaid recipients that is based on a flat payment for all services provided in connection with a single episode of medical care.

(6) "Exclusive provider benefit plan" means a managed care plan subject to 28 T.A.C. Part 1, Chapter 3, Subchapter KK.

(7) "Freestanding emergency medical care facility" means a facility licensed under Chapter 254, Health and Safety Code.

(8) "Global payment system" means a system for compensating a physician or other health care provider for arranging for or providing a defined set of covered health care services to child health plan program enrollees or Medicaid recipients for a specified period that is based on a predetermined payment per enrollee or recipient, as applicable, for the specified period, without regard to the quantity of services actually provided.

(9) "Health care provider" means any person, partnership, professional association, corporation, facility, or institution licensed, certified, registered, or chartered by this state to provide health care. The term includes an employee, independent contractor, or agent of a health care provider acting in the course and scope of the employment or contractual relationship.

(10) "Hospital" means a public or private institution licensed under Chapter 241 or 577, Health and Safety Code, including a general or special hospital as defined by Section 241.003, Health and Safety Code.

(11) "Managed care organization" means a person that is authorized or otherwise permitted by law to arrange for or provide a managed care plan. The term includes health maintenance organizations and exclusive provider organizations.

(12) "Managed care plan" means a plan, including an exclusive provider benefit plan, under which a person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services. A part of the plan must consist of arranging for or providing health care services as distinguished from

indemnification against the cost of those services on a prepaid basis through insurance or otherwise. The term does not include a plan that indemnifies a person for the cost of health care services through insurance.

(13) "Medicaid program" means the medical assistance program established under Chapter 32, Human Resources Code.

(14) "Physician" means a person licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(15) "Potentially preventable admission" means an admission of a person to a hospital or long-term care facility that may have reasonably been prevented with adequate access to ambulatory care or health care coordination.

(16) "Potentially preventable ancillary service" means a health care service provided or ordered by a physician or other health care provider to supplement or support the evaluation or treatment of a patient, including a diagnostic test, laboratory test, therapy service, or radiology service, that may not be reasonably necessary for the provision of quality health care or treatment.

(17) "Potentially preventable complication" means a harmful event or negative outcome with respect to a person, including an infection or surgical complication, that:

(A) occurs after the person's admission to a hospital or long-term care facility; and

(B) may have resulted from the care, lack of care, or treatment provided during the hospital or long-term care facility stay rather than from a natural progression of an underlying disease.

(18) "Potentially preventable event" means a potentially preventable admission, a potentially preventable ancillary service, a potentially preventable complication, a potentially preventable emergency room visit, a potentially preventable readmission, or a combination of those events.

(19) "Potentially preventable emergency room visit" means treatment of a person in a hospital emergency room or freestanding emergency medical care facility for a condition that may not require emergency medical attention because the condition could be, or could have been, treated or prevented by a physician or other health care provider in a nonemergency setting.

(20) "Potentially preventable readmission" means a return hospitalization of a person within a period specified by the commission that may have resulted from deficiencies in the care or treatment provided to the person during a previous hospital stay or from deficiencies in post-hospital discharge follow-up. The term does not include a hospital readmission necessitated by the occurrence of unrelated events after the discharge. The term includes the readmission of a person to a hospital for:

(A) the same condition or procedure for which the person was previously admitted;

(B) an infection or other complication resulting from care previously provided;

(C) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome; or

(D) another condition or procedure of a similar nature, as determined by the executive commissioner after consulting with the advisory committee.

(21) "Quality-based payment system" means a system for compensating a physician or other health care provider, including an alternative payment system, that provides incentives to the physician or other health care provider for providing high-quality, cost-effective care and bases some portion of the payment made to the physician or other health care provider on quality of care outcomes, which may include the extent to which the physician or other health care provider reduces potentially preventable events.

Sec. 536.002. MEDICAID AND CHIP QUALITY-BASED PAYMENT ADVISORY COMMITTEE. (a) The Medicaid and CHIP Quality-Based Payment Advisory Committee is established to advise the commission on establishing, for purposes of the child health plan and Medicaid programs administered by the commission or a health and human services agency:

(1) reimbursement systems used to compensate physicians or other health care providers under those programs that reward the provision of high-quality, cost-effective health care and quality performance and quality of care outcomes with respect to health care services;

(2) standards and benchmarks for quality performance, quality of care outcomes, efficiency, and accountability by managed care organizations and physicians and other health care providers;

(3) programs and reimbursement policies that encourage high-quality, cost-effective health care delivery models that increase appropriate provider collaboration, promote wellness and prevention, and improve health outcomes; and

(4) outcome and process measures under Section 536.003.

(b) The executive commissioner shall appoint the members of the advisory committee. The committee must consist of physicians and other health care providers, representatives of health care facilities, representatives of managed care organizations, and other stakeholders interested in health care services provided in this state, including:

(1) at least one member who is a physician with clinical practice experience in obstetrics and gynecology;

(2) at least one member who is a physician with clinical practice experience in pediatrics;

(3) at least one member who is a physician with clinical practice experience in internal medicine or family medicine;

(4) at least one member who is a physician with clinical practice experience in geriatric medicine;

(5) at least one member who is or who represents a health care provider that primarily provides long-term care services;

(6) at least one member who is a consumer representative; and

(7) at least one member who is a member of the Advisory Panel on Health Care-Associated Infections and Preventable Adverse Events who meets the qualifications prescribed by Section 98.052(a)(4), Health and Safety Code.

(c) The executive commissioner shall appoint the presiding officer of the advisory committee.

Sec. 536.003. DEVELOPMENT OF QUALITY-BASED OUTCOME AND PROCESS MEASURES. (a) The commission, in consultation with the advisory committee, shall develop quality-based outcome and process measures that promote the provision of efficient, quality health care and that can be used in the child health plan and Medicaid programs to implement quality-based payments for acute and long-term care services across all delivery models and payment systems, including fee-for-service and managed care payment systems. The commission, in developing outcome measures under this section, must consider measures addressing potentially preventable events.

(b) To the extent feasible, the commission shall develop outcome and process measures:

(1) consistently across all child health plan and Medicaid program delivery models and payment systems;

(2) in a manner that takes into account appropriate patient risk factors, including the burden of chronic illness on a patient and the severity of a patient's illness;

(3) that will have the greatest effect on improving quality of care and the efficient use of services; and

(4) that are similar to outcome and process measures used in the private sector, as appropriate.

(c) The commission shall, to the extent feasible, align outcome and process measures developed under this section with measures required or recommended under reporting guidelines established by the federal Centers for Medicare and Medicaid Services, the Agency for Healthcare Research and Quality, or another federal agency.

(d) The executive commissioner by rule may require managed care organizations and physicians and other health care providers participating in the child health plan and Medicaid programs to report to the commission in a format specified by the executive commissioner information necessary to develop outcome and process measures under this section.

(e) If the commission increases physician and other health care provider reimbursement rates under the child health plan or Medicaid program as a result of an increase in the amounts appropriated for the programs for a state fiscal biennium as compared to the preceding state fiscal biennium, the commission shall, to the extent permitted under federal law and to the extent otherwise possible considering other relevant factors, correlate the increased reimbursement rates with the quality-based outcome and process measures developed under this section.

Sec. 536.004. DEVELOPMENT OF QUALITY-BASED PAYMENT SYSTEMS. (a) Using quality-based outcome and process measures developed under Section 536.003 and subject to this section, the commission, after consulting with the advisory committee, shall develop quality-based payment systems for compensating a physician or other health care provider participating in the child health plan or Medicaid program that:

(1) align payment incentives with high-quality, cost-effective health care;

(2) reward the use of evidence-based best practices;

(3) promote the coordination of health care;

(4) encourage appropriate physician and other health care provider collaboration;

(5) promote effective health care delivery models; and

(6) take into account the specific needs of the child health plan program enrollee and Medicaid recipient populations.

(b) The commission shall develop quality-based payment systems in the manner specified by this chapter. To the extent necessary, the commission shall coordinate the timeline for the development and implementation of a payment system with the implementation of other initiatives such as the Medicaid Information Technology Architecture (MITA) initiative of the Center for Medicaid and State Operations, the ICD-10 code sets initiative, or the ongoing Enterprise Data Warehouse (EDW) planning process in order to maximize the receipt of federal funds or reduce any administrative burden.

(c) In developing quality-based payment systems under this chapter, the commission shall examine and consider implementing:

(1) an alternative payment system;

(2) any existing performance-based payment system used under the Medicare program that meets the requirements of this chapter, modified as necessary to account for programmatic differences, if implementing the system would:

(A) reduce unnecessary administrative burdens; and

(B) align quality-based payment incentives for physicians and other health care providers with the Medicare program; and

(3) alternative payment methodologies within the system that are used in the Medicare program, modified as necessary to account for programmatic differences, and that will achieve cost savings and improve quality of care in the child health plan and Medicaid programs.

(d) In developing quality-based payment systems under this chapter, the commission shall ensure that a managed care organization or physician or other health care provider will not be rewarded by the system for withholding or delaying the provision of medically necessary care.

(e) The commission may modify a quality-based payment system developed under this chapter to account for programmatic differences between the child health plan and Medicaid programs and delivery systems under those programs.

Sec. 536.005. CONVERSION OF PAYMENT METHODOLOGY. (a) To the extent possible, the commission shall convert hospital reimbursement systems under the child health plan and Medicaid programs to a diagnosis-related groups (DRG) methodology that will allow the commission to more accurately classify specific patient populations and account for severity of patient illness and mortality risk.

(b) Subsection (a) does not authorize the commission to direct a managed care organization to compensate physicians and other health care providers providing services under the organization's managed care plan based on a diagnosis-related groups (DRG) methodology.

Sec. 536.006. TRANSPARENCY. The commission and the advisory committee shall:

(1) ensure transparency in the development and establishment of:

(A) quality-based payment and reimbursement systems under Section 536.004 and Subchapters B, C, and D, including the development of outcome and process measures under Section 536.003; and

(B) quality-based payment initiatives under Subchapter E, including the development of quality of care and cost-efficiency benchmarks under Section 536.204(a) and efficiency performance standards under Section 536.204(b);

(2) develop guidelines establishing procedures for providing notice and information to, and receiving input from, managed care organizations, health care providers, including physicians and experts in the various medical specialty fields, and other stakeholders, as appropriate, for purposes of developing and establishing the quality-based payment and reimbursement systems and initiatives described under Subdivision (1); and

(3) in developing and establishing the quality-based payment and reimbursement systems and initiatives described under Subdivision (1), consider that as the performance of a managed care organization or physician or other health care provider improves with respect to an outcome or process measure, quality of care and cost-efficiency benchmark, or efficiency performance standard, as applicable, there will be a diminishing rate of improved performance over time.

Sec. 536.007. PERIODIC EVALUATION. (a) At least once each two-year period, the commission shall evaluate the outcomes and cost-effectiveness of any quality-based payment system or other payment initiative implemented under this chapter.

(b) The commission shall:

(1) present the results of its evaluation under Subsection (a) to the advisory committee for the committee's input and recommendations; and

(2) provide a process by which managed care organizations and physicians and other health care providers may comment and provide input into the committee's recommendations under Subdivision (1).

Sec. 536.008. ANNUAL REPORT. (a) The commission shall submit an annual report to the legislature regarding:

(1) the quality-based outcome and process measures developed under Section 536.003; and

(2) the progress of the implementation of quality-based payment systems and other payment initiatives implemented under this chapter.

(b) The commission shall report outcome and process measures under Subsection (a)(1) by health care service region and service delivery model.

[Sections 536.009-536.050 reserved for expansion]

SUBCHAPTER B. QUALITY-BASED PAYMENTS RELATING TO MANAGED CARE ORGANIZATIONS

Sec. 536.051. DEVELOPMENT OF QUALITY-BASED PREMIUM PAYMENTS; PERFORMANCE REPORTING. (a) Subject to Section 1903(m)(2)(A), Social Security Act (42 U.S.C. Section 1396b(m)(2)(A)), and other applicable federal law, the commission shall base a percentage of the premiums paid to a managed care organization participating in the child health plan or Medicaid

program on the organization's performance with respect to outcome and process measures developed under Section 536.003, including outcome measures addressing potentially preventable events.

(b) The commission shall make available information relating to the performance of a managed care organization with respect to outcome and process measures under this subchapter to child health plan program enrollees and Medicaid recipients before those enrollees and recipients choose their managed care plans.

Sec. 536.052. PAYMENT AND CONTRACT AWARD INCENTIVES FOR MANAGED CARE ORGANIZATIONS. (a) The commission may allow a managed care organization participating in the child health plan or Medicaid program increased flexibility to implement quality initiatives in a managed care plan offered by the organization, including flexibility with respect to financial arrangements, in order to:

(1) achieve high-quality, cost-effective health care;

(2) increase the use of high-quality, cost-effective delivery models; and

(3) reduce potentially preventable events.

(b) The commission, after consulting with the advisory committee, shall develop quality of care and cost-efficiency benchmarks, including benchmarks based on a managed care organization's performance with respect to reducing potentially preventable events and containing the growth rate of health care costs.

(c) The commission may include in a contract between a managed care organization and the commission financial incentives that are based on the organization's successful implementation of quality initiatives under Subsection (a) or success in achieving quality of care and cost-efficiency benchmarks under Subsection (b).

(d) In awarding contracts to managed care organizations under the child health plan and Medicaid programs, the commission shall, in addition to considerations under Section 533.003 of this code and Section 62.155, Health and Safety Code, give preference to an organization that offers a managed care plan that successfully implements quality initiatives under Subsection (a) as determined by the commission based on data or other evidence provided by the organization or meets quality of care and cost-efficiency benchmarks under Subsection (b).

(e) The commission may implement financial incentives under this section only if implementing the incentives would be cost-effective.

[Sections 536.053-536.100 reserved for expansion]

SUBCHAPTER C. QUALITY-BASED HEALTH HOME PAYMENT SYSTEMS

Sec. 536.101. DEFINITIONS. In this subchapter:

(1) "Health home" means a primary care provider practice or, if appropriate, a specialty care provider practice, incorporating several features, including comprehensive care coordination, family-centered care, and data management, that are focused on improving outcome-based quality of care and increasing patient and provider satisfaction under the child health plan and Medicaid programs.

(2) "Participating enrollee" means a child health plan program enrollee or Medicaid recipient who has a health home.

Sec. 536.102. QUALITY-BASED HEALTH HOME PAYMENTS. (a) Subject to this subchapter, the commission, after consulting with the advisory committee, may develop and implement quality-based payment systems for health homes designed to improve quality of care and reduce the provision of unnecessary medical services. A quality-based payment system developed under this section must:

(1) base payments made to a participating enrollee's health home on quality and efficiency measures that may include measurable wellness and prevention criteria and use of evidence-based best practices, sharing a portion of any realized cost savings achieved by the health home, and ensuring quality of care outcomes, including a reduction in potentially preventable events; and

(2) allow for the examination of measurable wellness and prevention criteria, use of evidence-based best practices, and quality of care outcomes based on the type of primary or specialty care provider practice.

(b) The commission may develop a quality-based payment system for health homes under this subchapter only if implementing the system would be feasible and cost-effective.

Sec. 536.103. PROVIDER ELIGIBILITY. To be eligible to receive reimbursement under a quality-based payment system under this subchapter, a health home provider must:

(1) provide participating enrollees, directly or indirectly, with access to health care services outside of regular business hours;

(2) educate participating enrollees about the availability of health care services outside of regular business hours; and

(3) provide evidence satisfactory to the commission that the provider meets the requirement of Subdivision (1).

[Sections 536.104-536.150 reserved for expansion]

SUBCHAPTER D. QUALITY-BASED HOSPITAL REIMBURSEMENT SYSTEM

Sec. 536.151 [~~531.913~~]. COLLECTION AND REPORTING OF CERTAIN [~~HOSPITAL HEALTH~~] INFORMATION [~~EXCHANGE~~]. (a) [~~In this section, "potentially preventable readmission" means a return hospitalization of a person within a period specified by the commission that results from deficiencies in the care or treatment provided to the person during a previous hospital stay or from deficiencies in post-hospital discharge follow-up. The term does not include a hospital readmission necessitated by the occurrence of unrelated events after the discharge. The term includes the readmission of a person to a hospital for:~~

[~~(1) the same condition or procedure for which the person was previously admitted;~~

[~~(2) an infection or other complication resulting from care previously provided;~~

[~~(3) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome; or~~

[~~(4) another condition or procedure of a similar nature, as determined by the executive commissioner.~~

[~~(b)~~] The executive commissioner shall adopt rules for identifying potentially preventable readmissions of child health plan program enrollees and Medicaid recipients and potentially preventable complications experienced by child health plan program enrollees and Medicaid recipients. The [~~and the~~] commission shall collect [~~exchange~~] data from [~~with~~] hospitals on present-on-admission indicators for purposes of this section.

(b) [~~(c)~~] The commission shall establish a [~~health information exchange~~] program to provide a [~~exchange~~] confidential report to [~~information with~~] each hospital in this state that participates in the child health plan or Medicaid program regarding the hospital's performance with respect to potentially preventable readmissions and potentially preventable complications. To the extent possible, a report provided under this section should include potentially preventable readmissions and potentially preventable complications information across all child health plan and Medicaid program payment systems. A hospital shall distribute the information contained in the report [~~received from the commission~~] to physicians and other health care providers providing services at the hospital.

(c) A report provided to a hospital under this section is confidential and is not subject to Chapter 552.

Sec. 536.152. REIMBURSEMENT ADJUSTMENTS. (a) Subject to Subsection (b), using the data collected under Section 536.151 and the diagnosis-related groups (DRG) methodology implemented under Section 536.005, the commission, after consulting with the advisory committee, shall to the extent feasible adjust child health plan and Medicaid reimbursements to hospitals, including payments made under the disproportionate share hospitals and upper payment limit supplemental payment programs, in a manner that may reward or penalize a hospital based on the hospital's performance with respect to exceeding, or failing to achieve, outcome and process measures developed under Section 536.003 that address the rates of potentially preventable readmissions and potentially preventable complications.

(b) The commission must provide the report required under Section 536.151(b) to a hospital at least one year before the commission adjusts child health plan and Medicaid reimbursements to the hospital under this section.

[Sections 536.153-536.200 reserved for expansion]

SUBCHAPTER E. QUALITY-BASED PAYMENT INITIATIVES

Sec. 536.201. DEFINITION. In this subchapter, "payment initiative" means a quality-based payment initiative established under this subchapter.

Sec. 536.202. PAYMENT INITIATIVES; DETERMINATION OF BENEFIT TO STATE. (a) The commission shall, after consulting with the advisory committee, establish payment initiatives to test the effectiveness of quality-based payment systems, alternative payment methodologies, and high-quality, cost-effective health care delivery models that provide incentives to physicians and other health care providers to develop health care interventions for child health plan program enrollees or Medicaid recipients, or both, that will:

(1) improve the quality of health care provided to the enrollees or recipients;

(2) reduce potentially preventable events;

(3) promote prevention and wellness;

(4) increase the use of evidence-based best practices;

(5) increase appropriate physician and other health care provider collaboration; and

(6) contain costs.

(b) The commission shall:

(1) establish a process by which managed care organizations and physicians and other health care providers may submit proposals for payment initiatives described by Subsection (a); and

(2) determine whether it is feasible and cost-effective to implement one or more of the proposed payment initiatives.

Sec. 536.203. PURPOSE AND IMPLEMENTATION OF PAYMENT INITIATIVES. (a) If the commission determines under Section 536.202 that implementation of one or more payment initiatives is feasible and cost-effective for this state, the commission shall establish one or more payment initiatives as provided by this subchapter.

(b) The commission shall administer any payment initiative established under this subchapter. The executive commissioner may adopt rules, plans, and procedures and enter into contracts and other agreements as the executive commissioner considers appropriate and necessary to administer this subchapter.

(c) The commission may limit a payment initiative to:

(1) one or more regions in this state;

(2) one or more organized networks of physicians and other health care providers; or

(3) specified types of services provided under the child health plan or Medicaid program, or specified types of enrollees or recipients under those programs.

(d) A payment initiative implemented under this subchapter must be operated for at least one calendar year.

Sec. 536.204. STANDARDS; PROTOCOLS. (a) The executive commissioner shall:

(1) consult with the advisory committee to develop quality of care and cost-efficiency benchmarks and measurable goals that a payment initiative must meet to ensure high-quality and cost-effective health care services and healthy outcomes; and

(2) approve benchmarks and goals developed as provided by Subdivision (1).

(b) In addition to the benchmarks and goals under Subsection (a), the executive commissioner may approve efficiency performance standards that may include the sharing of realized cost savings with physicians and other health care providers who provide health care services that exceed the efficiency performance standards. The efficiency performance standards may not create any financial incentive for or involve making a payment to a physician or other health care provider that directly or indirectly induces the limitation of medically necessary services.

Sec. 536.205. PAYMENT RATES UNDER PAYMENT INITIATIVES. The executive commissioner may contract with appropriate entities, including qualified actuaries, to assist in determining appropriate payment rates for a payment initiative implemented under this subchapter.

(b) The Health and Human Services Commission shall convert the hospital reimbursement systems used under the child health plan program under Chapter 62, Health and Safety Code, and medical assistance program under Chapter 32, Human Resources Code, to the diagnosis-related groups (DRG) methodology to the extent possible as required by Section 536.005, Government Code, as added by this section, as soon as practicable after the effective date of this Act, but not later than:

(1) September 1, 2013, for reimbursements paid to children's hospitals; and

(2) September 1, 2012, for reimbursements paid to other hospitals under those programs.

(c) Not later than September 1, 2012, the Health and Human Services Commission shall begin providing performance reports to hospitals regarding the hospitals' performances with respect to potentially preventable complications as required by Section 536.151, Government Code, as designated and amended by this section.

(d) Subject to Section 536.004(b), Government Code, as added by this section, the Health and Human Services Commission shall begin making adjustments to child health plan and Medicaid reimbursements to hospitals as required by Section 536.152, Government Code, as added by this section:

(1) not later than September 1, 2012, based on the hospitals' performances with respect to reducing potentially preventable readmissions; and

(2) not later than September 1, 2013, based on the hospitals' performances with respect to reducing potentially preventable complications.

SECTION 1.13. (a) The heading to Section 531.912, Government Code, is amended to read as follows:

Sec. 531.912. COMMON PERFORMANCE MEASUREMENTS AND PAY-FOR-PERFORMANCE INCENTIVES FOR [~~QUALITY OF CARE HEALTH INFORMATION EXCHANGE WITH~~] CERTAIN NURSING FACILITIES.

(b) Subsections (b), (c), and (f), Section 531.912, Government Code, are amended to read as follows:

(b) If feasible, the executive commissioner by rule may [~~shall~~] establish an incentive payment program for [~~a quality of care health information exchange with~~] nursing facilities that choose to participate. The [~~in a~~] program must be designed to improve the quality of care and services provided to medical assistance recipients. Subject to Subsection (f), the program may provide incentive payments in accordance with this section to encourage facilities to participate in the program.

(c) In establishing an incentive payment [~~a quality of care health information exchange~~] program under this section, the executive commissioner shall, subject to Subsection (d), adopt common [~~exchange information with participating nursing facilities regarding~~] performance measures to be used in evaluating nursing facilities that are related to structure, process, and outcomes that positively correlate to nursing facility quality and improvement. The common performance measures:

(1) must be:

(A) recognized by the executive commissioner as valid indicators of the overall quality of care received by medical assistance recipients; and

(B) designed to encourage and reward evidence-based practices among nursing facilities; and

(2) may include measures of:

(A) quality of care, as determined by clinical performance ratings published by the federal Centers for Medicare and Medicaid Services, the Agency for Healthcare Research and Quality, or another federal agency [~~life~~];

(B) direct-care staff retention and turnover;

(C) recipient satisfaction, including the satisfaction of recipients who are short-term and long-term residents of facilities, and family satisfaction, as determined by the Nursing Home Consumer Assessment of Health Providers and Systems survey relied upon by the federal Centers for Medicare and Medicaid Services;

(D) employee satisfaction and engagement;

(E) the incidence of preventable acute care emergency room services use;

(F) regulatory compliance;

(G) level of person-centered care; and

(H) direct-care staff training, including a facility's [~~level of occupancy or of facility~~] utilization of independent distance learning programs for the continuous training of direct-care staff.

(f) The commission may make incentive payments under the program only if money is [~~specifically~~] appropriated for that purpose.

(c) The Department of Aging and Disability Services shall conduct a study to evaluate the feasibility of expanding any incentive payment program established for nursing facilities under Section 531.912, Government Code, as amended by this section, by providing incentive payments for the following types of providers of long-term care services, as defined by Section 22.0011, Human Resources Code, under the medical assistance program:

(1) intermediate care facilities for persons with mental retardation licensed under Chapter 252, Health and Safety Code; and

(2) providers of home and community-based services, as described by 42 U.S.C. Section 1396n(c), who are licensed or otherwise authorized to provide those services in this state.

(d) Not later than September 1, 2012, the Department of Aging and Disability Services shall submit to the legislature a written report containing the findings of the study conducted under Subsection (c) of this section and the department's recommendations.

SECTION 1.14. Section 780.004, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (j) to read as follows:

(a) The commissioner:

(1) [~~,~~] with advice and counsel from the chairpersons of the trauma service area regional advisory councils, shall use money appropriated from the account established under this chapter to fund designated trauma facilities, county and regional emergency medical services, and trauma care systems in accordance with this section; and

(2) after consulting with the executive commissioner of the Health and Human Services Commission, may transfer to an account in the general revenue fund money appropriated from the account established under this chapter to maximize the

receipt of federal funds under the medical assistance program established under Chapter 32, Human Resources Code, and to fund provider reimbursement payments as provided by Subsection (j).

(j) Money in the account described by Subsection (a)(2) may be appropriated only to the Health and Human Services Commission to fund provider reimbursement payments under the medical assistance program established under Chapter 32, Human Resources Code, including reimbursement enhancements to the statewide dollar amount (SDA) rate used to reimburse designated trauma hospitals under the program.

SECTION 1.15. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0697 to read as follows:

Sec. 531.0697. PRIOR APPROVAL AND PROVIDER ACCESS TO CERTAIN COMMUNICATIONS WITH CERTAIN RECIPIENTS. (a) This section applies to:

(1) the vendor drug program for the Medicaid and child health plan programs;

(2) the kidney health care program;

(3) the children with special health care needs program; and

(4) any other state program administered by the commission that provides prescription drug benefits.

(b) A managed care organization, including a health maintenance organization, or a pharmacy benefit manager, that administers claims for prescription drug benefits under a program to which this section applies shall, at least 10 days before the date the organization or pharmacy benefit manager intends to deliver a communication to recipients collectively under a program:

(1) submit a copy of the communication to the commission for approval; and

(2) if applicable, allow the pharmacy providers of recipients who are to receive the communication access to the communication.

SECTION 1.16. (a) Subchapter A, Chapter 61, Health and Safety Code, is amended by adding Section 61.012 to read as follows:

Sec. 61.012. REIMBURSEMENT FOR SERVICES. (a) In this section, "sponsored alien" means a person who has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) and who, as a condition of admission, was sponsored by a person who executed an affidavit of support on behalf of the person.

(b) A public hospital or hospital district that provides health care services to a sponsored alien under this chapter may recover from a person who executed an affidavit of support on behalf of the alien the costs of the health care services provided to the alien.

(c) A public hospital or hospital district described by Subsection (b) must notify a sponsored alien and a person who executed an affidavit of support on behalf of the alien, at the time the alien applies for health care services, that a person who executed an affidavit of support on behalf of a sponsored alien is liable for the cost of health care services provided to the alien.

(b) Section 61.012, Health and Safety Code, as added by this section, applies only to health care services provided by a public hospital or hospital district on or after the effective date of this Act.

SECTION 1.17. Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.024181 and 531.024182 to read as follows:

Sec. 531.024181. VERIFICATION OF IMMIGRATION STATUS OF APPLICANTS FOR CERTAIN BENEFITS WHO ARE QUALIFIED ALIENS. (a) This section applies only with respect to the following benefits programs:

(1) the child health plan program under Chapter 62, Health and Safety Code;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) the medical assistance program under Chapter 32, Human Resources Code; and

(4) the nutritional assistance program under Chapter 33, Human Resources Code.

(b) If, at the time of application for benefits under a program to which this section applies, a person states that the person is a qualified alien, as that term is defined by 8 U.S.C. Section 1641(b), the commission shall, to the extent allowed by federal law, verify information regarding the immigration status of the person using an automated system or systems where available.

(c) The executive commissioner shall adopt rules necessary to implement this section.

(d) Nothing in this section adds to or changes the eligibility requirements for any of the benefits programs to which this section applies.

Sec. 531.024182. VERIFICATION OF SPONSORSHIP INFORMATION FOR CERTAIN BENEFITS RECIPIENTS; REIMBURSEMENT. (a) In this section, "sponsored alien" means a person who has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.) and who, as a condition of admission, was sponsored by a person who executed an affidavit of support on behalf of the person.

(b) If, at the time of application for benefits, a person stated that the person is a sponsored alien, the commission may, to the extent allowed by federal law, verify information relating to the sponsorship, using an automated system or systems where available, after the person is determined eligible for and begins receiving benefits under any of the following benefits programs:

(1) the child health plan program under Chapter 62, Health and Safety Code;

(2) the financial assistance program under Chapter 31, Human Resources Code;

(3) the medical assistance program under Chapter 32, Human Resources Code; or

(4) the nutritional assistance program under Chapter 33, Human Resources Code.

(c) If the commission verifies that a person who receives benefits under a program listed in Subsection (b) is a sponsored alien, the commission may seek reimbursement from the person's sponsor for benefits provided to the person under those programs to the extent allowed by federal law, provided the commission determines that seeking reimbursement is cost-effective.

(d) If, at the time a person applies for benefits under a program listed in Subsection (b), the person states that the person is a sponsored alien, the commission shall make a reasonable effort to notify the person that the commission may seek reimbursement from the person's sponsor for any benefits the person receives under those programs.

(e) The executive commissioner shall adopt rules necessary to implement this section, including rules that specify the most cost-effective procedures by which the commission may seek reimbursement under Subsection (c).

(f) Nothing in this section adds to or changes the eligibility requirements for any of the benefits programs listed in Subsection (b).

SECTION 1.18. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0314 to read as follows:

Sec. 32.0314. REIMBURSEMENT FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES. The executive commissioner of the Health and Human Services Commission shall adopt rules requiring the electronic submission of any claim for reimbursement for durable medical equipment and supplies under the medical assistance program.

SECTION 1.19. (a) Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0025 to read as follows:

Sec. 531.0025. RESTRICTIONS ON AWARDS TO FAMILY PLANNING SERVICE PROVIDERS. (a) Notwithstanding any other law, money appropriated to the Department of State Health Services for the purpose of providing family planning services must be awarded:

(1) to eligible entities in the following order of descending priority:

(A) public entities that provide family planning services, including state, county, and local community health clinics;

(B) nonpublic entities that provide comprehensive primary and preventive care services in addition to family planning services; and

(C) nonpublic entities that provide family planning services but do not provide comprehensive primary and preventive care services; or

(2) as otherwise directed by the legislature in the General Appropriations Act.

(b) Notwithstanding Subsection (a), the Department of State Health Services shall, in compliance with federal law, ensure distribution of funds for family planning services in a manner that does not severely limit or eliminate access to those services in any region of the state.

(b) Section 32.024, Human Resources Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The department shall ensure that money spent for purposes of the demonstration project for women's health care services under former Section 32.0248, Human Resources Code, or a similar successor program is not used to perform or promote elective abortions, or to contract with entities that perform or promote elective abortions or affiliate with entities that perform or promote elective abortions.

SECTION 1.20. If before implementing any provision of this article a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

ARTICLE 2. LEGISLATIVE FINDINGS AND INTENT; COMPLIANCE WITH ANTITRUST LAWS

SECTION 2.01. (a) The legislature finds that it would benefit the State of Texas to:

(1) explore innovative health care delivery and payment models to improve the quality and efficiency of health care in this state;

(2) improve health care transparency;

(3) give health care providers the flexibility to collaborate and innovate to improve the quality and efficiency of health care; and

(4) create incentives to improve the quality and efficiency of health care.

(b) The legislature finds that the use of certified health care collaboratives will increase pro-competitive effects as the ability to compete on the basis of quality of care and the furtherance of the quality of care through a health care collaborative will overcome any anticompetitive effects of joining competitors to create the health care collaboratives and the payment mechanisms that will be used to encourage the furtherance of quality of care. Consequently, the legislature finds it appropriate and necessary to authorize health care collaboratives to promote the efficiency and quality of health care.

(c) The legislature intends to exempt from antitrust laws and provide immunity from federal antitrust laws through the state action doctrine a health care collaborative that holds a certificate of authority under Chapter 848, Insurance Code, as added by Article 4 of this Act, and that collaborative's negotiations of contracts with payors. The legislature does not intend or authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of federal antitrust laws.

(d) The legislature intends to permit the use of alternative payment mechanisms, including bundled or global payments and quality-based payments, among physicians and other health care providers participating in a health care collaborative that holds a certificate of authority under Chapter 848, Insurance Code, as added by Article 4 of this Act. The legislature intends to authorize a health care collaborative to contract for and accept payments from governmental and private payors based on alternative payment mechanisms, and intends that the receipt and distribution of payments to participating physicians and health care providers is not a violation of any existing state law.

ARTICLE 3. TEXAS INSTITUTE OF HEALTH CARE QUALITY AND EFFICIENCY

SECTION 3.01. Title 12, Health and Safety Code, is amended by adding Chapter 1002 to read as follows:

CHAPTER 1002. TEXAS INSTITUTE OF HEALTH CARE QUALITY AND EFFICIENCY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1002.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the Texas Institute of Health Care Quality and Efficiency established under this chapter.

(2) "Commission" means the Health and Human Services Commission.

(3) "Department" means the Department of State Health Services.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Health care collaborative" has the meaning assigned by Section 848.001, Insurance Code.

(6) "Health care facility" means:

(A) a hospital licensed under Chapter 241;

(B) an institution licensed under Chapter 242;

(C) an ambulatory surgical center licensed under Chapter 243;

(D) a birthing center licensed under Chapter 244;

(E) an end stage renal disease facility licensed under Chapter 251; or

(F) a freestanding emergency medical care facility licensed under Chapter 254.

(7) "Institute" means the Texas Institute of Health Care Quality and Efficiency established under this chapter.

(8) "Potentially preventable admission" means an admission of a person to a hospital or long-term care facility that may have reasonably been prevented with adequate access to ambulatory care or health care coordination.

(9) "Potentially preventable ancillary service" means a health care service provided or ordered by a physician or other health care provider to supplement or support the evaluation or treatment of a patient, including a diagnostic test, laboratory test, therapy service, or radiology service, that may not be reasonably necessary for the provision of quality health care or treatment.

(10) "Potentially preventable complication" means a harmful event or negative outcome with respect to a person, including an infection or surgical complication, that:

(A) occurs after the person's admission to a hospital or long-term care facility; and

(B) may have resulted from the care, lack of care, or treatment provided during the hospital or long-term care facility stay rather than from a natural progression of an underlying disease.

(11) "Potentially preventable event" means a potentially preventable admission, a potentially preventable ancillary service, a potentially preventable complication, a potentially preventable emergency room visit, a potentially preventable readmission, or a combination of those events.

(12) "Potentially preventable emergency room visit" means treatment of a person in a hospital emergency room or freestanding emergency medical care facility for a condition that may not require emergency medical attention because the condition could be, or could have been, treated or prevented by a physician or other health care provider in a nonemergency setting.

(13) "Potentially preventable readmission" means a return hospitalization of a person within a period specified by the commission that may have resulted from deficiencies in the care or treatment provided to the person during a previous hospital stay or from deficiencies in post-hospital discharge follow-up. The term does not include a hospital readmission necessitated by the occurrence of unrelated events after the discharge. The term includes the readmission of a person to a hospital for:

(A) the same condition or procedure for which the person was previously admitted;

(B) an infection or other complication resulting from care previously provided; or

(C) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome.

Sec. 1002.002. ESTABLISHMENT; PURPOSE. The Texas Institute of Health Care Quality and Efficiency is established to improve health care quality, accountability, education, and cost containment in this state by encouraging health care provider collaboration, effective health care delivery models, and coordination of health care services.

[Sections 1002.003-1002.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION

Sec. 1002.051. APPLICATION OF SUNSET ACT. The institute is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the institute is abolished and this chapter expires September 1, 2017.

Sec. 1002.052. COMPOSITION OF BOARD OF DIRECTORS. (a) The institute is governed by a board of 15 directors appointed by the governor.

(b) The following ex officio, nonvoting members also serve on the board:

(1) the commissioner of the department;

(2) the executive commissioner;

(3) the commissioner of insurance;

(4) the executive director of the Employees Retirement System of Texas;

(5) the executive director of the Teacher Retirement System of Texas;

(6) the state Medicaid director of the Health and Human Services Commission;

(7) the executive director of the Texas Medical Board;

(8) the commissioner of the Department of Aging and Disability Services;

(9) the executive director of the Texas Workforce Commission;

(10) the commissioner of the Texas Higher Education Coordinating Board; and

(11) a representative from each state agency or system of higher education that purchases or provides health care services, as determined by the governor.

(c) The governor shall appoint as board members health care providers, payors, consumers, and health care quality experts or persons who possess expertise in any other area the governor finds necessary for the successful operation of the institute.

(d) A person may not serve as a voting member of the board if the person serves on or advises another board or advisory board of a state agency.

Sec. 1002.053. TERMS OF OFFICE. (a) Appointed members of the board serve staggered terms of four years, with the terms of as close to one-half of the members as possible expiring January 31 of each odd-numbered year.

(b) Board members may serve consecutive terms.

Sec. 1002.054. ADMINISTRATIVE SUPPORT. (a) The institute is administratively attached to the commission.

(b) The commission shall coordinate administrative responsibilities with the institute to streamline and integrate the institute's administrative operations and avoid unnecessary duplication of effort and costs.

(c) The institute may collaborate with, and coordinate its administrative functions, including functions related to research and reporting activities with, other public or private entities, including academic institutions and nonprofit organizations, that perform research on health care issues or other topics consistent with the purpose of the institute.

Sec. 1002.055. EXPENSES. (a) Members of the board serve without compensation but, subject to the availability of appropriated funds, may receive reimbursement for actual and necessary expenses incurred in attending meetings of the board.

(b) Information relating to the billing and payment of expenses under this section is subject to Chapter 552, Government Code.

Sec. 1002.056. OFFICER; CONFLICT OF INTEREST. (a) The governor shall designate a member of the board as presiding officer to serve in that capacity at the pleasure of the governor.

(b) Any board member or a member of a committee formed by the board with direct interest, personally or through an employer, in a matter before the board shall abstain from deliberations and actions on the matter in which the conflict of interest arises and shall further abstain on any vote on the matter, and may not otherwise participate in a decision on the matter.

(c) Each board member shall:

(1) file a conflict of interest statement and a statement of ownership interests with the board to ensure disclosure of all existing and potential personal interests related to board business; and

(2) update the statements described by Subdivision (1) at least annually.

(d) A statement filed under Subsection (c) is subject to Chapter 552, Government Code.

Sec. 1002.057. PROHIBITION ON CERTAIN CONTRACTS AND EMPLOYMENT. (a) The board may not compensate, employ, or contract with any individual who serves as a member of the board of, or on an advisory board or advisory committee for, any other governmental body, including any agency, council, or committee, in this state.

(b) The board may not compensate, employ, or contract with any person that provides financial support to the board, including a person who provides a gift, grant, or donation to the board.

Sec. 1002.058. MEETINGS. (a) The board may meet as often as necessary, but shall meet at least once each calendar quarter.

(b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the authority of the institute.

Sec. 1002.059. BOARD MEMBER IMMUNITY. (a) A board member may not be held civilly liable for an act performed, or omission made, in good faith in the performance of the member's powers and duties under this chapter.

(b) A cause of action does not arise against a member of the board for an act or omission described by Subsection (a).

Sec. 1002.060. PRIVACY OF INFORMATION. (a) Protected health information and individually identifiable health information collected, assembled, or maintained by the institute is confidential and is not subject to disclosure under Chapter 552, Government Code.

(b) The institute shall comply with all state and federal laws and rules relating to the protection, confidentiality, and transmission of health information, including the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted under that Act, 42 U.S.C. Section 290dd-2, and 42 C.F.R. Part 2.

(c) The commission, department, or institute or an officer or employee of the commission, department, or institute, including a board member, may not disclose any information that is confidential under this section.

(d) Information, documents, and records that are confidential as provided by this section are not subject to subpoena or discovery and may not be introduced into evidence in any civil or criminal proceeding.

(e) An officer or employee of the commission, department, or institute, including a board member, may not be examined in a civil, criminal, special, administrative, or other proceeding as to information that is confidential under this section.

Sec. 1002.061. FUNDING. (a) The institute may be funded through the General Appropriations Act and may request, accept, and use gifts, grants, and donations as necessary to implement its functions.

(b) The institute may participate in other revenue-generating activity that is consistent with the institute's purposes.

(c) Except as otherwise provided by law, each state agency represented on the board as a nonvoting member shall provide funds to support the institute and implement this chapter. The commission shall establish a funding formula to determine the level of support each state agency is required to provide.

(d) This section does not permit the sale of information that is confidential under Section 1002.060.

[Sections 1002.062-1002.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 1002.101. GENERAL POWERS AND DUTIES. The institute shall make recommendations to the legislature on:

(1) improving quality and efficiency of health care delivery by:

(A) providing a forum for regulators, payors, and providers to discuss and make recommendations for initiatives that promote the use of best practices, increase health care provider collaboration, improve health care outcomes, and contain health care costs;

(B) researching, developing, supporting, and promoting strategies to improve the quality and efficiency of health care in this state;

(C) determining the outcome measures that are the most effective measures of quality and efficiency:

(i) using nationally accredited measures; or

(ii) if no nationally accredited measures exist, using measures based on expert consensus;

(D) reducing the incidence of potentially preventable events; and

(E) creating a state plan that takes into consideration the regional differences of the state to encourage the improvement of the quality and efficiency of health care services;

(2) improving reporting, consolidation, and transparency of health care information; and

(3) implementing and supporting innovative health care collaborative payment and delivery systems under Chapter 848, Insurance Code.

Sec. 1002.102. GOALS FOR QUALITY AND EFFICIENCY OF HEALTH CARE; STATEWIDE PLAN. (a) The institute shall study and develop recommendations to improve the quality and efficiency of health care delivery in this state, including:

(1) quality-based payment systems that align payment incentives with high-quality, cost-effective health care;

(2) alternative health care delivery systems that promote health care coordination and provider collaboration;

(3) quality of care and efficiency outcome measurements that are effective measures of prevention, wellness, coordination, provider collaboration, and cost-effective health care; and

(4) meaningful use of electronic health records by providers and electronic exchange of health information among providers.

(b) The institute shall study and develop recommendations for measuring quality of care and efficiency across:

(1) all state employee and state retiree benefit plans;

(2) employee and retiree benefit plans provided through the Teacher Retirement System of Texas;

(3) the state medical assistance program under Chapter 32, Human Resources Code; and

(4) the child health plan under Chapter 62.

(c) In developing recommendations under Subsection (b), the institute shall use nationally accredited measures or, if no nationally accredited measures exist, measures based on expert consensus.

(d) The institute may study and develop recommendations for measuring the quality of care and efficiency in state or federally funded health care delivery systems other than those described by Subsection (b).

(e) In developing recommendations under Subsections (a) and (b), the institute may not base its recommendations solely on actuarial data.

(f) Using the studies described by Subsections (a) and (b), the institute shall develop recommendations for a statewide plan for quality and efficiency of the delivery of health care.

[Sections 1002.103-1002.150 reserved for expansion]

SUBCHAPTER D. HEALTH CARE COLLABORATIVE GUIDELINES AND SUPPORT

Sec. 1002.151. INSTITUTE STUDIES AND RECOMMENDATIONS REGARDING HEALTH CARE PAYMENT AND DELIVERY SYSTEMS. (a) The institute shall study and make recommendations for alternative health care payment and delivery systems.

(b) The institute shall recommend methods to evaluate a health care collaborative's effectiveness, including methods to evaluate:

(1) the efficiency and effectiveness of cost-containment methods used by the collaborative;

(2) alternative health care payment and delivery systems used by the collaborative;

(3) the quality of care;

(4) health care provider collaboration and coordination;

(5) the protection of patients;

(6) patient satisfaction; and

(7) the meaningful use of electronic health records by providers and electronic exchange of health information among providers.

[Sections 1002.152-1002.200 reserved for expansion]

SUBCHAPTER E. IMPROVED TRANSPARENCY

Sec. 1002.201. HEALTH CARE ACCOUNTABILITY; IMPROVED TRANSPARENCY. (a) With the assistance of the department, the institute shall complete an assessment of all health-related data collected by the state, what information is available to the public, and how the public and health care providers currently benefit and could potentially benefit from this information, including health care cost and quality information.

(b) The institute shall develop a plan:

(1) for consolidating reports of health-related data from various sources to reduce administrative costs to the state and reduce the administrative burden to health care providers and payors;

(2) for improving health care transparency to the public and health care providers by making information available in the most effective format; and

(3) providing recommendations to the legislature on enhancing existing health-related information available to health care providers and the public, including provider reporting of additional information not currently required to be reported under existing law, to improve quality of care.

Sec. 1002.202. ALL PAYOR CLAIMS DATABASE. (a) The institute shall study the feasibility and desirability of establishing a centralized database for health care claims information across all payors.

(b) The study described by Subsection (a) shall:

(1) use the assessment described by Section 1002.201 to develop recommendations relating to the adequacy of existing data sources for carrying out the state's purposes under this chapter and Chapter 848, Insurance Code;

(2) determine whether the establishment of an all payor claims database would reduce the need for some data submissions provided by payors;

(3) identify the best available sources of data necessary for the state's purposes under this chapter and Chapter 848, Insurance Code, that are not collected by the state under existing law;

(4) describe how an all payor claims database may facilitate carrying out the state's purposes under this chapter and Chapter 848, Insurance Code;

(5) identify national standards for claims data collection and use, including standardized data sets, standardized methodology, and standard outcome measures of health care quality and efficiency; and

(6) estimate the costs of implementing an all payor claims database, including:

(A) the costs to the state for collecting and processing data;

(B) the cost to the payors for supplying the data; and

(C) the available funding mechanisms that might support an all payor claims database.

(c) The institute shall consult with the department and the Texas Department of Insurance to develop recommendations to submit to the legislature on the establishment of the centralized claims database described by Subsection (a).

SECTION 3.02. Chapter 109, Health and Safety Code, is repealed.

SECTION 3.03. On the effective date of this Act:

(1) the Texas Health Care Policy Council established under Chapter 109, Health and Safety Code, is abolished; and

(2) any unexpended and unobligated balance of money appropriated by the legislature to the Texas Health Care Policy Council established under Chapter 109, Health and Safety Code, as it existed immediately before the effective date of this Act, is transferred to the Texas Institute of Health Care Quality and Efficiency created by Chapter 1002, Health and Safety Code, as added by this Act.

SECTION 3.04. (a) The governor shall appoint voting members of the board of directors of the Texas Institute of Health Care Quality and Efficiency under Section 1002.052, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

(b) In making the initial appointments under this section, the governor shall designate seven members to terms expiring January 31, 2013, and eight members to terms expiring January 31, 2015.

SECTION 3.05. (a) Not later than December 1, 2012, the Texas Institute of Health Care Quality and Efficiency shall submit a report regarding recommendations for improved health care reporting to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate standing committees of the legislature outlining:

(1) the initial assessment conducted under Subsection (a), Section 1002.201, Health and Safety Code, as added by this Act;

(2) the plans initially developed under Subsection (b), Section 1002.201, Health and Safety Code, as added by this Act;

(3) the changes in existing law that would be necessary to implement the assessment and plans described by Subdivisions (1) and (2) of this subsection; and

(4) the cost implications to state agencies, small businesses, micro businesses, payors, and health care providers to implement the assessment and plans described by Subdivisions (1) and (2) of this subsection.

(b) Not later than December 1, 2012, the Texas Institute of Health Care Quality and Efficiency shall submit a report regarding recommendations for an all payor claims database to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate standing committees of the legislature outlining:

(1) the feasibility and desirability of establishing a centralized database for health care claims;

(2) the recommendations developed under Subsection (c), Section 1002.202, Health and Safety Code, as added by this Act;

(3) the changes in existing law that would be necessary to implement the recommendations described by Subdivision (2) of this subsection; and

(4) the cost implications to state agencies, small businesses, micro businesses, payors, and health care providers to implement the recommendations described by Subdivision (2) of this subsection.

SECTION 3.06. (a) The Texas Institute of Health Care Quality and Efficiency under Chapter 1002, Health and Safety Code, as added by this Act, with the assistance of and in coordination with the Texas Department of Insurance, shall conduct a study:

(1) evaluating how the legislature may promote a consumer-driven health care system, including by increasing the adoption of high-deductible insurance products with health savings accounts by consumers and employers to lower health care costs and increase personal responsibility for health care; and

(2) examining the issue of differing amounts of payment in full accepted by a provider for the same or similar health care services or supplies, including bundled health care services and supplies, and addressing:

(A) the extent of the differences in the amounts accepted as payment in full for a service or supply;

(B) the reasons that amounts accepted as payment in full differ for the same or similar services or supplies;

(C) the availability of information to the consumer regarding the amount accepted as payment in full for a service or supply;

(D) the effects on consumers of differing amounts accepted as payment in full; and

(E) potential methods for improving consumers' access to information in relation to the amounts accepted as payment in full for health care services or supplies, including the feasibility and desirability of requiring providers to:

(i) publicly post the amount that is accepted as payment in full for a service or supply; and

(ii) adhere to the posted amount.

(b) The institute shall submit a report to the legislature outlining the results of the study conducted under this section and any recommendations for potential legislation not later than January 1, 2013.

(c) This section expires September 1, 2013.

ARTICLE 4. HEALTH CARE COLLABORATIVES

SECTION 4.01. Subtitle C, Title 6, Insurance Code, is amended by adding Chapter 848 to read as follows:

CHAPTER 848. HEALTH CARE COLLABORATIVES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 848.001. DEFINITIONS. In this chapter:

(1) "Affiliate" means a person who controls, is controlled by, or is under common control with one or more other persons.

(2) "Health care collaborative" means an entity:

(A) that undertakes to arrange for medical and health care services for insurers, health maintenance organizations, and other payors in exchange for payments in cash or in kind;

(B) that accepts and distributes payments for medical and health care services;

(C) that consists of:

(i) physicians;

(ii) physicians and other health care providers;

(iii) physicians and insurers or health maintenance organizations; or

(iv) physicians, other health care providers, and insurers or health maintenance organizations; and

(D) that is certified by the commissioner under this chapter to lawfully accept and distribute payments to physicians and other health care providers using the reimbursement methodologies authorized by this chapter.

(3) "Health care services" means services provided by a physician or health care provider to prevent, alleviate, cure, or heal human illness or injury. The term includes:

(A) pharmaceutical services;

(B) medical, chiropractic, or dental care; and

(C) hospitalization.

(4) "Health care provider" means any person, partnership, professional association, corporation, facility, or institution licensed, certified, registered, or chartered by this state to provide health care services. The term includes a hospital but does not include a physician.

(5) "Health maintenance organization" means an organization operating under Chapter 843.

(6) "Hospital" means a general or special hospital, including a public or private institution licensed under Chapter 241 or 577, Health and Safety Code.

(7) "Institute" means the Texas Institute of Health Care Quality and Efficiency established under Chapter 1002, Health and Safety Code.

(8) "Physician" means:

(A) an individual licensed to practice medicine in this state;

(B) a professional association organized under the Texas Professional Association Act (Article 1528f, Vernon's Texas Civil Statutes) or the Texas Professional Association Law by an individual or group of individuals licensed to practice medicine in this state;

(C) a partnership or limited liability partnership formed by a group of individuals licensed to practice medicine in this state;

(D) a nonprofit health corporation certified under Section 162.001, Occupations Code;

(E) a company formed by a group of individuals licensed to practice medicine in this state under the Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes) or the Texas Professional Limited Liability Company Law; or

(F) an organization wholly owned and controlled by individuals licensed to practice medicine in this state.

(9) "Potentially preventable event" has the meaning assigned by Section 1002.001, Health and Safety Code.

Sec. 848.002. EXCEPTION: DELEGATED ENTITIES. (a) This section applies only to an entity, other than a health maintenance organization, that:

(1) by itself or through a subcontract with another entity, undertakes to arrange for or provide medical care or health care services to enrollees in exchange for predetermined payments on a prospective basis; and

(2) accepts responsibility for performing functions that are required by:

(A) Chapter 222, 251, 258, or 1272, as applicable, to a health maintenance organization; or

(B) Chapter 843, Chapter 1271, Section 1367.053, Subchapter A, Chapter 1452, or Subchapter B, Chapter 1507, as applicable, solely on behalf of health maintenance organizations.

(b) An entity described by Subsection (a) is subject to Chapter 1272 and is not required to obtain a certificate of authority or determination of approval under this chapter.

Sec. 848.003. USE OF INSURANCE-RELATED TERMS BY HEALTH CARE COLLABORATIVE. A health care collaborative that is not an insurer or health maintenance organization may not use in its name, contracts, or literature:

(1) the following words or initials:

(A) "insurance";

(B) "casualty";

(C) "surety";

(D) "mutual";

(E) "health maintenance organization"; or

(F) "HMO"; or

(2) any other words or initials that are:

(A) descriptive of the insurance, casualty, surety, or health maintenance organization business; or

(B) deceptively similar to the name or description of an insurer, surety corporation, or health maintenance organization engaging in business in this state.

Sec. 848.004. APPLICABILITY OF INSURANCE LAWS. (a) An organization may not arrange for or provide health care services to enrollees on a prepaid or indemnity basis through health insurance or a health benefit plan, including a health care plan, as defined by Section 843.002, unless the organization as an insurer or health maintenance organization holds the appropriate certificate of authority issued under another chapter of this code.

(b) Except as provided by Subsection (c), the following provisions of this code apply to a health care collaborative in the same manner and to the same extent as they apply to an individual or entity otherwise subject to the provision:

(1) Section 38.001;

(2) Subchapter A, Chapter 542;

(3) Chapter 541;

(4) Chapter 543;

(5) Chapter 602;

(6) Chapter 701;

(7) Chapter 803; and

(8) Chapter 804.

(c) The remedies available under this chapter in the manner provided by Chapter 541 do not include:

(1) a private cause of action under Subchapter D, Chapter 541; or

(2) a class action under Subchapter F, Chapter 541.

Sec. 848.005. CERTAIN INFORMATION CONFIDENTIAL. (a) Except as provided by Subsection (b), an application, filing, or report required under this chapter is public information subject to disclosure under Chapter 552, Government Code.

(b) The following information is confidential and is not subject to disclosure under Chapter 552, Government Code:

(1) a contract, agreement, or document that establishes another arrangement:

(A) between a health care collaborative and a governmental or private entity for all or part of health care services provided or arranged for by the health care collaborative; or

(B) between a health care collaborative and participating physicians and health care providers;

(2) a written description of a contract, agreement, or other arrangement described by Subdivision (1);

(3) information relating to bidding, pricing, or other trade secrets submitted to:

(A) the department under Sections 848.057(a)(5) and (6); or

(B) the attorney general under Section 848.059;

(4) information relating to the diagnosis, treatment, or health of a patient who receives health care services from a health care collaborative under a contract for services; and

(5) information relating to quality improvement or peer review activities of a health care collaborative.

Sec. 848.006. COVERAGE BY HEALTH CARE COLLABORATIVE NOT REQUIRED. (a) Except as provided by Subsection (b) and subject to Chapter 843 and Section 1301.0625, an individual may not be required to obtain or maintain coverage under:

(1) an individual health insurance policy written through a health care collaborative; or

(2) any plan or program for health care services provided on an individual basis through a health care collaborative.

(b) This chapter does not require an individual to obtain or maintain health insurance coverage.

(c) Subsection (a) does not apply to an individual:

(1) who is required to obtain or maintain health benefit plan coverage:

(A) written by an institution of higher education at which the individual is or will be enrolled as a student; or

(B) under an order requiring medical support for a child; or

(2) who voluntarily applies for benefits under a state administered program under Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.), or Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.).

(d) Except as provided by Subsection (e), a fine or penalty may not be imposed on an individual if the individual chooses not to obtain or maintain coverage described by Subsection (a).

(e) Subsection (d) does not apply to a fine or penalty imposed on an individual described in Subsection (c) for the individual's failure to obtain or maintain health benefit plan coverage.

[Sections 848.007-848.050 reserved for expansion]

SUBCHAPTER B. AUTHORITY TO ENGAGE IN BUSINESS

Sec. 848.051. OPERATION OF HEALTH CARE COLLABORATIVE. A health care collaborative that is certified by the department under this chapter may provide or arrange to provide health care services under contract with a governmental or private entity.

Sec. 848.052. FORMATION AND GOVERNANCE OF HEALTH CARE COLLABORATIVE. (a) A health care collaborative is governed by a board of directors.

(b) The person who establishes a health care collaborative shall appoint an initial board of directors. Each member of the initial board serves a term of not more than 18 months. Subsequent members of the board shall be elected to serve two-year terms by physicians and health care providers who participate in the health care collaborative as provided by this section. The board shall elect a chair from among its members.

(c) If the participants in a health care collaborative are all physicians, each member of the board of directors must be an individual physician who is a participant in the health care collaborative.

(d) If the participants in a health care collaborative are both physicians and other health care providers, the board of directors must consist of:

(1) an even number of members who are individual physicians, selected by physicians who participate in the health care collaborative;

(2) a number of members equal to the number of members under Subdivision (1) who represent health care providers, one of whom is an individual physician, selected by health care providers who participate in the health care collaborative; and

(3) one individual member with business expertise, selected by unanimous vote of the members described by Subdivisions (1) and (2).

(e) The board of directors must include at least three nonvoting ex officio members who represent the community in which the health care collaborative operates.

(f) An individual may not serve on the board of directors of a health care collaborative if the individual has an ownership interest in, serves on the board of directors of, or maintains an officer position with:

(1) another health care collaborative that provides health care services in the same service area as the health care collaborative; or

(2) a physician or health care provider that:

(A) does not participate in the health care collaborative; and

(B) provides health care services in the same service area as the health care collaborative.

(g) In addition to the requirements of Subsection (f), the board of directors of a health care collaborative shall adopt a conflict of interest policy to be followed by members.

(h) The board of directors may remove a member for cause. A member may not be removed from the board without cause.

(i) The organizational documents of a health care collaborative may not conflict with any provision of this chapter, including this section.

Sec. 848.053. COMPENSATION ADVISORY COMMITTEE; SHARING OF CERTAIN DATA. (a) The board of directors of a health care collaborative shall establish a compensation advisory committee to develop and make recommendations to the board regarding charges, fees, payments, distributions, or other compensation assessed for health care services provided by physicians or health care providers who participate in the health care collaborative. The committee must include:

(1) a member of the board of directors; and

(2) if the health care collaborative consists of physicians and other health care providers:

(A) a physician who is not a participant in the health care collaborative, selected by the physicians who are participants in the collaborative; and

(B) a member selected by the other health care providers who participate in the collaborative.

(b) A health care collaborative shall establish and enforce policies to prevent the sharing of charge, fee, and payment data among nonparticipating physicians and health care providers.

Sec. 848.054. CERTIFICATE OF AUTHORITY AND DETERMINATION OF APPROVAL REQUIRED. (a) An organization may not organize or operate a health care collaborative in this state unless the organization holds a certificate of authority issued under this chapter.

(b) The commissioner shall adopt rules governing the application for a certificate of authority under this subchapter.

Sec. 848.055. EXCEPTIONS. (a) An organization is not required to obtain a certificate of authority under this chapter if the organization holds an appropriate certificate of authority issued under another chapter of this code.

(b) A person is not required to obtain a certificate of authority under this chapter to the extent that the person is:

(1) a physician engaged in the delivery of medical care; or

(2) a health care provider engaged in the delivery of health care services other than medical care as part of a health maintenance organization delivery network.

(c) A medical school, medical and dental unit, or health science center as described by Section 61.003, 61.501, or 74.601, Education Code, is not required to obtain a certificate of authority under this chapter to the extent that the medical school, medical and dental unit, or health science center contracts to deliver medical care services within a health care collaborative. This chapter is otherwise applicable to a medical school, medical and dental unit, or health science center.

(d) An entity licensed under the Health and Safety Code that employs a physician under a specific statutory authority is not required to obtain a certificate of authority under this chapter to the extent that the entity contracts to deliver medical care services and health care services within a health care collaborative. This chapter is otherwise applicable to the entity.

Sec. 848.056. APPLICATION FOR CERTIFICATE OF AUTHORITY. (a) An organization may apply to the commissioner for and obtain a certificate of authority to organize and operate a health care collaborative.

(b) An application for a certificate of authority must:

(1) comply with all rules adopted by the commissioner;

(2) be verified under oath by the applicant or an officer or other authorized representative of the applicant;

(3) be reviewed by the division within the office of attorney general that is primarily responsible for enforcing the antitrust laws of this state and of the United States under Section 848.059;

(4) demonstrate that the health care collaborative contracts with a sufficient number of primary care physicians in the health care collaborative's service area;

(5) state that enrollees may obtain care from any physician or health care provider in the health care collaborative; and

(6) identify a service area within which medical services are available and accessible to enrollees.

(c) Not later than the 190th day after the date an applicant submits an application to the commissioner under this section, the commissioner shall approve or deny the application.

(d) The commissioner by rule may:

(1) extend the date by which an application is due under this section; and

(2) require the disclosure of any additional information necessary to implement and administer this chapter, including information necessary to antitrust review and oversight.

Sec. 848.057. REQUIREMENTS FOR APPROVAL OF APPLICATION. (a) The commissioner shall issue a certificate of authority on payment of the application fee prescribed by Section 848.152 if the commissioner is satisfied that:

(1) the applicant meets the requirements of Section 848.056;

(2) with respect to health care services to be provided, the applicant:

(A) has demonstrated the willingness and potential ability to ensure that the health care services will be provided in a manner that:

(i) increases collaboration among health care providers and integrates health care services;

(ii) promotes improvement in quality-based health care outcomes, patient safety, patient engagement, and coordination of services; and

(iii) reduces the occurrence of potentially preventable events;

(B) has processes that contain health care costs without jeopardizing the quality of patient care;

(C) has processes to develop, compile, evaluate, and report statistics on performance measures relating to the quality and cost of health care services, the pattern of utilization of services, and the availability and accessibility of services; and

(D) has processes to address complaints made by patients receiving services provided through the organization;

(3) the applicant is in compliance with all rules adopted by the commissioner under Section 848.151;

(4) the applicant has working capital and reserves sufficient to operate and maintain the health care collaborative and to arrange for services and expenses incurred by the health care collaborative;

(5) the applicant's proposed health care collaborative is not likely to reduce competition in any market for physician, hospital, or ancillary health care services due to:

(A) the size of the health care collaborative; or

(B) the composition of the collaborative, including the distribution of physicians by specialty within the collaborative in relation to the number of competing health care providers in the health care collaborative's geographic market; and

(6) the pro-competitive benefits of the applicant's proposed health care collaborative are likely to substantially outweigh the anticompetitive effects of any increase in market power.

(b) A certificate of authority is effective for a period of one year, subject to Section 848.060(d).

Sec. 848.058. DENIAL OF CERTIFICATE OF AUTHORITY. (a) The commissioner may not issue a certificate of authority if the commissioner determines that the applicant's proposed plan of operation does not meet the requirements of Section 848.057.

(b) If the commissioner denies an application for a certificate of authority under Subsection (a), the commissioner shall notify the applicant that the plan is deficient and specify the deficiencies.

Sec. 848.059. CONCURRENCE OF ATTORNEY GENERAL. (a) If the commissioner determines that an application for a certificate of authority filed under Section 848.056 complies with the requirements of Section 848.057, the commissioner shall forward the application, and all data, documents, and analysis considered by the commissioner in making the determination, to the attorney general. The attorney general shall review the application and the data, documents, and analysis and, if the attorney general concurs with the commissioner's determination under Sections 848.057(a)(5) and (6), the attorney general shall notify the commissioner.

(b) If the attorney general does not concur with the commissioner's determination under Sections 848.057(a)(5) and (6), the attorney general shall notify the commissioner.

(c) A determination under this section shall be made not later than the 60th day after the date the attorney general receives the application and the data, documents, and analysis from the commissioner.

(d) If the attorney general lacks sufficient information to make a determination under Sections 848.057(a)(5) and (6), within 60 days of the attorney general's receipt of the application and the data, documents, and analysis the attorney general shall inform the commissioner that the attorney general lacks sufficient information as well as what information the attorney general requires. The commissioner shall then either provide the additional information to the attorney general or request the additional information from the applicant. The commissioner shall promptly deliver any such additional information to the attorney general. The attorney general shall then have 30 days from receipt of the additional information to make a determination under Subsection (a) or (b).

(e) If the attorney general notifies the commissioner that the attorney general does not concur with the commissioner's determination under Sections 848.057(a)(5) and (6), then, notwithstanding any other provision of this subchapter, the commissioner shall deny the application.

(f) In reviewing the commissioner's determination, the attorney general shall consider the findings, conclusions, or analyses contained in any other governmental entity's evaluation of the health care collaborative.

(g) The attorney general at any time may request from the commissioner additional time to consider an application under this section. The commissioner shall grant the request and notify the applicant of the request. A request by the attorney general or an order by the commissioner granting a request under this section is not subject to administrative or judicial review.

Sec. 848.060. RENEWAL OF CERTIFICATE OF AUTHORITY AND DETERMINATION OF APPROVAL. (a) Not later than the 180th day before the one-year anniversary of the date on which a health care collaborative's certificate of authority was issued or most recently renewed, the health care collaborative shall file with the commissioner an application to renew the certificate.

(b) An application for renewal must:

(1) be verified by at least two principal officers of the health care collaborative; and

(2) include:

(A) a financial statement of the health care collaborative, including a balance sheet and receipts and disbursements for the preceding calendar year, certified by an independent certified public accountant;

(B) a description of the service area of the health care collaborative;

(C) a description of the number and types of physicians and health care providers participating in the health care collaborative;

(D) an evaluation of the quality and cost of health care services provided by the health care collaborative;

(E) an evaluation of the health care collaborative's processes to promote evidence-based medicine, patient engagement, and coordination of health care services provided by the health care collaborative;

(F) the number, nature, and disposition of any complaints filed with the health care collaborative under Section 848.107; and

(G) any other information required by the commissioner.

(c) If a completed application for renewal is filed under this section:

(1) the commissioner shall conduct a review under Section 848.057 as if the application for renewal were a new application, and, on approval by the commissioner, the attorney general shall review the application under Section 848.059 as if the application for renewal were a new application; and

(2) the commissioner shall renew or deny the renewal of a certificate of authority at least 20 days before the one-year anniversary of the date on which a health care collaborative's certificate of authority was issued.

(d) If the commissioner does not act on a renewal application before the one-year anniversary of the date on which a health care collaborative's certificate of authority was issued or renewed, the health care collaborative's certificate of authority expires on the 90th day after the date of the one-year anniversary unless the renewal of the certificate of authority or determination of approval, as applicable, is approved before that date.

(e) A health care collaborative shall report to the department a material change in the size or composition of the collaborative. On receipt of a report under this subsection, the department may require the collaborative to file an application for renewal before the date required by Subsection (a).

[Sections 848.061-848.100 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES OF HEALTH CARE COLLABORATIVE

Sec. 848.101. PROVIDING OR ARRANGING FOR SERVICES. (a) A health care collaborative may provide or arrange for health care services through contracts with physicians and health care providers or with entities contracting on behalf of participating physicians and health care providers.

(b) A health care collaborative may not prohibit a physician or other health care provider, as a condition of participating in the health care collaborative, from participating in another health care collaborative.

(c) A health care collaborative may not use a covenant not to compete to prohibit a physician from providing medical services or participating in another health care collaborative in the same service area.

(d) Except as provided by Subsection (f), on written consent of a patient who was treated by a physician participating in a health care collaborative, the health care collaborative shall provide the physician with the medical records of the patient, regardless of whether the physician is participating in the health care collaborative at the time the request for the records is made.

(e) Records provided under Subsection (d) shall be made available to the physician in the format in which the records are maintained by the health care collaborative. The health care collaborative may charge the physician a fee for copies of the records, as established by the Texas Medical Board.

(f) If a physician requests a patient's records from a health care collaborative under Subsection (d) for the purpose of providing emergency treatment to the patient:

(1) the health care collaborative may not charge a fee to the physician under Subsection (e); and

(2) the health care collaborative shall provide the records to the physician regardless of whether the patient has provided written consent.

Sec. 848.102. INSURANCE, REINSURANCE, INDEMNITY, AND REIMBURSEMENT. A health care collaborative may contract with an insurer authorized to engage in business in this state to provide insurance, reinsurance, indemnification, or reimbursement against the cost of health care and medical care services provided by the health care collaborative. This section does not affect the requirement that the health care collaborative maintain sufficient working capital and reserves.

Sec. 848.103. PAYMENT BY GOVERNMENTAL OR PRIVATE ENTITY. (a) A health care collaborative may:

(1) contract for and accept payments from a governmental or private entity for all or part of the cost of services provided or arranged for by the health care collaborative; and

(2) distribute payments to participating physicians and health care providers.

(b) Notwithstanding any other law, a health care collaborative that is in compliance with this code, including Chapters 841, 842, and 843, as applicable, may contract for, accept, and distribute payments from governmental or private payors based on fee-for-service or alternative payment mechanisms, including:

(1) episode-based or condition-based bundled payments;

(2) capitation or global payments; or

(3) pay-for-performance or quality-based payments.

(c) Except as provided by Subsection (d), a health care collaborative may not contract for and accept from a governmental or private entity payments on a prospective basis, including bundled or global payments, unless the health care collaborative is licensed under Chapter 843.

(d) A health care collaborative may contract for and accept from an insurance company or a health maintenance organization payments on a prospective basis, including bundled or global payments.

Sec. 848.104. CONTRACTS FOR ADMINISTRATIVE OR MANAGEMENT SERVICES. A health care collaborative may contract with any person, including an affiliated entity, to perform administrative, management, or any other required business functions on behalf of the health care collaborative.

Sec. 848.105. CORPORATION, PARTNERSHIP, OR ASSOCIATION POWERS. A health care collaborative has all powers of a partnership, association, corporation, or limited liability company, including a professional association or corporation, as appropriate under the organizational documents of the health care collaborative, that are not in conflict with this chapter or other applicable law.

Sec. 848.106. QUALITY AND COST OF HEALTH CARE SERVICES. (a) A health care collaborative shall establish policies to improve the quality and control the cost of health care services provided by participating physicians and health care providers that are consistent with prevailing professionally recognized standards of medical practice. The policies must include standards and procedures relating to:

(1) the selection and credentialing of participating physicians and health care providers;

(2) the development, implementation, monitoring, and evaluation of evidence-based best practices and other processes to improve the quality and control the cost of health care services provided by participating physicians and health care providers, including practices or processes to reduce the occurrence of potentially preventable events;

(3) the development, implementation, monitoring, and evaluation of processes to improve patient engagement and coordination of health care services provided by participating physicians and health care providers; and

(4) complaints initiated by participating physicians, health care providers, and patients under Section 848.107.

(b) The governing body of a health care collaborative shall establish a procedure for the periodic review of quality improvement and cost control measures.

Sec. 848.107. COMPLAINT SYSTEMS. (a) A health care collaborative shall implement and maintain complaint systems that provide reasonable procedures to resolve an oral or written complaint initiated by:

(1) a patient who received health care services provided by a participating physician or health care provider; or

(2) a participating physician or health care provider.

(b) The complaint system for complaints initiated by patients must include a process for the notice and appeal of a complaint.

(c) A health care collaborative may not take a retaliatory or adverse action against a physician or health care provider who files a complaint with a regulatory authority regarding an action of the health care collaborative.

Sec. 848.108. DELEGATION AGREEMENTS. (a) Except as provided by Subsection (b), a health care collaborative that enters into a delegation agreement described by Section 1272.001 is subject to the requirements of Chapter 1272 in the same manner as a health maintenance organization.

(b) Section 1272.301 does not apply to a delegation agreement entered into by a health care collaborative.

(c) A health care collaborative may enter into a delegation agreement with an entity licensed under Chapter 841, 842, or 883 if the delegation agreement assigns to the entity responsibility for:

(1) a function regulated by:

(A) Chapter 222;

(B) Chapter 841;

(C) Chapter 842;

(D) Chapter 883;

(E) Chapter 1272;

(F) Chapter 1301;

(G) Chapter 4201;

(H) Section 1367.053; or

(I) Subchapter A, Chapter 1507; or

(2) another function specified by commissioner rule.

(d) A health care collaborative that enters into a delegation agreement under this section shall maintain reserves and capital in addition to the amounts required under Chapter 1272, in an amount and form determined by rule of the commissioner to be necessary for the liabilities and risks assumed by the health care collaborative.

(e) A health care collaborative that enters into a delegation agreement under this section is subject to Chapters 404, 441, and 443 and is considered to be an insurer for purposes of those chapters.

Sec. 848.109. VALIDITY OF OPERATIONS AND TRADE PRACTICES OF HEALTH CARE COLLABORATIVES. The operations and trade practices of a health care collaborative that are consistent with the provisions of this chapter, the rules adopted under this chapter, and applicable federal antitrust laws are presumed to be consistent with Chapter 15, Business & Commerce Code, or any other applicable provision of law.

Sec. 848.110. RIGHTS OF PHYSICIANS; LIMITATIONS ON PARTICIPATION. (a) Before a complaint against a physician under Section 848.107 is resolved, or before a physician's association with a health care collaborative is terminated, the physician is entitled to an opportunity to dispute the complaint or termination through a process that includes:

(1) written notice of the complaint or basis of the termination;

(2) an opportunity for a hearing not earlier than the 30th day after receiving notice under Subdivision (1);

(3) the right to provide information at the hearing, including testimony and a written statement; and

(4) a written decision that includes the specific facts and reasons for the decision.

(b) A health care collaborative may limit a physician or group of physicians from participating in the health care collaborative if the limitation is based on an established development plan approved by the board of directors. Each applicant physician or group shall be provided with a copy of the development plan.

[Sections 848.111-848.150 reserved for expansion]

SUBCHAPTER D. REGULATION OF HEALTH CARE COLLABORATIVES

Sec. 848.151. RULES. The commissioner and the attorney general may adopt reasonable rules as necessary and proper to implement the requirements of this chapter.

Sec. 848.152. FEES AND ASSESSMENTS. (a) The commissioner shall, within the limits prescribed by this section, prescribe the fees to be charged and the assessments to be imposed under this section.

(b) Amounts collected under this section shall be deposited to the credit of the Texas Department of Insurance operating account.

(c) A health care collaborative shall pay to the department:

(1) an application fee in an amount determined by commissioner rule; and

(2) an annual assessment in an amount determined by commissioner rule.

(d) The commissioner shall set fees and assessments under this section in an amount sufficient to pay the reasonable expenses of the department and attorney general in administering this chapter, including the direct and indirect expenses incurred by the department and attorney general in examining and reviewing health care collaboratives. Fees and assessments imposed under this section shall be allocated among health care collaboratives on a pro rata basis to the extent that the allocation is feasible.

Sec. 848.153. EXAMINATIONS. (a) The commissioner may examine the financial affairs and operations of any health care collaborative or applicant for a certificate of authority under this chapter.

(b) A health care collaborative shall make its books and records relating to its financial affairs and operations available for an examination by the commissioner or attorney general.

(c) On request of the commissioner or attorney general, a health care collaborative shall provide to the commissioner or attorney general, as applicable:

(1) a copy of any contract, agreement, or other arrangement between the health care collaborative and a physician or health care provider; and

(2) a general description of the fee arrangements between the health care collaborative and the physician or health care provider.

(d) Documentation provided to the commissioner or attorney general under this section is confidential and is not subject to disclosure under Chapter 552, Government Code.

(e) The commissioner or attorney general may disclose the results of an examination conducted under this section or documentation provided under this section to a governmental agency that contracts with a health care collaborative for the purpose of determining financial stability, readiness, or other contractual compliance needs.

[Sections 848.154-848.200 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT

Sec. 848.201. ENFORCEMENT ACTIONS. (a) After notice and opportunity for a hearing, the commissioner may:

(1) suspend or revoke a certificate of authority issued to a health care collaborative under this chapter;

(2) impose sanctions under Chapter 82;

(3) issue a cease and desist order under Chapter 83; or

(4) impose administrative penalties under Chapter 84.

(b) The commissioner may take an enforcement action listed in Subsection (a) against a health care collaborative if the commissioner finds that the health care collaborative:

(1) is operating in a manner that is:

(A) significantly contrary to its basic organizational documents; or

(B) contrary to the manner described in and reasonably inferred from other information submitted under Section 848.057;

(2) does not meet the requirements of Section 848.057;

(3) cannot fulfill its obligation to provide health care services as required under its contracts with governmental or private entities;

(4) does not meet the requirements of Chapter 1272, if applicable;

(5) has not implemented the complaint system required by Section 848.107 in a manner to resolve reasonably valid complaints;

(6) has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner or a person on behalf of the health care collaborative has advertised or merchandised the health care collaborative's services in an untrue, misrepresentative, misleading, deceptive, or untrue manner;

(7) has not complied substantially with this chapter or a rule adopted under this chapter;

(8) has not taken corrective action the commissioner considers necessary to correct a failure to comply with this chapter, any applicable provision of this code, or any applicable rule or order of the commissioner not later than the 30th day after the date of notice of the failure or within any longer period specified in the notice and determined by the commissioner to be reasonable; or

(9) has or is utilizing market power in an anticompetitive manner, in accordance with established antitrust principles of market power analysis.

Sec. 848.202. OPERATIONS DURING SUSPENSION OR AFTER REVOCATION OF CERTIFICATE OF AUTHORITY. (a) During the period a certificate of authority of a health care collaborative is suspended, the health care collaborative may not:

(1) enter into a new contract with a governmental or private entity; or

(2) advertise or solicit in any way.

(b) After a certificate of authority of a health care collaborative is revoked, the health care collaborative:

(1) shall proceed, immediately following the effective date of the order of revocation, to conclude its affairs;

(2) may not conduct further business except as essential to the orderly conclusion of its affairs; and

(3) may not advertise or solicit in any way.

(c) Notwithstanding Subsection (b), the commissioner may, by written order, permit the further operation of the health care collaborative to the extent that the commissioner finds necessary to serve the best interest of governmental or private entities that have entered into contracts with the health care collaborative.

Sec. 848.203. INJUNCTIONS. If the commissioner believes that a health care collaborative or another person is violating or has violated this chapter or a rule adopted under this chapter, the attorney general at the request of the commissioner may bring an action in a Travis County district court to enjoin the violation and obtain other relief the court considers appropriate.

Sec. 848.204. NOTICE. The commissioner shall:

(1) report any action taken under this subchapter to:

(A) the relevant state licensing or certifying agency or board; and

(B) the United States Department of Health and Human Services National Practitioner Data Bank; and

(2) post notice of the action on the department's Internet website.

Sec. 848.205. INDEPENDENT AUTHORITY OF ATTORNEY GENERAL. (a) The attorney general may:

(1) investigate a health care collaborative with respect to anticompetitive behavior that is contrary to the goals and requirements of this chapter; and

(2) request that the commissioner:

(A) impose a penalty or sanction;

(B) issue a cease and desist order; or

(C) suspend or revoke the health care collaborative's certificate of authority.

(b) This section does not limit any other authority or power of the attorney general.

SECTION 4.02. Paragraph (A), Subdivision (12), Subsection (a), Section 74.001, Civil Practice and Remedies Code, is amended to read as follows:

(A) "Health care provider" means any person, partnership, professional association, corporation, facility, or institution duly licensed, certified, registered, or chartered by the State of Texas to provide health care, including:

(i) a registered nurse;

(ii) a dentist;

(iii) a podiatrist;

(iv) a pharmacist;

(v) a chiropractor;

(vi) an optometrist; [~~or~~]

(vii) a health care institution; or

(viii) a health care collaborative certified under Chapter 848, Insurance Code.

SECTION 4.03. Subchapter B, Chapter 1301, Insurance Code, is amended by adding Section 1301.0625 to read as follows:

Sec. 1301.0625. HEALTH CARE COLLABORATIVES. (a) Subject to the requirements of this chapter, a health care collaborative may be designated as a preferred provider under a preferred provider benefit plan and may offer enhanced benefits for care provided by the health care collaborative.

(b) A preferred provider contract between an insurer and a health care collaborative may use a payment methodology other than a fee-for-service or discounted fee methodology. A reimbursement methodology used in a contract under this subsection is not subject to Chapter 843.

(c) A contract authorized by Subsection (b) must specify that the health care collaborative and the physicians or providers providing health care services on behalf of the collaborative will hold an insured harmless for payment of the cost of covered health care services if the insurer or the health care collaborative do not pay the physician or health care provider for the services.

(d) An insurer issuing an exclusive provider benefit plan authorized by another law of this state may limit access to only preferred providers participating in a health care collaborative if the limitation is consistent with all requirements applicable to exclusive provider benefit plans.

SECTION 4.04. Subtitle F, Title 4, Health and Safety Code, is amended by adding Chapter 316 to read as follows:

CHAPTER 316. ESTABLISHMENT OF HEALTH CARE COLLABORATIVES

Sec. 316.001. AUTHORITY TO ESTABLISH HEALTH CARE COLLABORATIVE. A public hospital created under Subtitle C or D or a hospital district created under general or special law may form and sponsor a nonprofit health care collaborative that is certified under Chapter 848, Insurance Code.

SECTION 4.05. Section 102.005, Occupations Code, is amended to read as follows:

Sec. 102.005. APPLICABILITY TO CERTAIN ENTITIES. Section 102.001 does not apply to:

(1) a licensed insurer;

(2) a governmental entity, including:

(A) an intergovernmental risk pool established under Chapter 172, Local Government Code; and

(B) a system as defined by Section 1601.003, Insurance Code;

(3) a group hospital service corporation; [~~or~~]

(4) a health maintenance organization that reimburses, provides, offers to provide, or administers hospital, medical, dental, or other health-related benefits under a health benefits plan for which it is the payor; or

(5) a health care collaborative certified under Chapter 848, Insurance Code.

SECTION 4.06. Subdivision (5), Subsection (a), Section 151.002, Occupations Code, is amended to read as follows:

(5) "Health care entity" means:

(A) a hospital licensed under Chapter 241 or 577, Health and Safety Code;

(B) an entity, including a health maintenance organization, group medical practice, nursing home, health science center, university medical school, hospital district, hospital authority, or other health care facility, that:

(i) provides or pays for medical care or health care services; and

(ii) follows a formal peer review process to further quality medical care or health care;

(C) a professional society or association of physicians, or a committee of such a society or association, that follows a formal peer review process to further quality medical care or health care; [~~or~~]

(D) an organization established by a professional society or association of physicians, hospitals, or both, that:

(i) collects and verifies the authenticity of documents and other information concerning the qualifications, competence, or performance of licensed health care professionals; and

(ii) acts as a health care facility's agent under the Health Care Quality Improvement Act of 1986 (42 U.S.C. Section 11101 et seq.); or

(E) a health care collaborative certified under Chapter 848, Insurance Code.

SECTION 4.07. Not later than September 1, 2012, the commissioner of insurance and the attorney general shall adopt rules as necessary to implement this article.

SECTION 4.08. As soon as practicable after the effective date of this Act, the commissioner of insurance shall designate or employ staff with antitrust expertise sufficient to carry out the duties required by this Act.

ARTICLE 5. PATIENT IDENTIFICATION

SECTION 5.01. Subchapter A, Chapter 311, Health and Safety Code, is amended by adding Section 311.004 to read as follows:

Sec. 311.004. STANDARDIZED PATIENT RISK IDENTIFICATION SYSTEM. (a) In this section:

(1) "Department" means the Department of State Health Services.

(2) "Hospital" means a general or special hospital as defined by Section 241.003. The term includes a hospital maintained or operated by this state.

(b) The department shall coordinate with hospitals to develop a statewide standardized patient risk identification system under which a patient with a specific medical risk may be readily identified through the use of a system that communicates to hospital personnel the existence of that risk. The executive commissioner of the Health and Human Services Commission shall appoint an ad hoc committee of hospital representatives to assist the department in developing the statewide system.

(c) The department shall require each hospital to implement and enforce the statewide standardized patient risk identification system developed under Subsection (b) unless the department authorizes an exemption for the reason stated in Subsection (d).

(d) The department may exempt from the statewide standardized patient risk identification system a hospital that seeks to adopt another patient risk identification methodology supported by evidence-based protocols for the practice of medicine.

(e) The department shall modify the statewide standardized patient risk identification system in accordance with evidence-based medicine as necessary.

(f) The executive commissioner of the Health and Human Services Commission may adopt rules to implement this section.

ARTICLE 6. REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS

SECTION 6.01. Section 98.001, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Subdivisions (8-a) and (10-a) to read as follows:

(8-a) "Health care professional" means an individual licensed, certified, or otherwise authorized to administer health care, for profit or otherwise, in the ordinary course of business or professional practice. The term does not include a health care facility.

(10-a) "Potentially preventable complication" and "potentially preventable readmission" have the meanings assigned by Section 1002.001, Health and Safety Code.

SECTION 6.02. Subsection (c), Section 98.102, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(c) The data reported by health care facilities to the department must contain sufficient patient identifying information to:

(1) avoid duplicate submission of records;

(2) allow the department to verify the accuracy and completeness of the data reported; and

(3) for data reported under Section 98.103 [~~or 98.104~~], allow the department to risk adjust the facilities' infection rates.

SECTION 6.03. Section 98.103, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is amended by amending Subsection (b) and adding Subsection (d-1) to read as follows:

(b) A pediatric and adolescent hospital shall report the incidence of surgical site infections, including the causative pathogen if the infection is laboratory-confirmed, occurring in the following procedures to the department:

(1) cardiac procedures, excluding thoracic cardiac procedures;

(2) ventricular [~~ventriculoperitoneal~~] shunt procedures; and

(3) spinal surgery with instrumentation.

(d-1) The executive commissioner by rule may designate the federal Centers for Disease Control and Prevention's National Healthcare Safety Network, or its successor, to receive reports of health care-associated infections from health care facilities on behalf of the department. A health care facility must file a report required in accordance with a designation made under this subsection in accordance with the National Healthcare Safety Network's definitions, methods, requirements, and procedures. A health care facility shall authorize the department to have access to facility-specific data contained in a report filed with the National Healthcare Safety Network in accordance with a designation made under this subsection.

SECTION 6.04. Section 98.1045, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Subsection (c) to read as follows:

(c) The executive commissioner by rule may designate an agency of the United States Department of Health and Human Services to receive reports of preventable adverse events by health care facilities on behalf of the department. A health care

facility shall authorize the department to have access to facility-specific data contained in a report made in accordance with a designation made under this subsection.

SECTION 6.05. Subchapter C, Chapter 98, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Sections 98.1046 and 98.1047 to read as follows:

Sec. 98.1046. PUBLIC REPORTING OF CERTAIN POTENTIALLY PREVENTABLE EVENTS FOR HOSPITALS. (a) In consultation with the Texas Institute of Health Care Quality and Efficiency under Chapter 1002, the department, using data submitted under Chapter 108, shall publicly report for hospitals in this state risk-adjusted outcome rates for those potentially preventable complications and potentially preventable readmissions that the department, in consultation with the institute, has determined to be the most effective measures of quality and efficiency.

(b) The department shall make the reports compiled under Subsection (a) available to the public on the department's Internet website.

(c) The department may not disclose the identity of a patient or health care professional in the reports authorized in this section.

Sec. 98.1047. STUDIES ON LONG-TERM CARE FACILITY REPORTING OF ADVERSE HEALTH CONDITIONS. (a) In consultation with the Texas Institute of Health Care Quality and Efficiency under Chapter 1002, the department shall study which adverse health conditions commonly occur in long-term care facilities and, of those health conditions, which are potentially preventable.

(b) The department shall develop recommendations for reporting adverse health conditions identified under Subsection (a).

SECTION 6.06. Section 98.105, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 98.105. REPORTING SYSTEM MODIFICATIONS. Based on the recommendations of the advisory panel, the executive commissioner by rule may modify in accordance with this chapter the list of procedures that are reportable under Section 98.103 [~~or 98.104~~]. The modifications must be based on changes in reporting guidelines and in definitions established by the federal Centers for Disease Control and Prevention.

SECTION 6.07. Subsections (a), (b), and (d), Section 98.106, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, are amended to read as follows:

(a) The department shall compile and make available to the public a summary, by health care facility, of:

(1) the infections reported by facilities under Section [~~Sections~~] 98.103 [~~and 98.104~~]; and

(2) the preventable adverse events reported by facilities under Section 98.1045.

(b) Information included in the departmental summary with respect to infections reported by facilities under Section [~~Sections~~] 98.103 [~~and 98.104~~] must be risk adjusted and include a comparison of the risk-adjusted infection rates for each health care facility in this state that is required to submit a report under Section [~~Sections~~] 98.103 [~~and 98.104~~].

(d) The department shall publish the departmental summary at least annually and may publish the summary more frequently as the department considers appropriate. Data made available to the public must include aggregate data covering a period of at least a full calendar quarter.

SECTION 6.08. Subchapter C, Chapter 98, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Section 98.1065 to read as follows:

Sec. 98.1065. STUDY OF INCENTIVES AND RECOGNITION FOR HEALTH CARE QUALITY. The department, in consultation with the Texas Institute of Health Care Quality and Efficiency under Chapter 1002, shall conduct a study on developing a recognition program to recognize exemplary health care facilities for superior quality of health care and make recommendations based on that study.

SECTION 6.09. Section 98.108, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 98.108. FREQUENCY OF REPORTING. (a) In consultation with the advisory panel, the executive commissioner by rule shall establish the frequency of reporting by health care facilities required under Sections 98.103[~~, 98.104,~~] and 98.1045.

(b) Except as provided by Subsection (c), facilities [~~Facilities~~] may not be required to report more frequently than quarterly.

(c) The executive commissioner may adopt rules requiring reporting more frequently than quarterly if more frequent reporting is necessary to meet the requirements for participation in the federal Centers for Disease Control and Prevention's National Healthcare Safety Network.

SECTION 6.10. Subsection (a), Section 98.109, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(a) Except as provided by Sections 98.1046, 98.106, and 98.110, all information and materials obtained or compiled or reported by the department under this chapter or compiled or reported by a health care facility under this chapter, and all related information and materials, are confidential and:

(1) are not subject to disclosure under Chapter 552, Government Code, or discovery, subpoena, or other means of legal compulsion for release to any person; and

(2) may not be admitted as evidence or otherwise disclosed in any civil, criminal, or administrative proceeding.

SECTION 6.11. Section 98.110, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 98.110. DISCLOSURE AMONG CERTAIN AGENCIES. (a) Notwithstanding any other law, the department may disclose information reported by health care facilities under Section 98.103[~~, 98.104,~~] or 98.1045 to other programs within the department, to the Health and Human Services Commission, [~~and~~] to other health and human services agencies, as defined by Section 531.001, Government Code, and to the federal Centers for Disease Control and Prevention, or any other agency of the United States Department of Health and Human Services, for public health research or analysis purposes only, provided that the research or analysis relates to health care-associated infections or preventable adverse events. The privilege and confidentiality provisions contained in this chapter apply to such disclosures.

(b) If the executive commissioner designates an agency of the United States Department of Health and Human Services to receive reports of health care-associated infections or preventable adverse events, that agency may use the information submitted for purposes allowed by federal law.

SECTION 6.12. Section 98.104, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

SECTION 6.13. Not later than December 1, 2012, the Department of State Health Services shall submit a report regarding recommendations for improved health care reporting to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate standing committees of the legislature outlining:

(1) the initial assessment in the study conducted under Section 98.1065, Health and Safety Code, as added by this Act;

(2) based on the study described by Subdivision (1) of this subsection, the feasibility and desirability of establishing a recognition program to recognize exemplary health care facilities for superior quality of health care;

(3) the recommendations developed under Section 98.1065, Health and Safety Code, as added by this Act; and

(4) the changes in existing law that would be necessary to implement the recommendations described by Subdivision (3) of this subsection.

ARTICLE 7. INFORMATION MAINTAINED BY DEPARTMENT OF STATE HEALTH SERVICES

SECTION 7.01. Section 108.002, Health and Safety Code, is amended by adding Subdivisions (4-a) and (8-a) and amending Subdivision (7) to read as follows:

(4-a) "Commission" means the Health and Human Services Commission.

(7) "Department" means the [~~Texas~~] Department of State Health Services.

(8-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

SECTION 7.02. Chapter 108, Health and Safety Code, is amended by adding Section 108.0026 to read as follows:

Sec. 108.0026. TRANSFER OF DUTIES; REFERENCE TO COUNCIL. (a) The powers and duties of the Texas Health Care Information Council under this chapter were transferred to the Department of State Health Services in accordance with Section 1.19, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003.

(b) In this chapter or other law, a reference to the Texas Health Care Information Council means the Department of State Health Services.

SECTION 7.03. Subsection (h), Section 108.009, Health and Safety Code, is amended to read as follows:

(h) The department [~~council~~] shall coordinate data collection with the data submission formats used by hospitals and other providers. The department [~~council~~] shall accept data in the format developed by the American National Standards Institute [~~National Uniform Billing Committee (Uniform Hospital Billing Form UB 92) and HCFA 1500~~] or its successor [~~their successors~~] or other nationally [~~universally~~] accepted standardized forms that hospitals and other providers use for other complementary purposes.

SECTION 7.04. Section 108.013, Health and Safety Code, is amended by amending Subsections (a) through (d), (g), (i), and (j) and adding Subsections (k) through (n) to read as follows:

(a) The data received by the department under this chapter [~~council~~] shall be used by the department and commission [~~council~~] for the benefit of the public. Subject to specific limitations established by this chapter and executive commissioner [~~council~~] rule, the department [~~council~~] shall make determinations on requests for information in favor of access.

(b) The executive commissioner [~~council~~] by rule shall designate the characters to be used as uniform patient identifiers. The basis for assignment of the characters and the manner in which the characters are assigned are confidential.

(c) Unless specifically authorized by this chapter, the department [~~council~~] may not release and a person or entity may not gain access to any data obtained under this chapter:

(1) that could reasonably be expected to reveal the identity of a patient;

(2) that could reasonably be expected to reveal the identity of a physician;

(3) disclosing provider discounts or differentials between payments and billed charges;

(4) relating to actual payments to an identified provider made by a payer; or

(5) submitted to the department [~~council~~] in a uniform submission format that is not included in the public use data set established under Sections 108.006(f) and (g), except in accordance with Section 108.0135.

(d) Except as provided by this section, all [~~All~~] data collected and used by the department [~~and the council~~] under this chapter is subject to the confidentiality provisions and criminal penalties of:

(1) Section 311.037;

(2) Section 81.103; and

(3) Section 159.002, Occupations Code.

(g) Unless specifically authorized by this chapter, the department [~~The council~~] may not release data elements in a manner that will reveal the identity of a patient. The department [~~council~~] may not release data elements in a manner that will reveal the identity of a physician.

(i) Notwithstanding any other law and except as provided by this section, the [~~council and the~~] department may not provide information made confidential by this section to any other agency of this state.

(j) The executive commissioner [~~council~~] shall by rule[~~, with the assistance of the advisory committee under Section 108.003(g)(5),~~] develop and implement a mechanism to comply with Subsections (c)(1) and (2).

(k) The department may disclose data collected under this chapter that is not included in public use data to any department or commission program if the disclosure is reviewed and approved by the institutional review board under Section 108.0135.

(l) Confidential data collected under this chapter that is disclosed to a department or commission program remains subject to the confidentiality provisions of this chapter and other applicable law. The department shall identify the confidential data that is disclosed to a program under Subsection (k). The program shall maintain the confidentiality of the disclosed confidential data.

(m) The following provisions do not apply to the disclosure of data to a department or commission program:

(1) Section 81.103;

(2) Sections 108.010(g) and (h);

(3) Sections 108.011(e) and (f);

(4) Section 311.037; and

(5) Section 159.002, Occupations Code.

(n) Nothing in this section authorizes the disclosure of physician identifying data.

SECTION 7.05. Section 108.0135, Health and Safety Code, is amended to read as follows:

Sec. 108.0135. INSTITUTIONAL [~~SCIENTIFIC~~] REVIEW BOARD [~~PANEL~~]. (a) The department [~~council~~] shall establish an institutional [~~a scientific~~] review board [~~panel~~] to review and approve requests for access to data not contained in [~~information other than~~] public use data. The members of the institutional review board must [~~panel shall~~] have experience and expertise in ethics, patient confidentiality, and health care data.

(b) To assist the institutional review board [~~panel~~] in determining whether to approve a request for information, the executive commissioner [~~council~~] shall adopt rules similar to the federal Centers for Medicare and Medicaid Services' [~~Health Care Financing Administration's~~] guidelines on releasing data.

(c) A request for information other than public use data must be made on the form prescribed [~~created~~] by the department [~~council~~].

(d) Any approval to release information under this section must require that the confidentiality provisions of this chapter be maintained and that any subsequent use of the information conform to the confidentiality provisions of this chapter.

SECTION 7.06. (a) If S.B. No. 156, Acts of the 82nd Legislature, Regular Session, 2011, does not become law, effective September 1, 2014, Subdivisions (5) and (18), Section 108.002, Section 108.0025, and Subsection (c), Section 108.009, Health and Safety Code, are repealed.

(b) If S.B. No. 156, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, effective September 1, 2014, Subdivision (18), Section 108.002, Section 108.0025, and Subsection (c), Section 108.009, Health and Safety Code, are repealed.

ARTICLE 8. ADOPTION OF VACCINE PREVENTABLE DISEASES POLICY BY HEALTH CARE FACILITIES

SECTION 8.01. The heading to Subtitle A, Title 4, Health and Safety Code, is amended to read as follows:

SUBTITLE A. FINANCING, CONSTRUCTING, REGULATING, AND INSPECTING HEALTH FACILITIES

SECTION 8.02. Subtitle A, Title 4, Health and Safety Code, is amended by adding Chapter 224 to read as follows:

CHAPTER 224. POLICY ON VACCINE PREVENTABLE DISEASES

Sec. 224.001. DEFINITIONS. In this chapter:

(1) "Covered individual" means:

(A) an employee of the health care facility;

(B) an individual providing direct patient care under a contract with a health care facility; or

(C) an individual to whom a health care facility has granted privileges to provide direct patient care.

(2) "Health care facility" means:

(A) a facility licensed under Subtitle B, including a hospital as defined by Section 241.003; or

(B) a hospital maintained or operated by this state.

(3) "Regulatory authority" means a state agency that regulates a health care facility under this code.

(4) "Vaccine preventable diseases" means the diseases included in the most current recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

Sec. 224.002. VACCINE PREVENTABLE DISEASES POLICY REQUIRED. (a) Each health care facility shall develop and implement a policy to protect its patients from vaccine preventable diseases.

(b) The policy must:

(1) require covered individuals to receive vaccines for the vaccine preventable diseases specified by the facility based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;

(2) specify the vaccines a covered individual is required to receive based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;

(3) include procedures for verifying whether a covered individual has complied with the policy;

(4) include procedures for a covered individual to be exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention;

(5) for a covered individual who is exempt from the required vaccines, include procedures the individual must follow to protect facility patients from exposure to disease, such as the use of protective medical equipment, such as gloves and masks, based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;

(6) prohibit discrimination or retaliatory action against a covered individual who is exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention, except that required use of protective medical equipment, such as gloves and masks, may not be considered retaliatory action for purposes of this subdivision;

(7) require the health care facility to maintain a written or electronic record of each covered individual's compliance with or exemption from the policy; and

(8) include disciplinary actions the health care facility is authorized to take against a covered individual who fails to comply with the policy.

(c) The policy may include procedures for a covered individual to be exempt from the required vaccines based on reasons of conscience, including a religious belief.

Sec. 224.003. DISASTER EXEMPTION. (a) In this section, "public health disaster" has the meaning assigned by Section 81.003.

(b) During a public health disaster, a health care facility may prohibit a covered individual who is exempt from the vaccines required in the policy developed by the facility under Section 224.002 from having contact with facility patients.

Sec. 224.004. DISCIPLINARY ACTION. A health care facility that violates this chapter is subject to an administrative or civil penalty in the same manner, and subject to the same procedures, as if the facility had violated a provision of this code that specifically governs the facility.

Sec. 224.005. RULES. The appropriate rulemaking authority for each regulatory authority shall adopt rules necessary to implement this chapter.

SECTION 8.03. Not later than June 1, 2012, a state agency that regulates a health care facility subject to Chapter 224, Health and Safety Code, as added by this Act, shall adopt the rules necessary to implement that chapter.

SECTION 8.04. Notwithstanding Chapter 224, Health and Safety Code, as added by this Act, a health care facility subject to that chapter is not required to have a policy on vaccine preventable diseases in effect until September 1, 2012.

ARTICLE 9. TEXAS EMERGENCY AND TRAUMA CARE EDUCATION PARTNERSHIP PROGRAM

SECTION 9.01. Chapter 61, Education Code, is amended by adding Subchapter HH to read as follows:

SUBCHAPTER HH. TEXAS EMERGENCY AND TRAUMA CARE EDUCATION PARTNERSHIP PROGRAM

Sec. 61.9801. DEFINITIONS. In this subchapter:

(1) "Emergency and trauma care education partnership" means a partnership that:

(A) consists of one or more hospitals in this state and one or more graduate professional nursing or graduate medical education programs in this state; and

(B) serves to increase training opportunities in emergency and trauma care for doctors and registered nurses at participating graduate medical education and graduate professional nursing programs.

(2) "Participating education program" means a graduate professional nursing program as that term is defined by Section 54.221 or a graduate medical education program leading to board certification by the American Board of Medical Specialties that participates in an emergency and trauma care education partnership.

Sec. 61.9802. PROGRAM: ESTABLISHMENT; ADMINISTRATION; PURPOSE. (a) The Texas emergency and trauma care education partnership program is established.

(b) The board shall administer the program in accordance with this subchapter and rules adopted under this subchapter.

(c) Under the program, to the extent funds are available under Section 61.9805, the board shall make grants to emergency and trauma care education partnerships to assist those partnerships to meet the state's needs for doctors and registered nurses with training in emergency and trauma care by offering one-year or two-year fellowships to students enrolled in graduate professional nursing or graduate medical education programs through collaboration between hospitals and graduate professional nursing or graduate medical education programs and the use of the existing expertise and facilities of those hospitals and programs.

Sec. 61.9803. GRANTS: CONDITIONS; LIMITATIONS. (a) The board may make a grant under this subchapter to an emergency and trauma care education partnership only if the board determines that:

(1) the partnership will meet applicable standards for instruction and student competency for each program offered by each participating education program;

(2) each participating education program will, as a result of the partnership, enroll in the education program a sufficient number of additional students as established by the board;

(3) each hospital participating in an emergency and trauma care education partnership will provide to students enrolled in a participating education program clinical placements that:

(A) allow the students to take part in providing or to observe, as appropriate, emergency and trauma care services offered by the hospital; and

(B) meet the clinical education needs of the students; and

(4) the partnership will satisfy any other requirement established by board rule.

(b) A grant under this subchapter may be spent only on costs related to the development or operation of an emergency and trauma care education partnership that prepares a student to complete a graduate professional nursing program with a specialty focus on emergency and trauma care or earn board certification by the American Board of Medical Specialties.

Sec. 61.9804. PRIORITY FOR FUNDING. In awarding a grant under this subchapter, the board shall give priority to an emergency and trauma care education partnership that submits a proposal that:

(1) provides for collaborative educational models between one or more participating hospitals and one or more participating education programs that have signed a memorandum of understanding or other written agreement under which the participants agree to comply with standards established by the board, including any standards the board may establish that:

(A) provide for program management that offers a centralized decision-making process allowing for inclusion of each entity participating in the partnership;

(B) provide for access to clinical training positions for students in graduate professional nursing and graduate medical education programs that are not participating in the partnership; and

(C) specify the details of any requirement relating to a student in a participating education program being employed after graduation in a hospital participating in the partnership, including any details relating to the employment of students who do not complete the program, are not offered a position at the hospital, or choose to pursue other employment;

(2) includes a demonstrable education model to:

(A) increase the number of students enrolled in, the number of students graduating from, and the number of faculty employed by each participating education program; and

(B) improve student or resident retention in each participating education program;

(3) indicates the availability of money to match a portion of the grant money, including matching money or in-kind services approved by the board from a hospital, private or nonprofit entity, or institution of higher education;

(4) can be replicated by other emergency and trauma care education partnerships or other graduate professional nursing or graduate medical education programs; and

(5) includes plans for sustainability of the partnership.

Sec. 61.9805. GRANTS, GIFTS, AND DONATIONS. In addition to money appropriated by the legislature, the board may solicit, accept, and spend grants, gifts, and donations from any public or private source for the purposes of this subchapter.

Sec. 61.9806. RULES. The board shall adopt rules for the administration of the Texas emergency and trauma care education partnership program. The rules must include:

(1) provisions relating to applying for a grant under this subchapter; and

(2) standards of accountability consistent with other graduate professional nursing and graduate medical education programs to be met by any emergency and trauma care education partnership awarded a grant under this subchapter.

Sec. 61.9807. ADMINISTRATIVE COSTS. A reasonable amount, not to exceed three percent, of any money appropriated for purposes of this subchapter may be used to pay the costs of administering this subchapter.

SECTION 9.02. As soon as practicable after the effective date of this article, the Texas Higher Education Coordinating Board shall adopt rules for the implementation and administration of the Texas emergency and trauma care education partnership program established under Subchapter HH, Chapter 61, Education Code, as added by this Act. The board may adopt the initial rules in the manner provided by law for emergency rules.

ARTICLE 10. INSURER CONTRACTS REGARDING CERTAIN BENEFIT PLANS

SECTION 10.01. Section 1301.006, Insurance Code, is amended to read as follows:

Sec. 1301.006. AVAILABILITY OF AND ACCESSIBILITY TO HEALTH CARE SERVICES. (a) An insurer that markets a preferred provider benefit plan shall contract with physicians and health care providers to ensure that all medical and health care services and items contained in the package of benefits for which coverage is provided, including treatment of illnesses and injuries, will be provided under the health insurance policy in a manner ensuring availability of and accessibility to adequate personnel, specialty care, and facilities.

(b) A contract between an insurer that markets a plan regulated under this chapter and an institutional provider may not, as a condition of staff membership or privileges, require a physician or other practitioner to enter into a preferred provider contract.

ARTICLE 11. EFFECTIVE DATE

SECTION 11.01. Except as otherwise provided by this Act, this Act takes effect on the 91st day after the last day of the legislative session.

Floor Amendment No. 1

Amend **CSSB 7** (house committee printing) as follows:

(1) In SECTION 1.01 of the bill, in added Section 531.02417(d), Government Code (page 2, line 24), strike "An" and substitute "Unless the commissioner determines that the assessment is feasible and beneficial, an".

(2) In ARTICLE 1 of the bill, add the following appropriately numbered SECTION to the ARTICLE and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 1.____. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.074 to read as follows:

Sec. 32.074. ACCESS TO PERSONAL EMERGENCY RESPONSE SYSTEM. (a) In this section, "personal emergency response system" has the meaning assigned by Section 781.001, Health and Safety Code.

(b) The department shall ensure that each Medicaid recipient has access to a personal emergency response system, if necessary, without regard to the recipient's access to a landline telephone.

(3) In SECTION 4.01 of the bill, in added Section 848.052, Insurance Code, immediately following Subsection (d) (page 95, between lines 19 and 20), insert the following:

(d-1) If a health care collaborative includes hospital-based physicians, one member of the board must be a hospital-based physician.

(4) In SECTION 4.01 of the bill, strike added Section 848.053(a)(1), Insurance Code (page 96, line 24), and substitute the following:

(1) two members of the board of directors, of which one member is the hospital-based physician member, if the health care collaborative includes hospital-based physicians; and

(5) In SECTION 4.01 of the bill, after added Section 848.053(b), Insurance Code (page 97, between lines 7 and 8), insert the following:

(c) The compensation advisory committee shall make recommendations to the board of directors regarding all charges, fees, payments, distributions, or other compensation assessed for health care services provided by a physician or health care provider who participates in the health care collaborative.

(d) Except as provided by Subsections (e) and (f), the board of directors and the compensation advisory committee may not use or consider a government payor's payment rates in setting the charges or fees for health care services provided by a physician or health care provider who participates in the health care collaborative.

(e) The board of directors or the compensation advisory committee may use or consider a government payor's payment rates when setting the charges or fees for health care services paid by a government payor.

(f) This section does not prohibit a reference to a government payor's payment rates in agreements with health maintenance organizations, insurers, or other payors.

(g) After the compensation advisory committee submits a recommendation to the board of directors, the board shall formally approve or refuse the recommendation.

(h) For purposes of this section, "government payor" includes:

(1) Medicare;

(2) Medicaid;

(3) the state child health plan program; and

(4) the TRICARE Military Health System.

(6) In SECTION 4.01 of the bill, strike added Sections 848.103(c) and (d), Insurance Code (page 107, lines 13-21), and substitute the following:

(c) Except as provided by Subsection (d), a health care collaborative may not contract for and accept payment from a governmental or private entity on a prepaid, capitation, or indemnity basis unless the health care collaborative is licensed as a health maintenance organization or insurer. The department shall review a health care collaborative's proposed payment methodology in contracts with governmental or private entities to ensure compliance with this section.

(d) A health care collaborative may contract for and accept compensation on a prepaid or capitation basis from a health maintenance organization or insurer.

(7) In ARTICLE 7 of the bill, add the following appropriately numbered SECTION to the ARTICLE and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 7.____. Chapter 108, Health and Safety Code, is amended by adding Section 108.0131 to read as follows:

Sec. 108.0131. LIST OF PURCHASERS OR RECIPIENTS OF DATA. The department shall post on the department's Internet website a list of each entity that purchases or receives data collected under this chapter.

(8) Add the following appropriately numbered SECTION to ARTICLE 11 of the bill and renumber subsequent SECTIONS of that ARTICLE accordingly:

SECTION 11.____. It is the intent of the legislature that the Health and Human Services Commission take any action the commission determines is necessary and appropriate, including expedited and emergency action, to ensure the timely implementation of the relevant provisions of this bill and the corresponding assumptions reflected in **HB 1**, 82nd Legislature, Regular Session (General Appropriations Act), by September 1, 2011, or the effective date of this Act,

whichever is later, including the adoption of administrative rules, the preparation and submission of any required waivers or state plan amendments, and the preparation and execution of any necessary contract changes or amendments.

(9) Add the following appropriately numbered ARTICLE to the bill and renumber the subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. IMPROVING NUTRITION AND HEALTH OUTCOMES AMONG RECIPIENTS OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS

SECTION ____.01. The legislature finds that:

(1) Texans are committed to ensuring the health of families and children and understand the importance of the effect preventive health care measures have on population health and the state economy;

(2) consuming healthy foods such as fruits, vegetables, whole grains, fat-free and low-fat dairy products, and seafood and consuming fewer foods with sodium, saturated and trans fats, added sugars, and refined grains are important preventive health care measures; and

(3) public benefits programs that provide recipients with access to an adequate and nutritional diet should incorporate sound nutritional principles and promote the health and well-being of recipients.

SECTION ____.02. (a) The executive commissioner of the Health and Human Services Commission shall develop and seek a waiver or other appropriate authorization from the United States secretary of agriculture under Section 17, Food and Nutrition Act of 2008 (7 U.S.C. Section 2026), to make changes to the supplemental nutrition assistance program provided under Chapter 33, Human Resources Code, to improve nutrition and health outcomes among recipients of benefits under the program.

(b) In developing the waiver or other authorization under Subsection (a) of this section, the executive commissioner of the Health and Human Services Commission may consider the feasibility, including the costs and benefits, of:

(1) restricting the purchase of certain food items with minimal nutritional value under the supplemental nutrition assistance program; and

(2) promoting healthy food choices by recipients of benefits under the program.

(c) In developing the waiver or other authorization under Subsection (a) of this section, the executive commissioner of the Health and Human Services Commission shall solicit input from interested persons, including state agencies that administer nutritional assistance programs, nonprofit organizations that administer hunger relief programs, health care providers, nutrition experts, food retailers, and food industry representatives.

(d) As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall apply for and actively pursue the waiver or other authorization as required by Subsection (a) of this section.

Floor Amendment No. 2

Amend Amendment No. 1 by Zerwas to **CSSB 7** by striking item (9) of the amendment (page 4, line 5 through page 5, line 21).

Floor Amendment No. 3

Amend Amendment No. 1 by Zerwas to **CSSB 7** (house committee printing), in added Section 32.074, Human Resources Code (page 1, line 15), between "recipient" and "has" by inserting "enrolled in a home and community-based services waiver program that includes a personal emergency response system as a service".

Floor Amendment No. 4

Amend **CSSB 7** (house committee printing) in SECTION 1.01(a) of the bill as follows:

(1) In added Section 531.02417(b), Government Code (page 1, line 16), between "cost-effective" and the underlined comma, insert "and in the best interests of Medicaid recipients".

(2) In added Section 531.02417(b)(1)(A), Government Code (page 1, line 22), strike "a state employee or contractor" and substitute "or under the direction of the recipient's personal physician who is licensed to practice in this state, or by a physician, physician assistant, registered nurse, or nurse practitioner who is licensed to practice in this state, and".

Floor Amendment No. 5

Amend **CSSB 7** (house committee printing), on page 44, by striking lines 7 and 8 and substituting the following:

(6) at least three members who are consumer representatives as follows:

(A) one member who is a recipient of long-term care services;

(B) one member who is a non-elderly consumer with disabilities; and

(C) one member who is represents families with children; and

Floor Amendment No. 6

Amend **CSSB 7** (House committee printing) as follows:

(1) In the recital to SECTION 1.15 of the bill (page 63, line 11), strike "Section 531.0697" and substitute "Sections 531.0696 and 531.0697".

(2) In SECTION 1.15 of the bill, immediately following the recital (page 63, between lines 11 and 12), insert the following:

Sec. 531.0696. CONSIDERATIONS IN AWARDING CERTAIN CONTRACTS. The commission may not contract with a managed care organization, including a health maintenance organization, or a pharmacy benefit manager if, in the preceding three years, the organization or pharmacy benefit manager, in connection with a bid, proposal, or contract with a governmental entity:

(1) made a material misrepresentation or committed fraud;

(2) was convicted of violating a state or federal law; or

(3) was assessed a penalty or fine in the amount of $500,000 or more in a state or federal administrative proceeding.

Floor Amendment No. 7

Amend **CSSB 7** (house committee printing) in SECTION 1.19 of the bill, in added Section 531.0025(a)(1)(A), Government Code (page 68, lines 3-4), by striking "and local community health clinics" and substituting "local community health clinics, and federally qualified health centers".

Floor Amendment No. 8

Amend **CSSB 7** (House committee printing) as follows:

(1) In the recital to SECTION 1.19(b) of the bill (page 68, line 19), strike "Subsection (c-1)" and substitute "Subsections (c-1) and (c-2)".

(2) In SECTION 1.19(b) of the bill (page 68, between lines 26 and 27), insert the following:

(c-2) A physician who, under the medical assistance program, provides an abortion other than an abortion described by Subsection (c-1) shall report to the department not later than the 30th day after the date the abortion is provided:

(1) the type of abortion provided by the physician; and

(2) the cost of each abortion provided.

(3) Add the following appropriately numbered ARTICLE to the bill and renumber subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. REPORTING REQUIREMENTS REGARDING ABORTION AND RELATED MEDICAL PROCEDURES

SECTION ____.01. Chapter 171, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. REPORTING REQUIREMENTS

Sec. 171.051. REPORTING REQUIREMENTS. (a) Not later than the 15th day of each month, a physician by mail shall submit to the department the abortion reporting form required by Section 171.052 for each abortion performed by the physician in the preceding calendar month.

(b) As soon as practicable, but not later than 48 hours after the time of diagnosis or treatment, a physician by mail shall submit to the department the complication reporting form required by Section 171.053 for each illness or injury of a woman in the preceding calendar year that:

(1) the physician determines was caused by a medical complication resulting from an abortion for which the physician treated the woman; or

(2) the woman suspects was caused by a medical complication resulting from an abortion for which the physician treated the woman.

(c) The reports submitted to the department as required by this subchapter may not by any means identify the name of a woman on whom an abortion is performed.

Sec. 171.052. ABORTION REPORTING FORM; PARTIAL EXCEPTION. (a) A physician shall report to the department on the form prescribed by the department the information required by this section for each abortion performed by the physician.

(b) The form must include:

(1) the following information, which must be completed by the woman before anesthesia is administered or the abortion is performed:

(A) the woman's:

(i) age;

(ii) race or ethnicity;

(iii) marital status; and

(iv) municipality, county, state, and nation of residence and whether that residence is 100 miles or more from the facility where the abortion is to be performed;

(B) the woman's highest level of education, selected by checking one of the following:

(i) did not receive any high school education;

(ii) received some high school education but did not graduate;

(iii) is a high school graduate or recipient of a high school equivalency certificate;

(iv) received some college education but is not a college graduate;

(v) obtained an associate's degree;

(vi) obtained a bachelor's degree;

(vii) obtained a master's degree;

(viii) obtained a doctoral degree; or

(ix) received other education (specify): _____;

(C) the age of the father of the unborn child at the time of the abortion;

(D) the method or methods of contraception used at the time the unborn child was conceived, selected by checking all applicable methods from the following list:

(i) condoms;

(ii) spermicide;

(iii) male sterilization;

(iv) female sterilization;

(v) an injectable contraceptive;

(vi) an inter-uterine device;

(vii) mini pills;

(viii) combination pills;

(ix) a diaphragm;

(x) a cervical cap or vaginal contraceptive ring;

(xi) a contraceptive patch;

(xii) a sponge;

(xiii) a calendar-based contraceptive method, including rhythm method or natural family planning or fertility awareness;

(xiv) withdrawal;

(xv) no method of contraception; or

(xvi) other method (specify): _____;

(E) a space for the woman to indicate the specific reason the abortion is to be performed, selected from the following list:

(i) the woman was coerced or forced to have the abortion;

(ii) the woman does not want any more children;

(iii) economic reasons;

(iv) the woman's unborn child has been diagnosed with one or more health problems that are documented in the woman's medical records;

(v) the father of the unborn child opposes the pregnancy;

(vi) the woman's parent opposes the pregnancy;

(vii) the woman fears a loss of family support;

(viii) the woman fears losing her job;

(ix) a school counselor recommends abortion;

(x) a physician recommends abortion;

(xi) the pregnancy is the result of rape;

(xii) the pregnancy is the result of incest;

(xiii) the woman does not prefer the gender of the unborn child; or

(xiv) the woman does not want to complete this section;

(F) the number of the woman's previous live births;

(G) the number of induced abortions the woman has previously undergone;

(H) the number of miscarriages the woman has previously experienced;

(I) the source of the woman's referral to the physician for the abortion, selected from the following list:

(i) a physician;

(ii) the woman herself;

(iii) a friend or family member of the woman;

(iv) a member of the clergy;

(v) a school counselor;

(vi) a social services agency;

(vii) the department;

(viii) a family planning clinic; or

(ix) other (specify): _____;

(J) the method of payment for the abortion, selected from the following list:

(i) private insurance;

(ii) a public health plan;

(iii) personal payment by cash; or

(iv) personal payment by check or credit card;

(K) whether the woman availed herself of the opportunity to view the printed information required under Subchapter B and, if so, whether the woman viewed the information described by Section 171.014 in printed form or on the department's Internet website;

(L) whether the sonogram image, verbal explanation of the image, and audio of the heart auscultation described by Section 171.012(a)(4) were made available to the woman; and

(M) whether the woman availed herself of the opportunity to receive the sonogram image, verbal explanation of the image, and audio of the heart auscultation described by Section 171.012(a)(4); and

(2) the following information, which must be completed by the physician:

(A) the name of the facility at which the abortion was performed, the municipality and county in which the facility is located, and the type of facility at which the abortion was performed, selected from the following list:

(i) an abortion facility licensed under Chapter 245;

(ii) a private office of a licensed physician;

(iii) a licensed hospital;

(iv) a licensed hospital satellite clinic; or

(v) an ambulatory surgical center licensed under Chapter 243;

(B) the license number, area of specialty, and signature of the physician who performed the abortion;

(C) a statement that the physician screened the woman to determine whether:

(i) coercion, as defined by Section 1.07, Penal Code, is a reason that the woman is seeking the abortion; and

(ii) the woman is a victim of an offense described by Section 22.011(a)(2), Penal Code;

(D) the type of the abortion procedure performed, selected from the following list:

(i) chemical abortion, specifying the chemical used;

(ii) suction and curettage;

(iii) dilation and curettage;

(iv) dilation and evacuation;

(v) dilation and extraction;

(vi) labor and induction;

(vii) hysterotomy or hysterectomy; or

(viii) other (specify): _____;

(E) the date the abortion was performed;

(F) whether the woman survived the abortion and, if the woman did not survive, the cause of the woman's death;

(G) the number of fetuses aborted;

(H) the number of weeks of gestation at which the abortion was performed, based on the best medical judgment of the attending physician performing the procedure, and the weight of the fetus or fetuses, if determinable;

(I) the method of pregnancy verification, selected from the following list:

(i) urine test;

(ii) clinical laboratory test;

(iii) ultrasound;

(iv) not tested; or

(v) other (specify): _____;

(J) the total fee collected from the patient by the physician for performing the abortion, including any services related to the abortion;

(K) whether the abortion procedure was:

(i) covered by fee-for-service insurance;

(ii) covered by a managed care benefit plan;

(iii) covered by another type of health benefit plan (specify): _____; or

(iv) not covered by insurance or a health benefit plan;

(L) the type of anesthetic, if any, used on the woman during the abortion;

(M) the type of anesthetic, if any, used on the unborn child or children during the abortion;

(N) the method used to dispose of fetal tissue and remains;

(O) complications of the abortion, including:

(i) none;

(ii) shock;

(iii) uterine perforation;
(iv) cervical laceration;
(v) hemorrhage;
(vi) aspiration or allergic response;
(vii) infection or sepsis;
(viii) infant or infants born alive;
(ix) death of woman; or
(x) other (specify): _____;

(P) if an infant was born alive during the abortion:

(i) whether life-sustaining measures were provided to the infant; and

(ii) the period of time the infant survived; and

(Q) for each abortion performed on a woman who is younger than 18 years of age:

(i) whether:

(a) the minor's parent, managing conservator, or legal guardian provided the written consent required by Section 164.052(a)(19), Occupations Code;

(b) the minor obtained judicial authorization under Section 33.003 or 33.004, Family Code, for the minor to consent to the abortion;

(c) the woman is emancipated and permitted under law to have the abortion without the written consent required by Section 164.052(a)(19), Occupations Code, or judicial authorization; or

(d) the physician concluded and documented in writing in the patient's medical record that on the basis of the physician's good faith clinical judgment a condition existed that complicated the medical condition of the pregnant minor and necessitated the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function and that there was insufficient time to obtain the consent of the minor's parent, managing conservator, or legal guardian;

(ii) if the minor's parent, managing conservator, or legal guardian gave written consent, whether the consent was given:

(a) in person at the time of the abortion; or

(b) at a place other than the location where the abortion was performed; and

(iii) if the minor obtained judicial authorization:

(a) the process the physician or physician's agent used to inform the minor of the availability of judicial bypass as an alternative to the written consent required by Section 164.052(a)(19), Occupations Code;

(b) whether court forms were provided to the minor; and

(c) who made arrangements for the minor for the court appearance.

(c) The information required by Subsection (b)(1) must be at the top of the form. The information required by Subsection (b)(2) must be at the bottom of the form.

(d) A woman is required to complete the information required by Subsection (b)(1) unless the abortion is medically necessary, as certified by a physician, to prevent death or the serious risk of substantial impairment of a major bodily function resulting from a life-threatening physical condition that is aggravated by, is caused by, or arises from the woman's pregnancy.

(e) If the woman does not complete the required information, the physician who performs the abortion shall include in the woman's medical file a signed written statement certifying the nature of the medical emergency described by Subsection (d).

(f) A physician shall maintain a copy of each completed form in the woman's medical file until the later of:

(1) the seventh anniversary of the date on which the form was signed; or

(2) the woman's 25th birthday.

(g) A physician or the physician's agent shall provide to each woman required to complete a form under this section a copy of the completed form before the woman leaves the facility where the abortion was performed.

(h) The department shall make the abortion reporting form available on the department's Internet website.

(i) The form prescribed by this section must comply with the requirements of Section 171.014(b)(1).

Sec. 171.053. COMPLICATION REPORTING FORM. (a) A physician shall report to the department on the form prescribed by the department the information required by this section on the physician's treatment of an illness or injury related to a medical complication resulting from the performance of an abortion.

(b) The form must include the following information to be completed by the physician providing the treatment:

(1) the date of the abortion that caused or may have caused the complication;

(2) the type of abortion that caused or may have caused the complication, selected from the following list:

(A) chemical abortion, specifying the chemical used;

(B) suction and curettage;

(C) dilation and curettage;

(D) dilation and evacuation;

(E) dilation and extraction;

(F) labor and induction;

(G) hysterotomy or hysterectomy; or

(H) other (specify): _____;

(3) the name and type of the facility where the abortion complication was diagnosed and treated, selected from the following list:

(A) an abortion facility licensed under Chapter 245;

(B) a private office of a licensed physician;

(C) a licensed hospital;

(D) a licensed hospital satellite clinic; or

(E) an ambulatory surgical center licensed under Chapter 243;

(4) the name and type of the facility where the abortion was provided, if known;

(5) the license number, area of specialty, and signature of the physician who treated the abortion complication;

(6) the date on which the abortion complication was treated;

(7) a description of the complication or complications, selected from the following list:

(A) none;

(B) shock;

(C) uterine perforation;

(D) cervical laceration;

(E) hemorrhage;

(F) aspiration or allergic response;

(G) infection or sepsis;

(H) infant or infants born alive;

(I) death of woman; or

(J) other (specify): _____;

(8) the number of weeks of gestation at which the abortion was performed, based on the best medical judgment of the attending physician at the time of the treatment for the complication;

(9) the number of the woman's previous live births;

(10) the number of previous induced abortions the woman has undergone;

(11) the number of miscarriages the woman has previously experienced;

(12) whether the treatment for the complication was paid for by:

(A) private insurance;

(B) a public health plan;

(C) personal payment by cash; or

(D) personal payment by check or credit card;

(13) the total fee collected by the physician for treatment of the complication;

(14) whether the treatment for the complication was:

(A) covered by fee-for-service insurance;

(B) covered by a managed care benefit plan;

(C) covered by another type of health benefit plan (specify): _____; or

(D) not covered by insurance or a health benefit plan; and

(15) the type of follow-up care recommended by the physician after the physician provides treatment for the complication.

(c) A physician shall maintain a copy of each completed form in the woman's medical file until the later of:

(1) the seventh anniversary of the date on which the form was signed; or

(2) the woman's 25th birthday.

(d) A physician or the physician's agent shall provide to each woman for whom a form is completed under this section a copy of the completed form before the woman leaves the facility where the treatment was received.

(e) The department shall make the complication form available on the department's Internet website.

(f) The form prescribed by this section must comply with the requirements of Section 171.014(b)(1).

Sec. 171.054. CONFIDENTIAL INFORMATION. (a) Except as provided by Section 171.057 and Subsection (b), all information received or maintained by the department under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code.

(b) A department employee may disclose information described by Subsection (a):

(1) for statistical purposes, but only if a person or facility is not identified;

(2) to a medical professional, a state agency, or a county or district court for purposes of enforcing this chapter or Chapter 245; or

(3) to a state licensing board for purposes of enforcing state licensing laws.

Sec. 171.055. PENALTIES. (a) The commissioner of state health services may assess an administrative penalty against a physician who fails to submit a report within the time required by Section 171.051 in the amount of $500 for each 30-day period or portion of a 30-day period the report remains overdue.

(b) The commissioner may bring an action against a physician who fails to file a report required under Section 171.051 before the first anniversary of the date the report was due to compel the physician to submit a complete report within a time stated by the court order or be subject to sanctions for civil contempt.

Sec. 171.056. OFFENSE; CRIMINAL PENALTY. (a) A physician commits an offense if:

(1) the physician fails to submit a report required by this subchapter;

(2) the physician intentionally, knowingly, or recklessly submits false information in a report required by this subchapter;

(3) the physician includes in a report required by this subchapter the name or identifying information of a woman on whom the physician performed an abortion; or

(4) the physician or the physician's agent discloses identifying information that is confidential under Section 171.054.

(b) An offense under this section is a Class A misdemeanor.

Sec. 171.057. PUBLIC DATA POSTING BY DEPARTMENT. (a) In order to assess the quality and efficiency of health care, the department shall aggregate the data that details the information reported under Section 171.051 during the preceding calendar year.

(b) Not later than April 1 of each year, the department shall post on the department's Internet website the statistical data aggregated under Subsection (a).

(c) Each posting under Subsection (b) must include data from the postings made under this section in previous years, including updated or corrected information for those postings. Each Internet web page containing a posting from a previous year must indicate at the bottom of the web page the date on which the data contained on the web page was most recently updated or corrected.

(d) The department shall ensure that a posting made under this section does not contain any information that could reasonably lead to the identification of:

(1) a woman on whom an abortion was performed or who received treatment for a complication resulting from an abortion; or

(2) a physician who performed an abortion or treated a complication resulting from an abortion.

SECTION ____.02. Section 245.001, Health and Safety Code, is amended to read as follows:

Sec. 245.001. SHORT TITLE. This chapter may be cited as the Texas Abortion Facility [~~Reporting and~~] Licensing Act.

SECTION ____.03. Section 245.005(e), Health and Safety Code, is amended to read as follows:

(e) As a condition for renewal of a license, the licensee must submit to the department the annual license renewal fee and an annual report[~~, including the report required under Section 245.011~~].

SECTION ____.04. Section 248.003, Health and Safety Code, is amended to read as follows:

Sec. 248.003. EXEMPTIONS. This chapter does not apply to:

(1) a home and community support services agency required to be licensed under Chapter 142;

(2) a person required to be licensed under Chapter 241 (Texas Hospital Licensing Law);

(3) an institution required to be licensed under Chapter 242;

(4) an ambulatory surgical center required to be licensed under Chapter 243 (Texas Ambulatory Surgical Center Licensing Act);

(5) a birthing center required to be licensed under Chapter 244 (Texas Birthing Center Licensing Act);

(6) a facility required to be licensed under Chapter 245 (Texas Abortion Facility [~~Reporting and~~] Licensing Act);

(7) a child care institution, foster group home, foster family home, and child-placing agency, for children in foster care or other residential care who are under the conservatorship of the Department of Family and Protective [~~and Regulatory~~] Services; or

(8) a person providing medical or nursing care or services under a license or permit issued under other state law.

SECTION ____.05. Effective January 1, 2012, Section 245.011, Health and Safety Code, is repealed.

SECTION ____.06. (a) Not later than December 1, 2011, the Department of State Health Services shall make available the forms required by Sections 171.052 and 171.053, Health and Safety Code, as added by this article.

(b) Notwithstanding Section 171.051, Health and Safety Code, as added by this article, a physician is not required to submit a report required by Section 171.051, Health and Safety Code, as added by this article, before January 1, 2012.

SECTION ____.07. Not later than April 1, 2013, the Department of State Health Services shall make the data posting required by Section 171.057, Health and Safety Code, as added by this article.

SECTION ____.08. (a) Except as provided by Subsection (b) of this section, this article takes effect on the 91st day after the last day of the legislative session.

(b) Section 171.056, Health and Safety Code, as added by this article, and Sections 245.001, 245.005, and 248.003, Health and Safety Code, as amended by this article, take effect January 1, 2012.

Floor Amendment No. 10

Amend **CSSB 7** (house committee printing), in ARTICLE 7 of the bill, by adding the following appropriately numbered SECTIONS to the article and renumbering subsequent SECTIONS of that article accordingly:

SECTION 7.____. Chapter 108, Health and Safety Code, is amended by adding Section 108.0131 to read as follows:

Sec. 108.0131. NOTICE REQUIRED. A provider who submits data under Section 108.009 shall provide notice to the provider's patients that:

(1) the provider submits data as required by this chapter; and

(2) the data may be sold, collected, identified, or distributed to third parties.

SECTION 7.____. A health care provider is not required to comply with the requirements of Section 108.0131, Health and Safety Code, as added by this Act, before October 1, 2012.

Floor Amendment No. 12

Amend **CSSB 7** by adding the following and renumbering the sections accordingly:

SECTION 1. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 260 to read as follows:

CHAPTER 260. REPORTS OF ABUSE, NEGLECT, AND EXPLOITATION OF RESIDENTS OF CERTAIN FACILITIES

Sec. 260.001. DEFINITIONS. In this chapter:

(1) "Abuse" means:

(A) the negligent or wilful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to a resident by the resident's caregiver, family member, or other individual who has an ongoing relationship with the resident; or

(B) sexual abuse of a resident, including any involuntary or nonconsensual sexual conduct that would constitute an offense under Section 21.08, Penal Code (indecent exposure), or Chapter 22, Penal Code (assaultive offenses), committed by the resident's caregiver, family member, or other individual who has an ongoing relationship with the resident.

(2) "Department" means the Department of Aging and Disability Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "Exploitation" means the illegal or improper act or process of a caregiver, family member, or other individual who has an ongoing relationship with the resident using the resources of a resident for monetary or personal benefit, profit, or gain without the informed consent of the resident.

(5) "Facility" means:

(A) an institution as that term is defined by Section 242.002; and

(B) an assisted living facility as that term is defined by Section 247.002.

(6) "Neglect" means the failure to provide for one's self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caregiver to provide such goods or services.

(7) "Resident" means an individual, including a patient, who resides in a facility.

Sec. 260.002. REPORTING OF ABUSE, NEGLECT, AND EXPLOITATION. (a) A person, including an owner or employee of a facility, who has cause to believe that the physical or mental health or welfare of a resident has been or may be adversely affected by abuse, neglect, or exploitation caused by another person shall report the abuse, neglect, or exploitation in accordance with this chapter.

(b) Each facility shall require each employee of the facility, as a condition of employment with the facility, to sign a statement that the employee realizes that the employee may be criminally liable for failure to report those abuses.

(c) A person shall make an oral report immediately on learning of the abuse, neglect, or exploitation and shall make a written report to the department not later than the fifth day after the oral report is made.

Sec. 260.003. CONTENTS OF REPORT. (a) A report of abuse, neglect, or exploitation is nonaccusatory and reflects the reporting person's belief that a resident has been or will be abused, neglected, or exploited or has died of abuse or neglect.

(b) The report must contain:

(1) the name and address of the resident;

(2) the name and address of the person responsible for the care of the resident, if available; and

(3) other relevant information.

(c) Except for an anonymous report under Section 260.004, a report of abuse, neglect, or exploitation under Section 260.002 should also include the address or phone number of the person making the report so that an investigator can contact the person for any necessary additional information. The phone number, address, and name of the person making the report must be deleted from any copy of any type of report that is released to the public, to the facility, or to an owner or agent of the facility.

Sec. 260.004. ANONYMOUS REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION. (a) An anonymous report of abuse, neglect, or exploitation, although not encouraged, shall be received and acted on in the same manner as an acknowledged report.

(b) An anonymous report about a specific individual that accuses the individual of abuse, neglect, or exploitation need not be investigated.

Sec. 260.005. TELEPHONE HOTLINE; PROCESSING OF REPORTS. (a) The department shall operate the department's telephone hotline to:

(1) receive reports of abuse, neglect, or exploitation; and

(2) dispatch investigators.

(b) A report of abuse, neglect, or exploitation shall be made to the department's telephone hotline or to a local or state law enforcement agency. A report made relating to abuse, neglect, or exploitation or another complaint described by Section 260.007(c)(1) shall be made to the department's telephone hotline and to the law enforcement agency described by Section 260.017(a).

(c) Except as provided by Section 260.017, a local or state law enforcement agency that receives a report of abuse, neglect, or exploitation shall refer the report to the department.

Sec. 260.006. NOTICE. (a) Each facility shall prominently and conspicuously post a sign for display in a public area of the facility that is readily available to residents, employees, and visitors.

(b) The sign must include the statement: CASES OF SUSPECTED ABUSE, NEGLECT, OR EXPLOITATION SHALL BE REPORTED TO THE TEXAS DEPARTMENT OF AGING AND DISABILITY SERVICES BY CALLING (insert telephone hotline number).

(c) A facility shall provide the telephone hotline number to an immediate family member of a resident of the facility upon the resident's admission into the facility.

Sec. 260.007. INVESTIGATION AND REPORT OF DEPARTMENT. (a) The department shall make a thorough investigation after receiving an oral or written report of abuse, neglect, or exploitation under Section 260.002 or another complaint alleging abuse, neglect, or exploitation.

(b) The primary purpose of the investigation is the protection of the resident.

(c) The department shall begin the investigation:

(1) within 24 hours after receipt of the report or other allegation, if the report of abuse, neglect, exploitation, or other complaint alleges that:

(A) a resident's health or safety is in imminent danger;

(B) a resident has recently died because of conduct alleged in the report of abuse, neglect, exploitation, or other complaint;

(C) a resident has been hospitalized or been treated in an emergency room because of conduct alleged in the report of abuse, neglect, exploitation, or other complaint;

(D) a resident has been a victim of any act or attempted act described by Section 21.02, 21.11, 22.011, or 22.021, Penal Code; or

(E) a resident has suffered bodily injury, as that term is defined by Section 1.07, Penal Code, because of conduct alleged in the report of abuse, neglect, exploitation, or other complaint; or

(2) before the end of the next working day after the date of receipt of the report of abuse, neglect, exploitation, or other complaint, if the report or complaint alleges the existence of circumstances that could result in abuse, neglect, or exploitation and that could place a resident's health or safety in imminent danger.

(d) The department shall adopt rules governing the conduct of investigations, including procedures to ensure that the complainant and the resident, the resident's next of kin, and any person designated to receive information concerning the resident receive periodic information regarding the investigation.

(e) In investigating the report of abuse, neglect, exploitation, or other complaint, the investigator for the department shall:

(1) make an unannounced visit to the facility to determine the nature and cause of the alleged abuse, neglect, or exploitation of the resident;

(2) interview each available witness, including the resident who suffered the alleged abuse, neglect, or exploitation if the resident is able to communicate or another resident or other witness identified by any source as having personal knowledge relevant to the report of abuse, neglect, exploitation, or other complaint;

(3) personally inspect any physical circumstance that is relevant and material to the report of abuse, neglect, exploitation, or other complaint and that may be objectively observed;

(4) make a photographic record of any injury to a resident, subject to Subsection (n); and

(5) write an investigation report that includes:

(A) the investigator's personal observations;

(B) a review of relevant documents and records;

(C) a summary of each witness statement, including the statement of the resident that suffered the alleged abuse, neglect, or exploitation and any other resident interviewed in the investigation; and

(D) a statement of the factual basis for the findings for each incident or problem alleged in the report or other allegation.

(f) An investigator for an investigating agency shall conduct an interview under Subsection (e)(2) in private unless the witness expressly requests that the interview not be private.

(g) Not later than the 30th day after the date the investigation is complete, the investigator shall prepare the written report required by Subsection (e). The department shall make the investigation report available to the public on request after the date the department's letter of determination is complete. The department shall delete from any copy made available to the public:

(1) the name of:

(A) any resident, unless the department receives written authorization from a resident or the resident's legal representative requesting the resident's name be left in the report;

(B) the person making the report of abuse, neglect, exploitation, or other complaint; and

(C) an individual interviewed in the investigation; and

(2) photographs of any injury to the resident.

(h) In the investigation, the department shall determine:

(1) the nature, extent, and cause of the abuse, neglect, or exploitation;

(2) the identity of the person responsible for the abuse, neglect, or exploitation;

(3) the names and conditions of the other residents;

(4) an evaluation of the persons responsible for the care of the residents;

(5) the adequacy of the facility environment; and

(6) any other information required by the department.

(i) If the department attempts to carry out an on-site investigation and it is shown that admission to the facility or any place where the resident is located cannot be obtained, a probate or county court shall order the person responsible for the care of the resident or the person in charge of a place where the resident is located to allow entrance for the interview and investigation.

(j) Before the completion of the investigation, the department shall file a petition for temporary care and protection of the resident if the department determines that immediate removal is necessary to protect the resident from further abuse, neglect, or exploitation.

(k) The department shall make a complete final written report of the investigation and submit the report and its recommendations to the district attorney and, if a law enforcement agency has not investigated the report of abuse, neglect, exploitation, or other complaint, to the appropriate law enforcement agency.

(l) Within 24 hours after receipt of a report of abuse, neglect, exploitation, or other complaint described by Subsection (c)(1), the department shall report the report or complaint to the law enforcement agency described by Section 260.017(a). The department shall cooperate with that law enforcement agency in the investigation of the report or complaint as described by Section 260.017.

(m) The inability or unwillingness of a local law enforcement agency to conduct a joint investigation under Section 260.017 does not constitute grounds to prevent or prohibit the department from performing its duties under this chapter. The department shall document any instance in which a law enforcement agency is unable or unwilling to conduct a joint investigation under Section 260.017.

(n) If the department determines that, before a photographic record of an injury to a resident may be made under Subsection (e), consent is required under state or federal law, the investigator:

(1) shall seek to obtain any required consent; and

(2) may not make the photographic record unless the consent is obtained.

Sec. 260.008. CONFIDENTIALITY. A report, record, or working paper used or developed in an investigation made under this chapter and the name, address, and phone number of any person making a report under this chapter are confidential and may be disclosed only for purposes consistent with rules adopted by the executive commissioner. The report, record, or working paper and the name, address, and phone number of the person making the report shall be disclosed to a law enforcement agency as necessary to permit the law enforcement agency to investigate a report of abuse, neglect, exploitation, or other complaint in accordance with Section 260.017.

Sec. 260.009. IMMUNITY. (a) A person who reports as provided by this chapter is immune from civil or criminal liability that, in the absence of the immunity, might result from making the report.

(b) The immunity provided by this section extends to participation in any judicial proceeding that results from the report.

(c) This section does not apply to a person who reports in bad faith or with malice.

Sec. 260.010. PRIVILEGED COMMUNICATIONS. In a proceeding regarding the abuse, neglect, or exploitation of a resident or the cause of any abuse, neglect, or exploitation, evidence may not be excluded on the ground of privileged communication except in the case of a communication between an attorney and client.

Sec. 260.011. CENTRAL REGISTRY. (a) The department shall maintain in the city of Austin a central registry of reported cases of resident abuse, neglect, or exploitation.

(b) The executive commissioner may adopt rules necessary to carry out this section.

(c) The rules shall provide for cooperation with hospitals and clinics in the exchange of reports of resident abuse, neglect, or exploitation.

Sec. 260.012. FAILURE TO REPORT; CRIMINAL PENALTY. (a) A person commits an offense if the person has cause to believe that a resident's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, or exploitation and knowingly fails to report in accordance with Section 260.002.

(b) An offense under this section is a Class A misdemeanor.

Sec. 260.013. BAD FAITH, MALICIOUS, OR RECKLESS REPORTING; CRIMINAL PENALTY. (a) A person commits an offense if the person reports under this chapter in bad faith, maliciously, or recklessly.

(b) An offense under this section is a Class A misdemeanor.

(c) The criminal penalty provided by this section is in addition to any civil penalties for which the person may be liable.

Sec. 260.014. RETALIATION AGAINST EMPLOYEES PROHIBITED. (a) In this section, "employee" means a person who is an employee of a facility or any other person who provides services for a facility for compensation, including a contract laborer for the facility.

(b) An employee has a cause of action against a facility, or the owner or another employee of the facility, that suspends or terminates the employment of the person or otherwise disciplines or discriminates or retaliates against the employee for reporting to the employee's supervisor, an administrator of the facility, a state regulatory agency, or a law enforcement agency a violation of law, including a violation of Chapter 242 or 247 or a rule adopted under Chapter 242 or 247, or for initiating or cooperating in any investigation or proceeding of a governmental entity relating to care, services, or conditions at the facility.

(c) The petitioner may recover:

(1) the greater of $1,000 or actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown, and damages for lost wages if the petitioner's employment was suspended or terminated;

(2) exemplary damages;

(3) court costs; and

(4) reasonable attorney's fees.

(d) In addition to the amounts that may be recovered under Subsection (c), a person whose employment is suspended or terminated is entitled to appropriate injunctive relief, including, if applicable:

(1) reinstatement in the person's former position; and

(2) reinstatement of lost fringe benefits or seniority rights.

(e) The petitioner, not later than the 90th day after the date on which the person's employment is suspended or terminated, must bring suit or notify the Texas Workforce Commission of the petitioner's intent to sue under this section. A petitioner who notifies the Texas Workforce Commission under this subsection must bring suit

not later than the 90th day after the date of the delivery of the notice to the commission. On receipt of the notice, the commission shall notify the facility of the petitioner's intent to bring suit under this section.

(f) The petitioner has the burden of proof, except that there is a rebuttable presumption that the person's employment was suspended or terminated for reporting abuse, neglect, or exploitation if the person is suspended or terminated within 60 days after the date on which the person reported in good faith.

(g) A suit under this section may be brought in the district court of the county in which:

(1) the plaintiff resides;

(2) the plaintiff was employed by the defendant; or

(3) the defendant conducts business.

(h) Each facility shall require each employee of the facility, as a condition of employment with the facility, to sign a statement that the employee understands the employee's rights under this section. The statement must be part of the statement required under Section 260.002. If a facility does not require an employee to read and sign the statement, the periods under Subsection (e) do not apply, and the petitioner must bring suit not later than the second anniversary of the date on which the person's employment is suspended or terminated.

Sec. 260.015. RETALIATION AGAINST VOLUNTEERS, RESIDENTS, OR FAMILY MEMBERS OR GUARDIANS OF RESIDENTS. (a) A facility may not retaliate or discriminate against a volunteer, resident, or family member or guardian of a resident because the volunteer, resident, resident's family member or guardian, or any other person:

(1) makes a complaint or files a grievance concerning the facility;

(2) reports a violation of law, including a violation of Chapter 242 or 247 or a rule adopted under Chapter 242 or 247; or

(3) initiates or cooperates in an investigation or proceeding of a governmental entity relating to care, services, or conditions at the facility.

(b) A volunteer, resident, or family member or guardian of a resident who is retaliated or discriminated against in violation of Subsection (a) is entitled to sue for:

(1) injunctive relief;

(2) the greater of $1,000 or actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown;

(3) exemplary damages;

(4) court costs; and

(5) reasonable attorney's fees.

(c) A volunteer, resident, or family member or guardian of a resident who seeks relief under this section must report the alleged violation not later than the 180th day after the date on which the alleged violation of this section occurred or was discovered by the volunteer, resident, or family member or guardian of the resident through reasonable diligence.

(d) A suit under this section may be brought in the district court of the county in which the facility is located or in a district court of Travis County.

Sec. 260.016. REPORTS RELATING TO DEATHS OF RESIDENTS OF AN INSTITUTION. (a) In this section, "institution" has the meaning assigned by Section 242.002.

(b) An institution shall submit a report to the department concerning deaths of residents of the institution. The report must be submitted within 10 working days after the last day of each month in which a resident of the institution dies. The report must also include the death of a resident occurring within 24 hours after the resident is transferred from the institution to a hospital.

(c) The institution must make the report on a form prescribed by the department. The report must contain the name and social security number of the deceased.

(d) The department shall correlate reports under this section with death certificate information to develop data relating to the:

(1) name and age of the deceased;

(2) official cause of death listed on the death certificate;

(3) date, time, and place of death; and

(4) name and address of the institution in which the deceased resided.

(e) Except as provided by Subsection (f), a record under this section is confidential and not subject to the provisions of Chapter 552, Government Code.

(f) The department shall develop statistical information on official causes of death to determine patterns and trends of incidents of death among residents and in specific institutions. Information developed under this subsection is public.

(g) A licensed institution shall make available historical statistics on all required information on request of an applicant or applicant's representative.

Sec. 260.017. DUTIES OF LAW ENFORCEMENT; JOINT INVESTIGATION. (a) The department shall investigate a report of abuse, neglect, exploitation, or other complaint described by Section 260.007(c)(1) jointly with:

(1) the municipal law enforcement agency, if the facility is located within the territorial boundaries of a municipality; or

(2) the sheriff's department of the county in which the facility is located, if the facility is not located within the territorial boundaries of a municipality.

(b) The law enforcement agency described by Subsection (a) shall acknowledge the report of abuse, neglect, exploitation, or other complaint and begin the joint investigation required by this section within 24 hours after receipt of the report or complaint. The law enforcement agency shall cooperate with the department and report to the department the results of the investigation.

(c) The requirement that the law enforcement agency and the department conduct a joint investigation under this section does not require that a representative of each agency be physically present during all phases of the investigation or that each agency participate equally in each activity conducted in the course of the investigation.

Sec. 260.018. CALL CENTER EVALUATION; REPORT. (a) The department, using existing resources, shall test, evaluate, and determine the most effective and efficient staffing pattern for receiving and processing complaints by expanding customer service representatives' hours of availability at the department's telephone hotline call center.

(b) The department shall report the findings of the evaluation described by Subsection (a) to the House Committee on Human Services and the Senate Committee on Health and Human Services not later than September 1, 2012.

(c) This section expires October 31, 2012.

SECTION 2. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.271 to read as follows:

Art. 2.271. INVESTIGATION OF CERTAIN REPORTS ALLEGING ABUSE, NEGLECT, OR EXPLOITATION. Notwithstanding Article 2.27, on receipt of a report of abuse, neglect, exploitation, or other complaint of a resident of a nursing home, convalescent home, or other related institution or an assisted living facility, under Section 260.007(c)(1), Health and Safety Code, the appropriate local law enforcement agency shall investigate the report as required by Section 260.017, Health and Safety Code.

SECTION 3. Subchapter A, Chapter 242, Health and Safety Code, is amended by adding Section 242.018 to read as follows:

Sec. 242.018. COMPLIANCE WITH CHAPTER 260. (a) An institution shall comply with Chapter 260 and the rules adopted under that chapter.

(b) A person, including an owner or employee of an institution, shall comply with Chapter 260 and the rules adopted under that chapter.

SECTION 4. Section 242.042(a), Health and Safety Code, is amended to read as follows:

(a) Each institution shall prominently and conspicuously post for display in a public area of the institution that is readily available to residents, employees, and visitors:

(1) the license issued under this chapter;

(2) a sign prescribed by the department that specifies complaint procedures established under this chapter or rules adopted under this chapter and that specifies how complaints may be registered with the department;

(3) a notice in a form prescribed by the department stating that licensing inspection reports and other related reports which show deficiencies cited by the department are available at the institution for public inspection and providing the department's toll-free telephone number that may be used to obtain information concerning the institution;

(4) a concise summary of the most recent inspection report relating to the institution;

(5) notice that the department can provide summary reports relating to the quality of care, recent investigations, litigation, and other aspects of the operation of the institution;

(6) notice that the Texas Board of Nursing Facility Administrators can provide information about the nursing facility administrator;

(7) any notice or written statement required to be posted under Section 242.072(c);

(8) notice that informational materials relating to the compliance history of the institution are available for inspection at a location in the institution specified by the sign; [~~and~~]

(9) notice that employees, other staff, residents, volunteers, and family members and guardians of residents are protected from discrimination or retaliation as provided by Sections 260.014 and 260.015; and

(10) a sign required to be posted under Section 260.006(a) [~~242.133 and 242.1335~~].

SECTION 5. Section 242.0665(b), Health and Safety Code, is amended to read as follows:

(b) Subsection (a) does not apply:

(1) to a violation that the department determines:

(A) results in serious harm to or death of a resident;

(B) constitutes a serious threat to the health or safety of a resident; or

(C) substantially limits the institution's capacity to provide care;

(2) to a violation described by Sections 242.066(a)(2)-(7);

(3) to a violation of Section 260.014 [~~242.133~~] or 260.015 [~~242.1335~~]; or

(4) to a violation of a right of a resident adopted under Subchapter L.

SECTION 6. Sections 242.848(a) and (b), Health and Safety Code, are amended to read as follows:

(a) For purposes of the duty to report abuse or neglect under Section 260.002 [~~242.122~~] and the criminal penalty for the failure to report abuse or neglect under Section 260.012 [~~242.131~~], a person who is conducting electronic monitoring on behalf of a resident under this subchapter is considered to have viewed or listened to a tape or recording made by the electronic monitoring device on or before the 14th day after the date the tape or recording is made.

(b) If a resident who has capacity to determine that the resident has been abused or neglected and who is conducting electronic monitoring under this subchapter gives a tape or recording made by the electronic monitoring device to a person and directs the person to view or listen to the tape or recording to determine whether abuse or neglect has occurred, the person to whom the resident gives the tape or recording is considered to have viewed or listened to the tape or recording on or before the seventh day after the date the person receives the tape or recording for purposes of the duty to report abuse or neglect under Section 260.002 [~~242.122~~] and of the criminal penalty for the failure to report abuse or neglect under Section 260.012 [~~242.131~~].

SECTION 7. Subchapter A, Chapter 247, Health and Safety Code, is amended by adding Section 247.007 to read as follows:

Sec. 247.007. COMPLIANCE WITH CHAPTER 260. (a) An assisted living facility shall comply with Chapter 260 and the rules adopted under that chapter.

(b) A person, including an owner or employee of an assisted living facility, shall comply with Chapter 260 and the rules adopted under that chapter.

SECTION 8. Section 247.043(a), Health and Safety Code, is amended to read as follows:

(a) The department shall conduct an investigation in accordance with Section 260.007 after receiving a report [~~a preliminary investigation of each allegation~~] of abuse, exploitation, or neglect of a resident of an assisted living facility [~~to determine if there is evidence to corroborate the allegation. If the department determines that there is evidence to corroborate the allegation, the department shall conduct a thorough investigation of the allegation~~].

SECTION 9. Section 247.0452(b), Health and Safety Code, is amended to read as follows:

(b) Subsection (a) does not apply:

(1) to a violation that the department determines results in serious harm to or death of a resident;

(2) to a violation described by Sections 247.0451(a)(2)-(7) or a violation of Section 260.014 or 260.015;

(3) to a second or subsequent violation of:

(A) a right of the same resident under Section 247.064; or

(B) the same right of all residents under Section 247.064; or

(4) to a violation described by Section 247.066, which contains its own right to correct provisions.

SECTION 10. Section 48.003, Human Resources Code, is amended to read as follows:

Sec. 48.003. INVESTIGATIONS IN NURSING HOMES, ASSISTED LIVING FACILITIES, AND SIMILAR FACILITIES. (a) This chapter does not apply if the alleged or suspected abuse, neglect, or exploitation occurs in a facility licensed under Chapter 242 or 247, Health and Safety Code.

(b) Alleged or suspected abuse, neglect, or exploitation that occurs in a facility licensed under Chapter 242 or 247, Health and Safety Code, is governed by Chapter 260 [~~Subchapter B, Chapter 242~~], Health and Safety Code.

SECTION 11. Subchapter E, Chapter 242, Health and Safety Code, is repealed.

SECTION 12. (a) The repeal by this Act of Section 242.131, Health and Safety Code, does not apply to an offense committed under that section before the effective date of this Act. An offense committed before the effective date of this Act is governed by that section as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) The repeal by this Act of Sections 242.133 and 242.1335, Health and Safety Code, does not apply to a cause of action that accrues before the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by Section 242.133 or 242.1335, Health and Safety Code, as applicable, as the section existed at the time the cause of action accrued, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act by the repeal of Subchapter E, Chapter 242, Health and Safety Code, does not apply to a disciplinary action under Subchapter C, Chapter 242, Health and Safety Code, for conduct that occurred before the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law as it existed on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 13. (a) The Department of Aging and Disability Services shall implement Chapter 260, Health and Safety Code, as added by this Act, using only existing resources and personnel.

(b) The Department of Aging and Disability Services shall ensure that the services provided on the effective date of this Act are at least as comprehensive as the services provided on the day before the effective date of this Act.

Floor Amendment No. 14

Amend **CSSB 7** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES accordingly:

ARTICLE ____. INTERSTATE HEALTH CARE COMPACT

SECTION ____.01. Title 15, Insurance Code, is amended by adding Chapter 5002 to read as follows:

CHAPTER 5002. INTERSTATE HEALTH CARE COMPACT

Sec. 5002.001. EXECUTION OF COMPACT. This state enacts the Interstate Health Care Compact and enters into the compact with all other states legally joining in the compact in substantially the following form:

Whereas, the separation of powers, both between the branches of the Federal government and between Federal and State authority, is essential to the preservation of individual liberty;

Whereas, the Constitution creates a Federal government of limited and enumerated powers, and reserves to the States or to the people those powers not granted to the Federal government;

Whereas, the Federal government has enacted many laws that have preempted State laws with respect to Health Care, and placed increasing strain on State budgets, impairing other responsibilities such as education, infrastructure, and public safety;

Whereas, the Member States seek to protect individual liberty and personal control over Health Care decisions, and believe the best method to achieve these ends is by vesting regulatory authority over Health Care in the States;

Whereas, by acting in concert, the Member States may express and inspire confidence in the ability of each Member State to govern Health Care effectively; and

Whereas, the Member States recognize that consent of Congress may be more easily secured if the Member States collectively seek consent through an interstate compact;

NOW THEREFORE, the Member States hereto resolve, and by the adoption into law under their respective State Constitutions of this Health Care Compact, agree, as follows:

Sec. 1. Definitions. As used in this Compact, unless the context clearly indicates otherwise:

"Commission" means the Interstate Advisory Health Care Commission.

"Effective Date" means the date upon which this Compact shall become effective for purposes of the operation of State and Federal law in a Member State, which shall be the later of:

a) the date upon which this Compact shall be adopted under the laws of the Member State, and

b) the date upon which this Compact receives the consent of Congress pursuant to Article I, Section 10, of the United States Constitution, after at least two Member States adopt this Compact.

"Health Care" means care, services, supplies, or plans related to the health of an individual and includes but is not limited to:

(a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body, and

(b) sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription, and

(c) an individual or group plan that provides, or pays the cost of, care, services, or supplies related to the health of an individual, except any care, services, supplies, or plans provided by the United States Department of Defense and United States Department of Veteran Affairs, or provided to Native Americans.

"Member State" means a State that is signatory to this Compact and has adopted it under the laws of that State.

"Member State Base Funding Level" means a number equal to the total Federal spending on Health Care in the Member State during Federal fiscal year 2010. On or before the Effective Date, each Member State shall determine the Member State Base Funding Level for its State, and that number shall be binding upon that Member State.

"Member State Current Year Funding Level" means the Member State Base Funding Level multiplied by the Member State Current Year Population Adjustment Factor multiplied by the Current Year Inflation Adjustment Factor.

"Member State Current Year Population Adjustment Factor" means the average population of the Member State in the current year less the average population of the Member State in Federal fiscal year 2010, divided by the average population of the Member State in Federal fiscal year 2010, plus 1. Average population in a Member State shall be determined by the United States Census Bureau.

"Current Year Inflation Adjustment Factor" means the Total Gross Domestic Product Deflator in the current year divided by the Total Gross Domestic Product Deflator in Federal fiscal year 2010. Total Gross Domestic Product Deflator shall be determined by the Bureau of Economic Analysis of the United States Department of Commerce.

Sec. 2. Pledge. The Member States shall take joint and separate action to secure the consent of the United States Congress to this Compact in order to return the authority to regulate Health Care to the Member States consistent with the goals and principles articulated in this Compact. The Member States shall improve Health Care policy within their respective jurisdictions and according to the judgment and discretion of each Member State.

Sec. 3. Legislative Power. The legislatures of the Member States have the primary responsibility to regulate Health Care in their respective States.

Sec. 4. State Control. Each Member State, within its State, may suspend by legislation the operation of all federal laws, rules, regulations, and orders regarding Health Care that are inconsistent with the laws and regulations adopted by the Member State pursuant to this Compact. Federal and State laws, rules, regulations, and orders regarding Health Care will remain in effect unless a Member State expressly suspends them pursuant to its authority under this Compact. For any federal law, rule, regulation, or order that remains in effect in a Member State after the Effective Date, that Member State shall be responsible for the associated funding obligations in its State.

Sec. 5. Funding.

(a) Each Federal fiscal year, each Member State shall have the right to Federal monies up to an amount equal to its Member State Current Year Funding Level for that Federal fiscal year, funded by Congress as mandatory spending and not subject to annual appropriation, to support the exercise of Member State authority under this Compact. This funding shall not be conditional on any action of or regulation, policy, law, or rule being adopted by the Member State.

(b) By the start of each Federal fiscal year, Congress shall establish an initial Member State Current Year Funding Level for each Member State, based upon reasonable estimates. The final Member State Current Year Funding Level shall be calculated, and funding shall be reconciled by the United States Congress based upon information provided by each Member State and audited by the United States Government Accountability Office.

Sec. 6. Interstate Advisory Health Care Commission.

(a) The Interstate Advisory Health Care Commission is established. The Commission consists of members appointed by each Member State through a process to be determined by each Member State. A Member State may not appoint more than two members to the Commission and may withdraw membership from the Commission at any time. Each Commission member is entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the Commission's total membership.

(b) The Commission may elect from among its membership a Chairperson. The Commission may adopt and publish bylaws and policies that are not inconsistent with this Compact. The Commission shall meet at least once a year, and may meet more frequently.

(c) The Commission may study issues of Health Care regulation that are of particular concern to the Member States. The Commission may make non-binding recommendations to the Member States. The legislatures of the Member States may consider these recommendations in determining the appropriate Health Care policies in their respective States.

(d) The Commission shall collect information and data to assist the Member States in their regulation of Health Care, including assessing the performance of various State Health Care programs and compiling information on the prices of Health Care. The Commission shall make this information and data available to the legislatures of the Member States. Notwithstanding any other provision in this Compact, no Member State shall disclose to the Commission the health information of any individual, nor shall the Commission disclose the health information of any individual.

(e) The Commission shall be funded by the Member States as agreed to by the Member States. The Commission shall have the responsibilities and duties as may be conferred upon it by subsequent action of the respective legislatures of the Member States in accordance with the terms of this Compact.

(f) The Commission shall not take any action within a Member State that contravenes any State law of that Member State.

Sec. 7. Congressional Consent. This Compact shall be effective on its adoption by at least two Member States and consent of the United States Congress. This Compact shall be effective unless the United States Congress, in consenting to this Compact, alters the fundamental purposes of this Compact, which are:

(a) To secure the right of the Member States to regulate Health Care in their respective States pursuant to this Compact and to suspend the operation of any conflicting federal laws, rules, regulations, and orders within their States; and

(b) To secure Federal funding for Member States that choose to invoke their authority under this Compact, as prescribed by Section 5 above.

Sec. 8. Amendments. The Member States, by unanimous agreement, may amend this Compact from time to time without the prior consent or approval of Congress and any amendment shall be effective unless, within one year, the Congress disapproves that amendment. Any State may join this Compact after the date on which Congress consents to the Compact by adoption into law under its State Constitution.

Sec. 9. Withdrawal; Dissolution. Any Member State may withdraw from this Compact by adopting a law to that effect, but no such withdrawal shall take effect until six months after the Governor of the withdrawing Member State has given notice of the withdrawal to the other Member States. A withdrawing State shall be liable for any obligations that it may have incurred prior to the date on which its withdrawal becomes effective. This Compact shall be dissolved upon the withdrawal of all but one of the Member States.

SECTION ____.02. This article takes 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, this article takes effect on the 91st day after the last day of the legislative session.

Floor Amendment No. 15

Amend **CSSB 7** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. MEDICAID PROGRAM AND ALTERNATE METHODS OF PROVIDING HEALTH SERVICES TO LOW-INCOME PERSONS

SECTION ____.01. Subtitle I, Title 4, Government Code, is amended by adding Chapter 537 to read as follows:

CHAPTER 537. MEDICAID REFORM WAIVER

Sec. 537.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 537.002. FEDERAL AUTHORIZATION FOR MEDICAID REFORM. (a) The executive commissioner shall seek a waiver under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315) to the state Medicaid plan.

(b) The waiver under this section must be designed to achieve the following objectives regarding the Medicaid program and alternatives to the program:

(1) provide flexibility to determine Medicaid eligibility categories and income levels;

(2) provide flexibility to design Medicaid benefits that meet the demographic, public health, clinical, and cultural needs of this state or regions within this state;

(3) encourage use of the private health benefits coverage market rather than public benefits systems;

(4) encourage people who have access to private employer-based health benefits to obtain or maintain those benefits;

(5) create a culture of shared financial responsibility, accountability, and participation in the Medicaid program by:

(A) establishing and enforcing copayment requirements similar to private sector principles for all eligibility groups;

(B) promoting the use of health savings accounts to influence a culture of individual responsibility; and

(C) promoting the use of vouchers for consumer-directed services in which consumers manage and pay for health-related services provided to them using program vouchers;

(6) consolidate federal funding streams, including funds from the disproportionate share hospitals and upper payment limit supplemental payment programs and other federal Medicaid funds, to ensure the most effective and efficient use of those funding streams;

(7) allow flexibility in the use of state funds used to obtain federal matching funds, including allowing the use of intergovernmental transfers, certified public expenditures, costs not otherwise matchable, or other funds and funding mechanisms to obtain federal matching funds;

(8) empower individuals who are uninsured to acquire health benefits coverage through the promotion of cost-effective coverage models that provide access to affordable primary, preventive, and other health care on a sliding scale, with fees paid at the point of service; and

(9) allow for the redesign of long-term care services and supports to increase access to patient-centered care in the most cost-effective manner.

SECTION ____.02. (a) In this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "FMAP" means the federal medical assistance percentage by which state expenditures under the Medicaid program are matched with federal funds.

(3) "Illegal immigrant" means an individual who is not a citizen or national of the United States and who is unlawfully present in the United States.

(4) "Medicaid program" means the medical assistance program under Chapter 32, Human Resources Code.

(b) The commission shall actively pursue a modification to the formula prescribed by federal law for determining this state's FMAP to achieve a formula that would produce an FMAP that accounts for and is periodically adjusted to reflect changes in the following factors in this state:

(1) the total population;

(2) the population growth rate; and

(3) the percentage of the population with household incomes below the federal poverty level.

(c) The commission shall pursue the modification as required by Subsection (b) of this section by providing to the Texas delegation to the United States Congress and the federal Centers for Medicare and Medicaid Services and other appropriate federal agencies data regarding the factors listed in that subsection and information indicating the effects of those factors on the Medicaid program that are unique to this state.

(d) In addition to the modification to the FMAP described by Subsection (b) of this section, the commission shall make efforts to obtain additional federal Medicaid funding for Medicaid services required to be provided to illegal immigrants in this state. As part of that effort, the commission shall provide to the Texas delegation to the United States Congress and the federal Centers for Medicare and Medicaid Services and other appropriate federal agencies data regarding the costs to this state of providing those services.

(e) This section expires September 1, 2013.

SECTION ____.03. (a) The Medicaid Reform Waiver Legislative Oversight Committee is created to facilitate the reform waiver efforts with respect to Medicaid.

(b) The committee is composed of eight members, as follows:

(1) four members of the senate, appointed by the lieutenant governor not later than October 1, 2011; and

(2) four members of the house of representatives, appointed by the speaker of the house of representatives not later than October 1, 2011.

(c) A member of the committee serves at the pleasure of the appointing official.

(d) The speaker of the house of representatives shall designate a member of the committee as the presiding officer.

(e) A member of the committee may not receive compensation for serving on the committee but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the committee as provided by the General Appropriations Act.

(f) The committee shall:

(1) facilitate the design and development of the Medicaid reform waiver required by Chapter 537, Government Code, as added by this article;

(2) facilitate a smooth transition from existing Medicaid payment systems and benefit designs to a new model of Medicaid enabled by the waiver described by Subdivision (1) of this subsection;

(3) meet at the call of the presiding officer; and

(4) research, take public testimony, and issue reports requested by the lieutenant governor or speaker of the house of representatives.

(g) The committee may request reports and other information from the Health and Human Services Commission.

(h) The committee shall use existing staff of the senate, the house of representatives, and the Texas Legislative Council to assist the committee in performing its duties under this section.

(i) Chapter 551, Government Code, applies to the committee.

(j) The committee shall report to the lieutenant governor and speaker of the house of representatives not later than November 15, 2012. The report must include:

(1) identification of significant issues that impede the transition to a more effective Medicaid program;

(2) the measures of effectiveness associated with changes to the Medicaid program;

(3) the impact of Medicaid changes on safety net hospitals and other significant traditional providers; and

(4) the impact on the uninsured in Texas.

(k) This section expires September 1, 2013, and the committee is abolished on that date.

SECTION ____.04. This article takes 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, this article takes effect on the 91st day after the last day of the legislative session.

Floor Amendment No. 16

Amend **CSSB 7** (house committee printing) by adding the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS of ARTICLE 1 of the bill accordingly:

SECTION 1.____. Chapter 33, Human Resources Code, is amended by adding Section 33.029 to read as follows:

Sec. 33.029. CERTAIN ELIGIBILITY RESTRICTION. Notwithstanding any other provision of this chapter, an applicant for or recipient of benefits under the supplemental nutrition assistance program is not entitled to and may not receive or continue to receive any benefit under the program if the applicant or recipient is not legally present in the United States.

Floor Amendment No. 17

Amend **CSSB 7** by adding appropriately numbered SECTIONS to read as follows and renumbering the remaining SECTIONS accordingly.

SECTION ____. INTERIM STUDY OF INDEPENDENT PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE REGISTERED NURSES. (a) The speaker of the house and the lieutenant governor shall create and appoint a joint interim committee composed of a combination of legislators, state officials and citizen members to conduct a joint study as described by Subsection (b).

(b) The study shall examine the independent authority of advanced practice registered nurses to diagnose and prescribe drugs and medical devices within the scope of the health care providers' practice and license, including:

(1) the impact on access to health care services for underserved communities and health professional shortage areas;

(2) any projected impact on patient safety and the quality of care for persons treated by advanced practice registered nurses;

(3) the effect on the state's overall health care system; and

(4) the potential cost savings and other foreseeable consequences of expanding the authority in the Nursing Practice Act of advanced practice registered nurses to prescribe medication to patients without statutory requirements for physician delegation or collaboration.

(c) Not later than January 1, 2013, the committees shall report the committees' finding and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor. The committees shall include in their recommendations specific changes to statutes and agency rules that may be necessary according to the results of the committees' study conducted under this section.

(d) Not later than November 1, 2011, the lieutenant governor and the speaker of the house of representatives shall issue the joint interim charge required by this section.

(e) This section expires January 1, 2013.

SECTION ____. (a) The Institute for Health Policy at the School of Public Health at The University of Texas Health Science Center at Houston shall study, with respect to patients who receive health care services from an advanced practice nurse, as that term is defined in Section 301.152, Occupations Code, patient safety and outcomes, including quality of care, health care costs, access to health care, and any other measures determined by the institute.

(b) Not later than October 15, 2012, the Institute for Health Policy shall report its findings to the governor, the lieutenant governor, the speaker of the house of representatives, the Senate Health and Human Services Committee or its successor, and the House Public Health Committee or its successor and the joint interim committee created and appointed to study independent prescriptive authority for Advanced Practice Registered Nurses.

(c) This section expires September 1, 2013.

Floor Amendment No. 18

Amend **CSSB 7** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. COUNTY ELIGIBILITY TO RECEIVE STATE ASSISTANCE FOR HEALTH CARE EXPENDITURES

SECTION ____.01. Section 61.037, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) The department may distribute funds as provided by this subchapter to eligible counties to assist the counties in providing:

(1) health care services under Sections 61.028 and 61.0285 to their eligible county residents; or

(2) health care services provided by Medicaid as described by Subsection (b)(1).

(b) Except as provided by Subsection (c), (d), (e), or (g), to be eligible for state assistance, a county must:

(1) spend in a state fiscal year at least eight percent of the county general revenue levy for that year to provide health care services described by Subsection (a) to its eligible county residents who qualify for assistance under Section 61.023 and may, subject to Subsection (b-1), include as part of the county's eight percent expenditure level any payment made by the county for health care services provided through Medicaid, including the county's direct reimbursement to health care providers and indirect reimbursement through transfers of funds to the state for health care services provided through Medicaid; and

(2) notify the department, not later than the seventh day after the date on which the county reaches the expenditure level, that the county has spent at least six percent of the applicable county general revenue levy for that year to provide health care services described by Subsection (a)(1) [~~(a)~~] to its eligible county residents who qualify for assistance under Section 61.023 or health care services provided by Medicaid as described by Subdivision (1).

(b-1) A county may not include payment for health care services provided through Medicaid as part of the county's eight percent expenditure level under Subsection (b) for a state fiscal year unless the county spends in that state fiscal year an amount to provide health care services described by Subsection (a)(1) to its eligible county residents who qualify for assistance under Section 61.023 that is at least equal to the lesser of:

(1) the amount the county spent for that purpose in the immediately preceding state fiscal year; or

(2) eight percent of the county general revenue levy in the immediately preceding state fiscal year.

SECTION ____.02. Section 61.038, Health and Safety Code, is amended to read as follows:

Sec. 61.038. DISTRIBUTION OF ASSISTANCE FUNDS. (a) If the department determines that a county is eligible for assistance, the department shall distribute funds appropriated to the department from the indigent health care assistance fund or any other available fund to the county to assist the county in providing:

(1) health care services under Sections 61.028 and 61.0285 to its eligible county residents who qualify for assistance as described by Section 61.037; or

(2) health care services provided through Medicaid as described by Section 61.037(b)(1).

(b) State funds provided under this section to a county must be equal to at least 90 percent of the actual payment for the health care services for the county's eligible residents, including any payments made by the county for health care services provided through Medicaid as described by Section 61.037(b)(1), during the remainder of the state fiscal year after the eight percent expenditure level is reached.

(c) In distributing state funds under this section, the department shall give priority to a county that spends in a state fiscal year at least eight percent of the county general revenue levy for that year to provide health care services described by Section 61.037(a)(1) to its eligible county residents who qualify for assistance under Section 61.023.

Floor Amendment No. 19

Amend **CSSB 7** (house committee printing) in ARTICLE 1 of the bill by adding the following appropriately numbered SECTION to the ARTICLE and renumbering subsequent SECTIONS of the ARTICLE accordingly:

SECTION 1.____. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0525 to read as follows:

Sec. 531.0525. PILOT PROJECT TO ESTABLISH COMPREHENSIVE ACCESS POINT FOR LONG-TERM SERVICES AND SUPPORTS. (a) In this section:

(1) "Aging and disability resource center" means a center established under the Aging and Disability Resource Center initiative funded in part by the federal Administration on Aging and the Centers for Medicare and Medicaid Services.

(2) "Colocated long-term services and supports staff members" means:

(A) long-term services and supports staff members who are located in the same physical office; or

(B) long-term services and supports staff members who are not located in the same physical office but who work collaboratively through the use of the telephone or other technologies.

(3) "Department of Aging and Disability Services staff members" includes community services staff members of the Department of Aging and Disability Services.

(4) "Long-term services and supports" means long-term assistance or care provided to older persons and persons with physical disabilities through the Medicaid program or other programs. The term includes assistance or care provided through the following programs:

(A) the primary home care program;

(B) the community attendant services program;

(C) the community-based alternatives program;

(D) the day activity and health services program;

(E) the promoting independence program;

(F) a program funded through the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.);

(G) a community care program funded through Title XX of the federal Social Security Act (42 U.S.C. Section 301 et seq.);

(H) the in-home and family support program; and

(I) a nursing facility program.

(5) "Long-term services and supports staff" means:

(A) one or more of the commission's Medicaid eligibility determination staff members;

(B) one or more Department of Aging and Disability Services staff members; and

(C) one or more area agency on aging staff members.

(6) "Pilot project site" means a location in an area served by the pilot project established under this section where colocated long-term services and supports staff members work collaboratively to provide information and tentatively assess functional and financial eligibility to initiate long-term services and supports.

(7) "Tentative assessment of functional and financial eligibility" means an expedited preliminary screening of an applicant to determine Medicaid eligibility with the goal of initiating services within seven business days. The tentative assessment does not guarantee state payment for services.

(b) Subject to availability of funds appropriated by the legislature for this purpose, the commission shall develop and implement a pilot project to establish a comprehensive access point system for long-term services and supports in which colocated long-term services and supports staff members work in collaboration to

provide all necessary services in connection with long-term services and supports from the intake process to the start of service delivery. The pilot project must require that, at a minimum, the staff members work collaboratively to:

(1) inform and educate older persons, persons with physical disabilities, and their family members and other caregivers about long-term services and supports for which they may qualify;

(2) screen older persons and persons with physical disabilities requesting long-term services and supports;

(3) provide a tentative assessment of functional and financial eligibility for older persons and persons with physical disabilities requesting long-term services and supports for which there are no interest lists; and

(4) make final determinations of eligibility for long-term services and supports.

(c) In developing and implementing the pilot project, the commission shall ensure that:

(1) the pilot project site has colocated long-term services and supports staff members who are located in the same physical office;

(2) the pilot project site serves as a comprehensive access point for older persons and persons with physical disabilities to obtain information about long-term services and supports for which they may qualify and access long-term services and supports in the site's service area;

(3) the pilot project site is designed and operated in accordance with best practices adopted by the executive commissioner after the commission reviews best practices for similar initiatives in other states and professional policy-based research describing best practices for successful initiatives;

(4) the colocated long-term services and supports staff members supporting the pilot project site include:

(A) one full-time commission staff member who determines eligibility for the Medicaid program and who:

(i) has full access to the Texas Integrated Eligibility Redesign System (TIERS);

(ii) has previously made Medicaid long-term care eligibility determinations; and

(iii) is dedicated primarily to making eligibility determinations for incoming clients at the site;

(B) sufficient Department of Aging and Disability Services staff members to carry out the tentative functional and financial eligibility and screening functions at the site;

(C) sufficient area agency on aging staff members to:

(i) assist with the performance of screening functions and service coordination for services funded under the Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.), such as meals programs; and

(ii) identify other locally funded and supported services that will enable older persons and persons with physical disabilities to continue to reside in the community to the extent reasonable; and

(D) any available staff members from local service agencies; and

(5) the colocated long-term services and supports staff members of the pilot project site:

(A) process intakes for long-term services and supports in person or by telephone or through the Internet;

(B) use a standardized screening tool to tentatively assess both functional and financial eligibility with the goal of initiating services within seven business days;

(C) closely coordinate with local hospital discharge planners and staff members of extended rehabilitation units of local hospitals and nursing homes; and

(D) inform persons about community-based services available in the area served by the pilot project.

(d) The pilot project must be implemented in a single county or a multicounty area, as determined by the commission. The pilot project site must be located within an aging and disability resource center service area. If the commission finds that there is no aging and disability resource center that is willing or able to accommodate a pilot project site on the date the pilot project is to be implemented, the pilot project site may be located at another appropriate location.

(e) Not later than January 31, 2013, the commission shall submit a report concerning the pilot project to the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services. The report must:

(1) contain an evaluation of the operation of the pilot project;

(2) contain an evaluation of the pilot project's benefits for persons who received services;

(3) contain a calculation of the costs and cost savings that can be attributed to implementation of the pilot project;

(4) include a recommendation regarding adopting improved policies and procedures concerning long-term services and supports with statewide applicability, as determined from information obtained in operating the pilot project;

(5) include a recommendation regarding the feasibility of expanding the pilot project to other areas of this state or statewide; and

(6) contain the perspectives of service providers participating in the pilot project.

(f) This section expires September 1, 2015.

(b) Not later than December 31, 2011, the Health and Human Services Commission shall ensure that the pilot project site is in operation under the pilot project required by Section 531.0525, Government Code, as added by this section.

Floor Amendment No. 20

Amend **CSSB 7** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. PROVIDER NETWORK CONTRACT ARRANGEMENTS

SECTION ____.001. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1458 to read as follows:

CHAPTER 1458. PROVIDER NETWORK CONTRACT ARRANGEMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1458.001. GENERAL DEFINITIONS. In this chapter:

(1) "Affiliate" means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(2) "Contracting entity" means a person who:

(A) enters into a direct contract with a provider for the delivery of health care services to covered individuals; and

(B) in the ordinary course of business establishes a provider network or networks for access by another party.

(3) "Covered individual" means an individual who is covered under a health benefit plan.

(4) "Direct notification" means a written or electronic communication from a contracting entity to a physician or other health care provider documenting third party access to a provider network.

(5) "Health care services" means services provided for the diagnosis, prevention, treatment, or cure of a health condition, illness, injury, or disease.

(6) "Person" has the meaning assigned by Section 823.002.

(7) "Provider" means a physician, a professional association composed solely of physicians, a single legal entity authorized to practice medicine owned by two or more physicians, a nonprofit health corporation certified by the Texas Medical Board under Chapter 162, Occupations Code, a partnership composed solely of physicians, a physician-hospital organization that acts exclusively as an administrator for a provider to facilitate the provider's participation in health care contracts, or an institution that is licensed under Chapter 241, Health and Safety Code. The term does not include a physician-hospital organization that leases or rents the physician-hospital organization's network to a third party.

(8) "Provider network contract" means a contract between a contracting entity and a provider for the delivery of, and payment for, health care services to a covered individual.

(9) "Third party" means a person that contracts with a contracting entity or another party to gain access to a provider network contract.

Sec. 1458.002. DEFINITION OF HEALTH BENEFIT PLAN. (a) In this chapter, "health benefit plan" means:

(1) a hospital and medical expense incurred policy;

(2) a nonprofit health care service plan contract;

(3) a health maintenance organization subscriber contract; or

(4) any other health care plan or arrangement that pays for or furnishes medical or health care services.

(b) "Health benefit plan" does not include one or more or any combination of the following:

(1) coverage only for accident or disability income insurance or any combination of those coverages;

(2) credit-only insurance;

(3) coverage issued as a supplement to liability insurance;

(4) liability insurance, including general liability insurance and automobile liability insurance;

(5) workers' compensation or similar insurance;

(6) a discount health care program, as defined by Section 7001.001;

(7) coverage for on-site medical clinics;

(8) automobile medical payment insurance; or

(9) other similar insurance coverage, as specified by federal regulations issued under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191), under which benefits for medical care are secondary or incidental to other insurance benefits.

(c) "Health benefit plan" does not include the following benefits if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of the coverage:

(1) dental or vision benefits;

(2) benefits for long-term care, nursing home care, home health care, community-based care, or any combination of these benefits;

(3) other similar, limited benefits, including benefits specified by federal regulations issued under the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191); or

(4) a Medicare supplement benefit plan described by Section 1652.002.

(d) "Health benefit plan" does not include coverage limited to a specified disease or illness or hospital indemnity coverage or other fixed indemnity insurance coverage if:

(1) the coverage is provided under a separate policy, certificate, or contract of insurance;

(2) there is no coordination between the provision of the coverage and any exclusion of benefits under any group health benefit plan maintained by the same plan sponsor; and

(3) the coverage is paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health benefit plan maintained by the same plan sponsor.

Sec. 1458.003. EXEMPTIONS. This chapter does not apply:

(1) to a provider network contract for services provided to a beneficiary under the Medicaid program, the Medicare program, or the state child health plan established under Chapter 62, Health and Safety Code, or the comparable plan under Chapter 63, Health and Safety Code;

(2) under circumstances in which access to the provider network is granted to an entity that operates under the same brand licensee program as the contracting entity; or

(3) to a contract between a contracting entity and a discount health care program operator, as defined by Section 7001.001.

[Sections 1458.004-1458.050 reserved for expansion]

SUBCHAPTER B. REGISTRATION REQUIREMENTS

Sec. 1458.051. REGISTRATION REQUIRED. (a) Unless the person holds a certificate of authority issued by the department to engage in the business of insurance in this state or operate a health maintenance organization under Chapter 843, a person must register with the department not later than the 30th day after the date on which the person begins acting as a contracting entity in this state.

(b) Notwithstanding Subsection (a), under Section 1458.055 a contracting entity that holds a certificate of authority issued by the department to engage in the business of insurance in this state or is a health maintenance organization shall file with the commissioner an application for exemption from registration under which the affiliates may access the contracting entity's network.

(c) An application for an exemption filed under Subsection (b) must be accompanied by a list of the contracting entity's affiliates. The contracting entity shall update the list with the commissioner on an annual basis.

(d) A list of affiliates filed with the commissioner under Subsection (c) is public information and is not exempt from disclosure under Chapter 552, Government Code.

Sec. 1458.052. DISCLOSURE OF INFORMATION. (a) A person required to register under Section 1458.051 must disclose:

(1) all names used by the contracting entity, including any name under which the contracting entity intends to engage or has engaged in business in this state;

(2) the mailing address and main telephone number of the contracting entity's headquarters;

(3) the name and telephone number of the contracting entity's primary contact for the department; and

(4) any other information required by the commissioner by rule.

(b) The disclosure made under Subsection (a) must include a description or a copy of the applicant's basic organizational structure documents and a copy of organizational charts and lists that show:

(1) the relationships between the contracting entity and any affiliates of the contracting entity, including subsidiary networks or other networks; and

(2) the internal organizational structure of the contracting entity's management.

Sec. 1458.053. SUBMISSION OF INFORMATION. Information required under this subchapter must be submitted in a written or electronic format adopted by the commissioner by rule.

Sec. 1458.054. FEES. The department may collect a reasonable fee set by the commissioner as necessary to administer the registration process. Fees collected under this chapter shall be deposited in the Texas Department of Insurance operating fund.

Sec. 1458.055. EXEMPTION FOR AFFILIATES. (a) The commissioner shall grant an exemption for affiliates of a contracting entity if the contracting entity holds a certificate of authority issued by the department to engage in the business of insurance in this state or is a health maintenance organization if the commissioner determines that:

(1) the affiliate is not subject to a disclaimer of affiliation under Chapter 823; and

(2) the relationships between the person who holds a certificate of authority and all affiliates of the person, including subsidiary networks or other networks, are disclosed and clearly defined.

(b) An exemption granted under this section applies only to registration. An entity granted an exemption is otherwise subject to this chapter.

(c) The commissioner shall establish a reasonable fee as necessary to administer the exemption process.

[Sections 1458.056-1458.100 reserved for expansion]

SUBCHAPTER C. RIGHTS AND RESPONSIBILITIES OF A CONTRACTING ENTITY

Sec. 1458.101. CONTRACT REQUIREMENTS. A contracting entity may not provide a person access to health care services or contractual discounts under a provider network contract unless the provider network contract specifically states that:

(1) the contracting entity may contract with a third party to provide access to the contracting entity's rights and responsibilities under a provider network contract; and

(2) the third party must comply with all applicable terms, limitations, and conditions of the provider network contract.

Sec. 1458.102. DUTIES OF CONTRACTING ENTITY. (a) A contracting entity that has granted access to health care services and contractual discounts under a provider network contract shall:

(1) notify each provider of the identity of, and contact information for, each third party that has or may obtain access to the provider's health care services and contractual discounts;

(2) provide each third party with sufficient information regarding the provider network contract to enable the third party to comply with all relevant terms, limitations, and conditions of the provider network contract;

(3) require each third party to disclose the identity of the contracting entity and the existence of a provider network contract on each remittance advice or explanation of payment form; and

(4) notify each third party of the termination of the provider network contract not later than the 30th day after the effective date of the contract termination.

(b) If a contracting entity knows that a third party is making claims under a terminated contract, the contracting entity must take reasonable steps to cause the third party to cease making claims under the provider network contract. If the steps taken by the contracting entity are unsuccessful and the third party continues to make claims under the terminated provider network contract, the contracting entity must:

(1) terminate the contracting entity's contract with the third party; or

(2) notify the commissioner, if termination of the contract is not feasible.

(c) Any notice provided by a contracting entity to a third party under Subsection (b) must include a statement regarding the third party's potential liability under this chapter for using a provider's contractual discount for services provided after the termination date of the provider network contract.

(d) The notice required under Subsection (a)(1):

(1) must be provided by:

(A) providing for a subscription to receive the notice by e-mail; or

(B) posting the information on an Internet website at least once each calendar quarter; and

(2) must include a separate prominent section that lists:

(A) each third party that the contracting entity knows will have access to a discounted fee of the provider in the succeeding calendar quarter; and

(B) the effective date and termination or renewal dates, if any, of the third party's contract to access the network.

(e) The e-mail notice described by Subsection (d) may contain a link to an Internet web page that contains a list of third parties that complies with this section.

(f) The notice described by Subsection (a)(1) is not required to include information regarding payors who are not insurers or health maintenance organizations.

Sec. 1458.103. EFFECT OF CONTRACT TERMINATION. Subject to continuity of care requirements, agreements, or contractual provisions:

(1) a third party may not access health care services and contractual discounts after the date the provider network contract terminates;

(2) claims for health care services performed after the termination date may not be processed or paid under the provider network contract after the termination; and

(3) claims for health care services performed before the termination date and processed after the termination date may be processed and paid under the provider network contract after the date of termination.

Sec. 1458.104. AVAILABILITY OF CODING GUIDELINES. (a) A contract between a contracting entity and a provider must provide that:

(1) the provider may request a description and copy of the coding guidelines, including any underlying bundling, recoding, or other payment process and fee schedules applicable to specific procedures that the provider will receive under the contract;

(2) the contracting entity or the contracting entity's agent will provide the coding guidelines and fee schedules not later than the 30th day after the date the contracting entity receives the request;

(3) the contracting entity or the contracting entity's agent will provide notice of changes to the coding guidelines and fee schedules that will result in a change of payment to the provider not later than the 90th day before the date the changes take effect and will not make retroactive revisions to the coding guidelines and fee schedules; and

(4) if the requested information indicates a reduction in payment to the provider from the amounts agreed to on the effective date of the contract, the contract may be terminated by the provider on written notice to the contracting entity on or before the 30th day after the date the provider receives information requested under this subsection without penalty or discrimination in participation in other health care products or plans.

(b) A provider who receives information under Subsection (a) may only:

(1) use or disclose the information for the purpose of practice management, billing activities, and other business operations; and

(2) disclose the information to a governmental agency involved in the regulation of health care or insurance.

(c) The contracting entity shall, on request of the provider, provide the name, edition, and model version of the software that the contracting entity uses to determine bundling and unbundling of claims.

(d) The provisions of this section may not be waived, voided, or nullified by contract.

(e) If a contracting entity is unable to provide the information described by Subsection (a)(1), (a)(3), or (c), the contracting entity shall by telephone provide a readily available medium in which providers may obtain the information, which may include an Internet website.

[Sections 1458.105-1458.150 reserved for expansion]

SUBCHAPTER D. RIGHTS AND RESPONSIBILITIES OF THIRD PARTY

Sec. 1458.151. THIRD-PARTY RIGHTS AND RESPONSIBILITIES. A third party that leases, sells, aggregates, assigns, or otherwise conveys a provider's contractual discount to another party, who is not a covered individual, must comply with the responsibilities of a contracting entity under Subchapters C and E.

Sec. 1458.152. DISCLOSURE BY THIRD PARTY. (a) A third party shall disclose, to the contracting entity and providers under the provider network contract, the identity of a person, who is not a covered individual, to whom the third party leases, sells, aggregates, assigns, or otherwise conveys a provider's contractual discount through an electronic notification that complies with Section 1458.102 and includes a link to the Internet website described by Section 1458.102(d).

(b) A third party that uses an Internet website under this section must update the website on a quarterly basis. On request, a contracting entity shall disclose the information by telephone or through direct notification.

[Sections 1458.153-1458.200 reserved for expansion]

SUBCHAPTER E. UNAUTHORIZED ACCESS TO PROVIDER NETWORK CONTRACTS

Sec. 1458.201. UNAUTHORIZED ACCESS TO OR USE OF DISCOUNT. (a) A person who knowingly accesses or uses a provider's contractual discount under a provider network contract without a contractual relationship established under this chapter commits an unfair or deceptive act in the business of insurance that violates Subchapter B, Chapter 541. The remedies available for a violation of Subchapter B, Chapter 541, under this subsection do not include a private cause of action under Subchapter D, Chapter 541, or a class action under Subchapter F, Chapter 541.

(b) A contracting entity or third party must comply with the disclosure requirements under Sections 1458.102 and 1458.152 concerning the services listed on a remittance advice or explanation of payment. A provider may refuse a discount taken without a contract under this chapter or in violation of those sections.

(c) Notwithstanding Subsection (b), an error in the remittance advice or explanation of payment may be corrected by a contracting entity or third party not later than the 30th day after the date the provider notifies in writing the contracting entity or third party of the error.

Sec. 1458.202. ACCESS TO THIRD PARTY. A contracting entity may not provide a third party access to a provider network contract unless the third party is:

(1) a payor or person who administers or processes claims on behalf of the payor;

(2) a preferred provider benefit plan issuer or preferred provider network, including a physician-hospital organization; or

(3) a person who transports claims electronically between the contracting entity and the payor and does not provide access to the provider's services and discounts to any other third party.

[Sections 1458.203-1458.250 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

Sec. 1458.251. UNFAIR CLAIM SETTLEMENT PRACTICE. (a) A contracting entity that violates this chapter commits an unfair claim settlement practice under Subchapter A, Chapter 542, and is subject to sanctions under that subchapter as if the contracting entity were an insurer.

(b) A provider who is adversely affected by a violation of this chapter may make a complaint under Subchapter A, Chapter 542.

Sec. 1458.252. REMEDIES NOT EXCLUSIVE. The remedies provided by this subchapter are in addition to any other defense, remedy, or procedure provided by law, including common law.

SECTION ____.002. The change in law made by this article applies only to a provider network contract entered into or renewed on or after January 1, 2012. A provider network contract entered into or renewed before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Floor Amendment No. 21

Amend **CSSB 7** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. COVERED SERVICES OF CERTAIN HEALTH CARE PRACTITIONERS

SECTION ____.01. Section 1451.109, Insurance Code, is amended to read as follows:

Sec. 1451.109. SELECTION OF CHIROPRACTOR. (a) An insured may select a chiropractor to provide the medical or surgical services or procedures scheduled in the health insurance policy that are within the scope of the chiropractor's license.

(b) If physical modalities and procedures are covered services under a health insurance policy and within the scope of the license of a chiropractor and one or more other type of practitioner, a health insurance policy issuer may not:

(1) deny payment or reimbursement for physical modalities and procedures provided by a chiropractor if:

(A) the chiropractor provides the modalities and procedures in strict compliance with laws and rules relating to a chiropractor's license; and

(B) the health insurance policy issuer allows payment or reimbursement for the same physical modalities and procedures performed by another type of practitioner;

(2) make payment or reimbursement for particular covered physical modalities and procedures within the scope of a chiropractor's practice contingent on treatment or examination by a practitioner that is not a chiropractor; or

(3) establish other limitations on the provision of covered physical modalities and procedures that would prohibit an insured from seeking the covered physical modalities and procedures from a chiropractor to the same extent that the insured may obtain covered physical modalities and procedures from another type of practitioner.

(c) Nothing in this section requires a health insurance policy issuer to cover particular services or affects the ability of a health insurance policy issuer to determine whether specific procedures for which payment or reimbursement is requested are medically necessary.

(d) This section does not apply to:

(1) workers' compensation insurance coverage as defined by Section 401.011, Labor Code;

(2) a self-insured employee welfare benefit plan subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.);

(3) the child health plan program under Chapter 62, Health and Safety Code, or the health benefits plan for children under Chapter 63, Health and Safety Code; or

(4) a Medicaid managed care program operated under Chapter 533, Government Code, or a Medicaid program operated under Chapter 32, Human Resources Code.

SECTION ____.02. The changes in law made by this article to Section 1451.109, Insurance Code, apply only to a health insurance policy that is delivered, issued for delivery, or renewed on or after the effective date of this Act. A policy delivered, issued for delivery, or renewed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Floor Amendment No. 22

Amend Amendment No. 21 by Chisum to **CSSB 7** (house committee printing) as follows:

(1) In added Section 1451.109(b)(1)(A), Insurance Code (page 1, lines 19 and 20), strike "laws and rules relating to a chiropractor's license" and substitute "state law".

(2) In added Section 1451.109(b)(1)(B), Insurance Code (page 1, line 23), between "practitioner" and the semicolon, insert "that an insured may select under this subchapter".

(3) In added Section 1451.109(b)(2), Insurance Code (page 1, line 26), strike "practice" and substitute "license".

Floor Amendment No. 23

Amend **CSSB 7** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS accordingly:

ARTICLE ____. AUTOLOGOUS STEM CELL BANK FOR RECIPIENTS OF BLOOD AND TISSUE COMPONENTS WHO ARE THE LIVE HUMAN DONORS OF THE ADULT STEM CELLS

Section ____.01. Title 12, Health and Safety Code, is amended by adding Chapter 1003 to read as follows:

CHAPTER 1003. AUTOLOGOUS STEM CELL BANK FOR RECIPIENTS OF BLOOD AND TISSUE COMPONENTS WHO ARE THE LIVE HUMAN DONORS OF THE ADULT STEM CELLS.

Sec. 1003.001. ESTABLISHMENT OF ADULT STEM CELL BANK. (a) If the executive commissioner of the Health and Human Services Commission determines that it will be cost-effective and increase the efficiency or quality of health care, health and human service, and health benefits programs in this state, the executive commissioner by rule shall establish eligibility criteria for the creation and operation of an autologous adult stem cell bank.

(b) In adopting the rules under Subsection (a), the executive commissioner shall consider:

(1) the ability of the applicant to establish, operate, and maintain an autologous adult stem cell bank and to provide related services; and

(2) the demonstrated experience of the applicant in operating similar facilities in this state.

(c) This section does not affect the application of or apply to Chapter 162.

Floor Amendment No. 24

Amend Amendment No. 23 by Hardcastle to **CSSB 7** (house committee printing) in the chapter added by the amendment by adding the following appropriately numbered section:

Sec. ____. PURPOSE; APPLICABILITY. (a) An autologous adult stem cell bank created under this chapter operates solely for the purpose of storing and maintaining autologous adult stem cells.

(b) This chapter does not apply to a facility, entity, person, or institution that:

(1) extracts autologous cells or autologous adult stem cells;

(2) conducts research on autologous cells or autologous stem cells;

(3) provides educational instruction related to autologous cells or autologous adults stem cells at an institution of higher education; or

(4) performs therapeutic treatments involving the use of autologous cells or autologous adult stem cells.

Floor Amendment No. 25

Amend **CSSB 7** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS accordingly:

ARTICLE ____. FORMATION OF BUSINESS ORGANIZATIONS BY CERTAIN HEALTH CARE PROFESSIONALS

SECTION ____.01. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 115 to read as follows:

CHAPTER 115. PROFESSIONAL COLLABORATION OF PHYSICIANS AND CHIROPRACTORS

Sec. 115.001. PURPOSE; CONSTRUCTION OF CHAPTER. (a) The purpose of this chapter is to:

(1) reduce barriers to a free market for health care by increasing efficiency and professional collaboration for the purpose of improving patient care and lowering costs; and

(2) authorize physicians and chiropractors to use certain business organizations to efficiently collaborate in the delivery of health care.

(b) This chapter may not be construed to modify the scope of practice of a health care professional or to allow one type of health care professional to directly or indirectly control the performance of another type of health care professional's practice.

Sec. 115.002. BUSINESS ORGANIZATIONS AUTHORIZED. (a) A person licensed under Subtitle B and a person licensed under Chapter 201 may form a partnership, professional association, or professional limited liability company according to the requirements of this section and any other applicable law.

(b) If a person licensed under Chapter 201 forms a professional entity with a person licensed under Subtitle B, as authorized by this section, the authority of each practitioner is limited by that practitioner's scope of practice. A practitioner may not exercise control over the other practitioner's clinical authority granted by the practitioner's license, including control over a treatment decision by the other practitioner through an agreement, bylaw, directive, financial incentive, or other arrangement.

(c) The Texas Medical Board and the Texas Board of Chiropractic Examiners continue to exercise each board's respective regulatory authority over license holders.

(d) A person licensed under Subtitle B who forms a professional entity under this section shall report the formation of the entity and any material change in an agreement, bylaw, directive, financial incentive, or other arrangement related to the operation of the entity to the Texas Medical Board not later than the 30th day after the date the entity is formed or the material change is made.

Floor Amendment No. 26

Amend **CSSB 7** (house committee printing) in ARTICLE 1 of the bill by adding the following appropriately numbered SECTION to that article and renumbering subsequent SECTIONS of the article accordingly:

SECTION 1.____. Section 61.033, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) In accordance with Subsection (a), if an eligible resident receives health care services from a county other than the county in which the resident resides, the county in which the resident resides is liable for those costs. This subsection applies only to a county seeking state assistance money under this chapter.

Floor Amendment No. 27

Amend **CSSB 7** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____. STATE FUNDING FOR CERTAIN MEDICAL PROCEDURES

SECTION ____.01. The heading to Subchapter M, Chapter 285, Health and Safety Code, is amended to read as follows:

SUBCHAPTER M. REGULATION [~~PROVISION~~] OF SERVICES

SECTION ____.02. Subchapter M, Chapter 285, Health and Safety Code, is amended by adding Section 285.202 to read as follows:

Sec. 285.202. USE OF TAX REVENUE FOR ABORTIONS; EXCEPTION FOR MEDICAL EMERGENCY. (a) In this section, "medical emergency" means a condition exists that, in a physician's good faith clinical judgment, complicates the medical condition of the pregnant woman and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function.

(b) Except in the case of a medical emergency, a hospital district created under general or special law that uses tax revenue of the district to finance the performance of an abortion may not receive state funding.

(c) A physician who performs an abortion in a medical emergency at a hospital or other health care facility owned or operated by a hospital district that receives state funds shall:

(1) include in the patient's medical records a statement signed by the physician certifying the nature of the medical emergency; and

(2) not later than the 30th day after the date the abortion is performed, certify to the Department of State Health Services the specific medical condition that constituted the emergency.

(d) The statement required under Subsection (c)(1) shall be placed in the patient's medical records and shall be kept by the hospital or other health care facility where the abortion is performed until:

(1) the seventh anniversary of the date the abortion is performed; or

(2) if the pregnant woman is a minor, the later of:

(A) the seventh anniversary of the date the abortion is performed; or

(B) the woman's 21st birthday.

(e) A hospital district created by general or special law that receives state funding may not:

(1) make a charitable donation or financial contribution from tax revenue of the district to an organization, agency, or entity that provides or refers for abortion or abortion-related services; or

(2) contract or affiliate with other organizations, agencies, or entities that provide or refer for abortion or abortion related services.

Floor Amendment No. 28

Amend **CSSB 7** (House committee printing) in SECTION 1.12 of the bill (page 38, line 1, through page 59, line 22) by adding the following appropriately lettered subsection to the SECTION and relettering subsequent subsections of the SECTION accordingly:

(__)(1) In converting the hospital reimbursement systems used under the medical assistance program under Chapter 32, Human Resources Code, to the diagnosis-related groups (DRG) methodology to the extent possible as required by Section 536.005, Government Code, as added by this section, and in any rebasing of

the hospital reimbursement rates using a methodology based on a statewide standard dollar amount (SDA), the executive commissioner of the Health and Human Services Commission shall adopt reasonable reimbursement rate maximums and may adopt reasonable reimbursement rate minimums for the state fiscal biennium ending August 31, 2013, that ensure that:

(A) each hospital in this state that participates in the medical assistance program, other than a hospital that received a reimbursement rate in the state fiscal year ending August 31, 2011, that exceeds the rate maximum adopted by the executive commissioner under this subsection for the state fiscal biennium ending August 31, 2013, does not experience a decrease of more than 10 percent in the highest reimbursement rate received by the hospital during the state fiscal year ending August 31, 2011; and

(B) hospital reimbursement rates are sufficient to encourage enough hospitals to participate in the medical assistance program to ensure that services are available to recipients under the program at least to the extent those services are available to the general public.

(2) Notwithstanding Subdivision (1)(A) of this subsection, the executive commissioner of the Health and Human Services Commission may adopt reimbursement rates that result in a decrease in rates that exceeds the limitation prescribed by that provision if the commission determines that those rates are necessary to provide services within the amounts appropriated in the General Appropriations Act and other appropriations acts.

Floor Amendment No. 29

Amend Amendment No. 28 to **CSSB 7** by Lucio as follows:

(1) Strike page 1, lines 16 through page 2, line 1 and substitute the following:
that include for the state fiscal year ending August 31, 2012 a transition rate that limits to eight percent, for hospitals in this state that participate in the medical assistance program, any loss resulting from rebasing hospital reimbursement rates using a methodology based on a SDA.

(2) On page 2, line 2, strike "Subdivision (1)(A)" and substitute "Subdivision (1)".

Floor Amendment No. 1 on Third Reading

Amend **CSSB 7** on third reading by striking the subsection added to SECTION 1.12 of the bill by Floor Amendment No. 28 by Lucio III, as amended by the Zerwas amendment, on second reading.

The amendments were read.

Senator Nelson moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 7** before appointment.

Senator Carona moved to instruct the conferees as follows:

Pursuant to Senate Rule 12.02, I move to instruct the Senate conferees on SB 7 to retain the language of House 2nd Reading Floor Amendment No. 21 by Chisum, as amended by Amendment No. 22 by Schwertner, which amends Section 1451.109, Insurance Code, relating to the reimbursement of chiropractors by health insurance policy issuers and to retain the language of House 2nd Reading Floor Amendment No. 25 by Jackson, which relates to the formation of professional entities by chiropractors and physicians. The language of these amendments is a portion of SB 1001, which was passed unanimously by the Senate during the Regular Session, although the language was modified by the House to restrict the language even further.

The motion to instruct prevailed without objection.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Nelson, Chair; Deuell, Shapiro, Hinojosa, and Carona.

CONCLUSION OF MORNING CALL

The President at 1:50 p.m. announced the conclusion of morning call.

SENATE BILL 30 ON SECOND READING

The President laid before the Senate **SB 30** by Senator Shapiro at this time on its second reading:

SB 30, Relating to the state virtual school network.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 30 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 30** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 31 ON SECOND READING

The President laid before the Senate **SB 31** by Senator Shapiro at this time on its second reading:

SB 31, Relating to the guarantee of open-enrollment charter school bonds by the permanent school fund.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment.

SENATE BILL 31 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 31** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 2 WITH HOUSE AMENDMENTS

Senator Ogden called **SB 2** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 2** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

appropriating money for the support of state government for the period beginning September 1, 2011 and ending August 31, 2013; and authorizing and prescribing conditions, limitations, rules, and procedures for allocating and expending the appropriated funds; and declaring an emergency.

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

SECTION 1. The several sums of money herein specified, or so much thereby as may be necessary, are appropriated out of any funds in the State Treasury not otherwise appropriated, or out of special funds as indicated, for the support, maintenance, or improvement of the designated agencies.

SECTION 2. LECOS Retirement Fund. In addition to amounts appropriated in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 in Strategy A.1.2, Law Enforcement and Custodial Officer Supplemental Retirement Fund, the Employees Retirement System is hereby appropriated the following estimated amounts in fiscal year 2013 for a state contribution of 0.5 percent to the Law Enforcement and Custodial Officer Supplemental Retirement Program in fiscal year 2013:

General Revenue	$6,698,395
General Revenue-Dedicated	96,261
Federal Funds	29,330
Fund 006	696,386
All Funds	$7,520,372

SECTION 3. Contingency for Senate Bill 1: Debt Service on Cancer Prevention and Research Bonds. The appropriations made in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 to the Texas Public Finance Authority for General Obligation Bond Debt Service are subject to the following provision. Appropriations out of the Permanent Fund for Health & Tobacco Education & Enforcement Account No. 5044; Permanent Fund for Children & Public Health Account No. 5045; and

Permanent Fund for EMS & Trauma Care Account No. 5046, are contingent on the enactment of Senate Bill 1, 82nd Legislature, First Called Session, 2011, or similar legislation related to the use of certain Tobacco Settlement Funds for debt service on Cancer Prevention and Research Institute debt, by the Eighty-second Legislature, 2011. The Legislative Budget Board shall adjust the informational listing of bond debt service pursuant to this provision.

SECTION 4. Appropriations to the Foundation School Program. (a) Texas Education Agency, Article III, House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), is amended by adding the following appropriations and riders, and to the extent necessary, by giving all riders under the bill pattern of the agency full force and effect:

A.1.1., FSP Equalized Operations	2012	2013
Available School Fund	$1,099,948,815	$1,726,989,252
Foundation School Fund	13,412,514,119	12,656,939,681
Property Tax Relief Fund	2,198,994,000	2,338,574,000
Appropriated Receipts	906,500,000	835,600,000
Lottery Proceeds	1,002,457,000	1,006,111,000
Total, A.1.1	$18,620,413,934	$18,564,213,933
A.1.2, FSP Equalized Facilities		
Foundation School Fund	$650,000,000	$716,100,000

(b) Foundation School Program Funding. Out of the funds appropriated above, a total of $19,287,500,000 in fiscal year 2012 and $19,297,400,000 in fiscal year 2013 shall represent the sum-certain appropriation to the Foundation School Program. The total appropriation may not exceed the sum-certain amount. This appropriation includes allocations under Chapters 41, 42 and 46 of the Texas Education Code.

Formula Funding: The Commissioner shall make allocations to local school districts under Chapters 41, 42 and 46 based on the March 2011 estimates of average daily attendance and local district tax rates as determined by the Legislative Budget Board and the final tax year 2010 property values.

For purposes of distributing the Foundation School Program basic tier state aid appropriated above and in accordance with Section 42.101 of the Texas Education Code, the Basic Allotment is projected to be $4,765 in fiscal year 2012 and $4,765 in fiscal year 2013.

For purposes of distributing the Foundation School Program enrichment tier state aid appropriated above and in accordance with Section 41.002(a)(2) and Section 42.302(a-1)(1) of the Texas Education Code, the Guaranteed Yield is $59.97 in fiscal year 2012 and $59.97 in fiscal year 2013.

Out of amounts appropriated above and allocated by this rider to the Foundation School Program, no funds are appropriated for the New Instructional Facilities Allotment under Section 42.158 of the Texas Education Code.

Notwithstanding any other provision of this Act, the Texas Education Agency may make transfers as appropriate between Strategy A.1.1, FSP-Equalized Operations, and Strategy A.1.2, FSP Equalized Facilities. The TEA shall notify the Legislative Budget Board and the Governor of any such transfers at least 45 days prior to the transfer.

The Texas Education Agency shall submit reports on the prior month's expenditures on programs described by this rider no later than the 20th day of each month to the Legislative Budget Board and the Governor's Office in a format determined by the Legislative Budget Board in cooperation with the agency.

(c) Foundation School Program Adjustments. Appropriations from the Foundation School Fund No. 193 identified in subsection (a) above are hereby reduced by $438,900,000 in fiscal year 2012 and $361,100,000 in fiscal year 2013. These adjustments reflect a lower estimate of the state cost of the Foundation School Program in the 2012-13 biennium due to updated pupil projections and projections of district property values.

Property values, and the estimates of local tax collections on which they are based, shall be decreased by 0.97 percent for tax year 2011, then increased by 0.52 percent for tax year 2012.

The sum-certain appropriation for the Foundation School Program as identified in subsection (b) above shall be decreased commensurately to reflect these adjustments.

(d) Contingency for Senate Bill 1: Foundation School Program Deferral. Contingent on enactment of SB 1, 82nd Legislature, First Called Session, 2011, or similar legislation providing the legal basis for deferring the August 2013 Foundation School Program payment to school districts, appropriations made in subsection (a) above from the Foundation School Fund 193 to the Texas Education Agency for the Foundation School Program are hereby reduced by $2,300,000,000 in fiscal year 2013. It is the intent of the legislature that this payment be made in September 2013 pursuant to the provisions of the bill. The sum-certain appropriation for the Foundation School Program as identified subsection (b) above shall be decreased commensurately.

(e) Contingency for HJR 109. Appropriations from the Foundation School Fund (Fund 193) made in subsection (a) above, Texas Education Agency Strategy A.1.1, FSP - Operations, for the Foundation School Program, are hereby reduced by 150,000,000 in each fiscal year of the 2012-13 biennium. The Texas Education Agency is hereby appropriated from the Available School Fund (General Revenue) to the Foundation School Program in Strategy A.1.1, FSP - Operations an amount estimated to be $150,000,000 in each fiscal year of the 2012-13 biennium, pursuant to all of the following:

a. passage and enactment of HJR 109, 82nd Legislature, Regular Session, 2011, or similar legislation relating to proposing a constitutional amendment to clarify references to the Permanent School Fund and to allow the General Land Office or other entity to distribute revenue derived from Permanent School Fund land or other properties to the Available School Fund;
b. voter approval of the associated constitutional amendment; and
c. the distribution of funds from the General Land Office to the Available School Fund pursuant to the provisions of the legislation.

(f) Contingency for Senate Bill 1: Foundation School Program Funding Contingency. The All Funds appropriations made for the Foundation School Program (FSP), Texas Education Agency Strategies A.1.1 and A.1.2, in subsection (a) above,

and as adjusted by other subsections in this section, are contingent on enactment of SB 1, 82nd Legislature, First Called Session, 2011, or similar legislation by the Eighty-second Legislature, 2011, relating to certain state fiscal matters and that amends Chapter 42 of the Texas Education Code to adjust state aid payments to the level of FSP appropriations made in subsection (a) above as adjusted for other subsections in this section. Should this legislation fail to pass and be enacted, the All Funds appropriations for the FSP made herein are hereby reduced to zero for each year of the 2012-13 biennium, including the sum-certain appropriation identified in subsection (b) above.

(g) The Legislative Budget Board is directed to make all necessary adjustments to the Texas Education Agency's bill pattern pursuant to the provisions above, including adjustments to strategies, methods of finance, measures and riders contained in House Bill 1, 82nd Legislature, Regular Session, 2011.

SECTION 5. Contingency for Senate Bill 1: Legislation Relating to Certain Office of Court Administration License Fees. Contingent upon the enactment of SB 1, 82nd Legislature, First Called Session, 2011, relating to license fees and the allowable use of such fees for process servers, guardians, and court reporters by the Eighty-second Legislature, the Office of Court Administration is appropriated $119,603 in fiscal year 2012 and $119,714 in fiscal year 2013 to implement the provisions of the legislation. The number of "Full-Time-Equivalent Positions" indicated in the agency's bill pattern is increased by 2.0 each fiscal year. Fees, fines and other miscellaneous revenues as authorized by the Process Servers Review Board, the Guardianship Certification Board, and the Court Reporters Certification Board shall cover, at a minimum, the cost of appropriations made in this provision, as well as an amount sufficient to cover "Other Direct and Indirect Costs Appropriated Elsewhere in this Act" (estimated to be $27,783 in fiscal year 2012 and $29,175 in fiscal year 2013). In the event that actual and/or projected revenues are insufficient to offset the costs identified by this provision, the Legislative Budget Board may direct that the Comptroller of Public Accounts to reduce the appropriation authority provided above to be within the amount of revenue expected to be available.

SECTION 6. Contingency for Senate Bill 1: Railroad Commission. Contingent on enactment of SB 1, or similar legislation relating to the Railroad Commission by the Eighty-second Legislature:

a. Oil and Gas Related Fees. In addition to amounts appropriated in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 to the Railroad Commission, and contingent on SB 1, 82nd Legislature, First Called Session, 2011, or similar legislation creating an account to cover costs of the agency's oil- and gas-related activities, by the Eighty-second Legislature, appropriations out of the General Revenue Fund are hereby reduced by $16,766,209 in fiscal year 2012 and by $16,716,472 in fiscal year 2013, and, to replace these appropriations, there is hereby appropriated $16,766,209 in fiscal year 2012 and $16,716,472 in fiscal year 2013 out of the Oil and Gas Regulation and Cleanup (OGRC) Fund created by the bill.

The following amounts of General Revenue funding would be replaced with funding out of the OGRC Fund in the following strategies:

	2012	2013
Strategy A.1.1, Energy Resource Development	$4,099,221	$4,070,349
Strategy C.1.1, Oil and Gas Monitoring and Inspections	$10,314,041	$10,350,753
Strategy C.2.1, Oil and Gas Remediation	$496,396	$461,550
Strategy C.2.2, Oil and Gas Well Plugging	$935,444	$919,808
Strategy D.1.2, Public Information and Services	$921,107	$914,012
TOTAL	$16,766,209	$16,716,472

In addition, appropriations out of the Oil Field Cleanup Account No. 145 are hereby reduced by $20,581,780 in fiscal year 2012 and by $20,581,779 in fiscal year 2013, and, to replace these appropriations, there is hereby appropriated $20,581,780 in fiscal year 2012 and $20,581,779 in fiscal year 2013 out of the OGRC Fund created by the bill. The following amounts out of the General Revenue-Dedicated Oil Field Cleanup Account No. 145 would be replaced with funding out of the OGRC Fund in the following strategies:

	2012	2013
Strategy A.1.1, Energy Resource Development	$ 1,114,744	$ 1,114,744
Strategy C.1.1, Oil and Gas Monitoring and Inspections	$ 851,800	$ 851,800
Strategy C.2.1, Oil and Gas Remediation	$ 3,786,565	$ 3,786,565
Strategy C.2.2, Oil and Gas Well Plugging	$14,690.620	$14,690.620
Strategy D.1.2, Public Information and Services	$ 138,051	$ 138,051
TOTAL	$20, 581, 780	$20, 581,779

(b) Expansion of Pipeline Safety Fee Use to Include Gas Utility Regulation. Contingent upon enactment of SB 1, 82nd Legislature, First Called Session, 2011, or similar legislation allowing for the use of pipeline safety fees for gas utility regulatory functions, by the Eighty-second Legislature, the Railroad Commission is hereby appropriated in each fiscal year of the 2012-13 biennium an amount not to exceed $233,000 in Strategy A.2.1, Gas Utility Compliance. This appropriation is contingent upon the Railroad Commission increasing Pipeline Safety Fees and shall be limited to revenues deposited to the credit of Revenue Object Code 3553 in excess of the Comptroller's Biennial Revenue Estimate for 2012-13.

The Railroad Commission, upon completion of necessary actions to assess or increase the Pipeline Safety Fee, shall furnish copies of the minutes and other information supporting the estimated revenues to be generated for the 2012-13 biennium under the revised fee structure to the Comptroller of Public Accounts. If the Comptroller finds the information sufficient to support the projection of increased revenues in excess of those estimated in the Biennial Revenue Estimate for 2012-13, a finding of fact to that effect shall be issued and the contingent appropriation shall be made available for the intended purpose.

SECTION 7. Contingency for Senate Bill 1: Voter Registration. Contingent on enactment of SB 1, 82nd Legislature, First Called Session, 2011, or similar legislation relating to transferring voter registration payments from the Fiscal Programs - Comptroller of Public Accounts to the Secretary of State, by the Eighty-second Legislature, 2011, amounts appropriated elsewhere in HB 1, 82nd Legislature, Regular Session, 2011, to the Fiscal Programs Comptroller of Public Accounts in Strategy A.1.1, Voter Registration, shall be transferred to the Secretary of State.

SECTION 8. Contingency for House Bill 7: Managed Care Expansion. Contingent on the enactment of House Bill 7 or similar legislation by the 82nd Legislature, First Called Session, 2011 authorizing the use of managed care in the South Texas counties of Cameron, Hidalgo and Maverick, the following actions shall take place:

a. The Health and Human Services Commission (HHSC) is appropriated $57,370,186 in General Revenue Funds and $87,670,192 in Federal Funds in fiscal year 2012 and $121,680,697 in General Revenue and $185,809,691 in Federal Funds in fiscal year 2013 for Goal B, Medicaid (a biennial total of $179,050,883 in General Revenue Funds and $273,479,883 in Federal Funds); and

b. General Revenue appropriations to HHSC are increased by $143,139,236 in fiscal year 2012 and $297,625,734 in fiscal year 2013 and General Revenue appropriations to the Department of Aging and Disability Services (DADS) are reduced by $143,139,236 in fiscal year 2012 and $297,625,734 in fiscal year 2013; therefore, appropriations at HHSC and DADS for the expansion of the managed care model for the provision of services is assumed to be identical to the strategy funding levels of both agencies in House Bill 1, 82nd Regular Session.

The Commission shall provide a report detailing the cost savings in General Revenue Funds and All Funds realized by the expansion of managed care in the biennium. The report shall be submitted to the Legislative Budget Board and the Governor by December 1, 2012.

SECTION 9. Contingency for House Bill 7: Institute of Health Care Quality and Efficiency. Contingent on the enactment of House Bill 7, 82nd Legislature, First Called Session, 2011, or similar legislation relating to creation of an Institute of Health Care Quality and Efficiency and repeal of the Texas Health Care Policy Council, the Health and Human Services Commission is appropriated $228,800 in fiscal year 2012 and $228,800 in fiscal year 2013 in interagency contracts. The number of "Full-Time Equivalents (FTE)" is increased by 2.0 FTEs in fiscal year 2012 and 2.0 FTEs in fiscal year 2013.

SECTION 10. Contingency for House Bill 7; Health Care Collaborative. Contingent on enactment of House Bill 7, 82nd Legislature, First Called Session, 2011, or similar legislation relating to creation of health care collaboratives, out of the fees and assessments collected by the Department of Insurance, the Department is appropriated:

a. $169,408 for fiscal year 2012 and $461,901 for fiscal year 2013 from General Revenue Insurance Companies Maintenance Tax and Insurance Department Fees, and

b. $254,112 for fiscal year 2012 and $692,851 for fiscal year 2013 from General Revenue Dedicated Fund 36, the Texas Department of Insurance operating account to implement the provisions of the legislation.

The number of "Full-Time Equivalents (FTE)" is increased by 8.0 FTEs in fiscal year 2012 and 16.0 FTEs in fiscal year 2013.

SECTION 11. Contingency for Senate Bill 6: Instructional Materials Allotment. (a) Contingent on Senate 6, or a similar act of the Eighty-second Legislature, First Called Session, 2011, relating to the establishment of an instructional materials allotment, being enacted by the vote necessary for the Act to take effect immediately and the Act immediately becoming law, Subsection (a) of Section 11 of House Bill 4, Acts of the Eighty-second Legislature, Regular Session, 2011, has no effect and the $184,000,000 described by that subsection is allocated to fund the instructional materials allotment in accordance with the provisions of SB 6 or the similar Act, as applicable.

(b) To the extent of any conflict, this Act prevails over the provisions of House Bill 4, Section 11, subsection (b), Acts of the Eighty-second Legislature, Regular Session, 2011.

SECTION 12. SAVINGS CLAUSE. If any section, sentence, clause or part of this Act shall for any reason be held to be invalid, such decision shall not affect the remaining portions of this Act; and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause, or part thereof irrespective of the fact that any other sentence, section, clause or part thereof may be declared invalid.

SECTION 13. EMERGENCY CLAUSE. The importance of the legislation to the people of the State of Texas and the crowded condition of the calendars in both Houses of the Legislature create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days in each House be suspended, and said Rule is hereby suspended; and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1

Amend **CSSB 2** (house committee printing) as follows:

(1) Strike SECTION 13 of the bill (page 13, line 24, through page 14, line 4), and substitute the following appropriately numbered SECTIONS:

SECTION ____. EFFECTIVE PERIOD. Except as otherwise provided by this Act, the appropriations made by this Act are effective for the two-year period starting September 1, 2011.

SECTION ____. EFFECTIVE DATE. This Act takes effect immediately.

(2) Add the following appropriately numbered SECTIONS to the bill and renumber the remaining SECTIONS of the bill accordingly:

SECTION ____. Sul Ross State University: Campus Utility Infrastructure. Contingent on Section 33, **HB 4**, Acts of the 82nd Legislature, Regular Session, 2011, not becoming law, in addition to amounts appropriated to Sul Ross State University in **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, $7,000,000 is appropriated from General Revenue Fund 0001 to Sul Ross State University for the purpose of institutional operations.

SECTION ____. Texas State University System: System Operations. In addition to amounts appropriated to the Texas State University System in **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, $1,600,000 is appropriated from General Revenue Fund 0001 to the Texas State University System for the purpose of system operations.

SECTION ____. Health and Human Services Commission: Umbilical Cord Blood Bank. If **HB 4**, Acts of the 82nd Legislature, Regular Session, 2011, becomes law, Section 32 of that Act is amended to read as follows:

Sec. 32. The amount of $2,000,000 is appropriated from General Revenue Fund 0001 to the Health and Human Services Commission for Strategy A.1.1, Enterprise Oversight and Policy, as designated by page II-73, House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), for the purpose of entering into a contract with a public cord blood bank in this state for gathering from live births umbilical cord blood and retaining the blood at an unrelated cord blood bank for the primary purpose of making umbilical cord blood available for transplantation purposes. The contracting blood bank must be accredited by the American Association of Blood Banks and the International Organization of Standardization. [~~THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT SAN ANTONIO: UMBILICAL CORD BLOOD BANK. The amount of $2,000,000 is appropriated from General Revenue Fund 0001 to The University of Texas Health Science Center at San Antonio for the state fiscal biennium ending August 31, 2013, for the umbilical cord blood bank.~~]

SECTION ____. Health and Human Services Provider Rates. If **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), becomes law, Section 16, page II-108, of that Act, under Special Provisions Relating to All Health and Human Services Agencies, is amended to read as follows:

Sec. 16. Provider Rates. Appropriations made elsewhere in this Act reflect reductions to provider rates for the 2012-13 biennium as identified below. All identified reductions for fiscal years 2012 and 2013 are intended to be calculated based on the rates in effect on August 31, 2010 and are in addition to cumulative rate reductions made during fiscal year 2011, also identified below. Reductions are intended to be applied to all delivery models, including managed care, and are a net overall reduction to the specified provider class. For health and human services programs not identified below, any non-Medicaid rate that historically has been linked to a Medicaid rate reduced below may be reduced to the same extent as the Medicaid rate to which it historically has been linked. No additional reductions shall be made unless requested and approved according to the process required by Article II Special Provisions, Section 15(b) for rate increases.

SECTION ____. Contingent on **HB 3**, Acts of the 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to the operation of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association, becoming law:

(1) the Texas Department of Insurance is appropriated $131,370 for the state fiscal year beginning September 1, 2011, and $121,767 for the state fiscal year beginning September 1, 2012, from General Revenue Insurance Companies Maintenance Tax and Insurance Department Fees to implement the provisions of that legislation;

(2) the Number of Full-Time Equivalents (FTE) in the Texas Department of Insurance's bill pattern, as provided by page VIII-16, **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), is increased by 2.0 FTEs for the state fiscal year beginning September 1, 2011, and 2.0 FTEs for the state fiscal year beginning September 1, 2012;

(3) the Texas Public Finance Authority is appropriated $750,000 out of appropriated receipts from the Texas Windstorm Insurance Association for the state fiscal year beginning September 1, 2011, to implement the provisions of that legislation; and

(4) the unexpended and unobligated balance of the amount appropriated under Subdivision (3) of this section remaining on August 31, 2012, is appropriated to the Texas Public Finance Authority for the same purposes for the state fiscal year beginning September 1, 2012.

SECTION ____. Basic Civil Legal Services and Indigent Defense. (a) In addition to amounts appropriated in **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011:

(1) the Supreme Court of Texas is appropriated $8,783,784 out of General Revenue Fund 0001 for the state fiscal year beginning September 1, 2011, and $8,783,783 out of General Revenue Fund 0001 for the state fiscal year beginning September 1, 2012, for the purpose of Strategy B.1.1, Basic Civil Legal Services, as designated by that Act, page IV-1; and

(2) the Office of Court Administration is appropriated $2,437,944 out of General Revenue-Dedicated Fair Defense Account No. 5073 for the state fiscal year beginning September 1, 2011, and $5,175,887 out of General Revenue-Dedicated Fair Defense Account No. 5073 for the state fiscal year beginning September 1, 2012, for Strategy A.2.1, Indigent Defense, as designated by that Act, page IV-23, for the purpose of restoring grants to counties ($2,350,894 for the state fiscal year beginning September 1, 2011, and $5,088,837 for the state fiscal year beginning September 1, 2012) and grant administration ($87,050 for each year of the state fiscal biennium beginning September 1, 2011).

(b) The Number of Full-Time Equivalents (FTE) in the Office of Court Administration's bill pattern, as provided by page IV-22, **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), is increased by 1.0 FTE for grant administration for each year of the state fiscal biennium beginning September 1, 2011.

SECTION ____. Texas State Technical College - Waco: Connally Technology Center. Contingent on Section 13, **HB 4**, Acts of the 82nd Legislature, Regular Session, 2011, not becoming law, in addition to amounts appropriated to the Texas State Technical College - Waco in **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, $2,000,000 is appropriated out of General Revenue Fund 0001 to the Texas State Technical College - Waco for the purpose of institutional operations.

SECTION ____. Lamar Institute of Technology: Technical Arts Building. Contingent on Section 34, **HB 4**, Acts of the 82nd Legislature, Regular Session, 2011, not becoming law, in addition to amounts appropriated to the Lamar Institute of Technology in **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, $5,000,000 is appropriated from General Revenue Fund 0001 to the Lamar Institute of Technology for the purpose of institutional operations.

Floor Amendment No. 2

Amend **CSSB 2** (house committee report) as follows:

(1) In SECTION 4 of the bill (page 6, between lines 25 and 26), insert the following:

(g) Surplus Funding Contingency. If the amount appropriated for the Foundation School Program (FSP), Texas Education Agency Strategy A.1.1. in Subsection (a) above exceeds the sum of the amount required under Section 42.251, Education Code, and the amount required for adjustments to funding under Section 42.253, Education Code, the commissioner, notwithstanding Rider 27, page III-10, **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), may allocate an amount not to exceed $250 million to fund:

(1) teacher effectiveness and incentive pay programs;

(2) advanced placement programs;

(3) education technology and virtual learning programs;

(4) dropout prevention and recovery programs, including Big Brothers and Big Sisters;

(5) early childhood readiness programs;

(6) purchase of instructional materials;

(7) the Texas High School Project;

(8) the Early College High School Initiative; or

(9) science, technology, engineering, and math programs.

(2) In SECTION 4 of the bill (page 6, line 26), strike "(g)" and substitute "(h)".

Floor Amendment No. 3

Amend **CSSB 2** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION ____. Texas Competitive Knowledge Fund at The University of Texas at El Paso. It is the intent of the legislature that:

(1) $3,562,500 in General Revenue appropriated to The University of Texas at El Paso by **HB 1**, 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), for special item support for the state fiscal biennium ending August 31, 2013, be used to provide funds for the Texas Competitive Knowledge Fund at the university;

(2) the funds described by Subdivision (1) of this section be treated as if the funds were listed as an additional research formula strategy, Strategy D.2.1, Texas Competitive Knowledge Fund, in the bill pattern of The University of Texas at El Paso in **HB 1**, 82nd Legislature, Regular Session, 2011 (the General Appropriations Act); and

(3) the funds described by Subdivision (1) of this section be subject to Section 56, relating to appropriations for the Texas Competitive Knowledge Fund, in the Special Provisions Relating Only to State Agencies of Higher Education in **HB 1**, 82nd Legislature, Regular Session, 2011 (the General Appropriations Act).

SECTION ____. Texas Competitive Knowledge Fund at The University of Texas at Arlington. It is the intent of the legislature that:

(1) $3,562,500 in General Revenue appropriated to The University of Texas at Arlington by **HB 1**, 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), for special item support for the state fiscal biennium ending August 31, 2013, be used to provide funds for the Texas Competitive Knowledge Fund at the university;

(2) the funds described by Subdivision (1) of this section be treated as if the funds were listed as an additional research formula strategy, Strategy D.2.1, Texas Competitive Knowledge Fund, in the bill pattern of The University of Texas at Arlington in **HB 1**, 82nd Legislature, Regular Session, 2011 (the General Appropriations Act); and

(3) the funds described by Subdivision (1) of this section be subject to Section 56, relating to appropriations for the Texas Competitive Knowledge Fund, in the Special Provisions Relating Only to State Agencies of Higher Education in **HB 1**, 82nd Legislature, Regular Session, 2011 (the General Appropriations Act).

Floor Amendment No. 4

Amend **CSSB 2** (house committee printing) by adding the following appropriately numbered ARTICLES to the bill and renumbering the remaining ARTICLES and SECTIONS of the bill accordingly:

SECTION ____.02. It is the intent of the legislature that any decrease in appropriations from the permanent endowment fund account No. 817 to The University of Texas at El Paso for the state fiscal biennium ending August 31, 2013, from the preceding state fiscal biennium not be replaced with an increase in general revenue appropriations.

Floor Amendment No. 5

Amend **CSSB 2** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. The University of Texas Community Outreach Program Funding. Using money appropriated from the general revenue fund to the Department of State Health Services for Strategy A.3.1, Chronic Disease Prevention, on page II-45, **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, and available for this purpose, the department may allocate an additional $3 million in state fiscal year 2012 and an additional $3 million in state fiscal year 2013 to The University of Texas

Community Outreach program to provide community-based diabetes and obesity care and education for purposes of reducing the health and economic burdens of diabetes and obesity in this state.

Floor Amendment No. 10

Amend **CSSB 2** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Appropriations for Children & Medically Needy. The amounts appropriated to the Health and Human Services Commission in **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, for Strategy B.1.4, Children & Medically Needy, as specified by that Act, reflect the intent of the legislature that the Health and Human Services Commission use additional cost savings identified and realized as a result of the use of funds appropriated to the Health and Human Services Commission in **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011, for Strategy G.1.1, Office of Inspector General, as specified by that Act, to employ strategies:

(1) within the Office of Inspector General (OIG) to improve systems for the detection, prevention, and prosecution of fraud, waste, and abuse; and

(2) that may involve:

(A) the use of advanced analytics, including predictive modeling, anomaly detection, and social network analysis, to identify and prevent the occurrence of improper reimbursements as well as to identify previous improper reimbursements; or

(B) the use of data sources external to the commission, including public records, data managed by other state agencies, and commercially available data.

Floor Amendment No. 12

Amend **CSSB 2** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Texas Department of Rural Affairs: Exemption for Executive Director's Salary. Scheduled Exempt Positions, Section 3.05(c)(6), Part 3, Article IX, **HB 1**, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act, page IX-19), is amended by adding the following appropriately lettered paragraph to that subdivision and relettering subsequent paragraphs of that subdivision accordingly:

( ) Texas Department of Rural Affairs Executive Director Group 4

Floor Amendment No. 14

Amend **CSSB 2** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Commission on State Emergency Communications. (a) Rider 10 on page I-31 of **HB 1**, 82nd Legislature, Regular Session, 2011, in the bill pattern of the Commission on State Emergency Communications has no effect.

(b) Contingent on the collection of fees in the General Revenue-Dedicated 9-1-1 Services Fees Account No. 5050 in excess of $112,968,000 contained in the Comptroller of Public Accounts' Biennial Revenue Estimate for the 2012-2013 biennium, the Commission on State Emergency Communications is appropriated the excess revenue, not to exceed $11,722,424 for the 2012-2013 biennium, in Strategy A.1.1, 9-1-1 Network Operations and Equipment Replacement for 9-1-1 Network Operations and for 9-1-1 equipment replacement per the established 10-year equipment replacement schedule. If the Comptroller finds the information sufficient to support the projection of increased revenues, a finding of fact to that effect shall be issued and the contingent appropriation shall be made available for the intended purposes.

Floor Amendment No. 17

Amend **CSSB 2** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Contingency: Expand Physician and Nurse Trauma Care Fellowship Slots. Contingent on the passage by the 82nd Legislature, 1st Called Session, and becoming law of legislation to fund the expansion of the number of physician and nurse trauma care fellowships by the Department of State Health Services or similar legislation, $4,500,000 is appropriated to the department for the state fiscal biennium ending August 31, 2013, from general revenue dedicated account number 5111, Designated Trauma Facility and EMS Account, for the purposes of the legislation.

Floor Amendment No. 20

Amend **CSSB 2** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. (a) Notwithstanding H.B. No. 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), the amounts appropriated to the Texas Education Agency for Strategy A.2.1, Statewide Educational Programs (page III-2) are reduced by $2,250,000 for the fiscal year ending August 31, 2012, and by $2,250,000 for the fiscal year ending August 31, 2013.

(b) Notwithstanding H.B. No. 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), in Rider 56 under the appropriations to the Texas Education Agency (page III-17), the amount allocated to support the Reasoning Mind program is reduced by $2,250,000 for the fiscal year ending August 31, 2012, and by $2,250,000 for the fiscal year ending August 31, 2013.

(c) Notwithstanding H.B. No. 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), the amounts appropriated to the Texas Education Agency for Strategy A.2.3, Students with Disabilities (page III-2) are increased by $2,250,000 for the fiscal year ending August 31, 2012, and $2,250,000 for the fiscal year ending August 31, 2013.

Floor Amendment No. 21

Amend Floor Amendment No. 20 by Mendendez (page 8, prefiled amendment packet) to **CSSB 2** (house committee report) as follows:

(1) On page 1, line 21 of the amendment, strike "Strategy A.2.3, Students with Disabilities" and substitute "Strategy A.2.4, School Improvement and Support Programs".

(2) On page 1, line 23 of the amendment, after the period, add the following:

(d) Add the following to Rider 24, Communities in Schools, following the appropriations made to the Texas Education Agency by H.B. 1, Acts of the 82nd Legislature, Regular Session, 2011:

In addition to the amounts specified above, out of the funds appropriated above for Strategy A.2.4, School Improvement and Support Programs, the additional amount of $2,250,000 is allocated for the Communities in Schools Program for fiscal year 2012 and the additional amount of $2,250,000 is allocated to the Communities in Schools Program for fiscal year 2013.

Floor Amendment No. 22

Amend **CSSB 2** (house committee report) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. (a) In addition to amounts appropriated to the Texas Education Agency for the Foundation School Program by this Act or similar legislation, the amount of $2,000,000,000 is appropriated from the economic stabilization fund to the Texas Education Agency for the Foundation School Program under Chapter 42, Education Code, for the state fiscal biennium beginning September 1, 2011.

(c) This section takes effect only if this Act receives a vote of two-thirds of the members present in each house of the legislature, as provided by Section 49-g(m), Article III, Texas Constitution.

Floor Amendment No. 24

Amend Amendment No. 22 by Farrar to **CSSB 2** (prefiled amendment packet, page 10) by striking the text of the amendment and substituting the following:

Amend **CSSB 2** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. (a) In addition to amounts appropriated to the Texas Education Agency for the Foundation School Program by this Act, and subject to the limitation prescribed by Subsection (c) of this section, the amount described by Subsection (b) of this section in the economic stabilization fund is appropriated to the Texas Education Agency for the state fiscal biennium beginning September 1, 2011, for the Foundation School Program under Chapter 42, Education Code.

(b) The amount appropriated by Subsection (a) of this section is the amount of money in the economic stabilization fund that exceeds the difference between the projected balance of the fund as of August 31, 2013, as stated in the comptroller's

Biennial Revenue Estimate for 2012-2013, and as revised by the comptroller on May 17, 2011, and the amount appropriated from the fund by **HB 275**, Acts of the 82nd Legislature, Regular Session, 2011.

(c) The amount appropriated by this section may not exceed the amount necessary to fund enrollment growth under the Foundation School Program for the state fiscal biennium beginning September 1, 2011.

(d) It is the intent of the legislature that the comptroller determine the amount of excess funds in the economic stabilization fund and appropriated by this section, as described by Subsection (b) of this section, on or about August 1, 2011, and August 1, 2012, so that the amounts appropriated are determined and made available for the 2011-2012 and 2012-2013 school years, respectively.

(e) The commissioner of education shall apply amounts appropriated by this section for the Foundation School Program under Chapter 42, Education Code, by proportionately increasing the regular program adjustment factor and percentage adjustment under Sections 42.101 and 42.2516(i), Education Code, as amended by **SB 1**, Acts of the 82nd Legislature, 1st Called Session, 2011, or similar legislation.

(f) This section takes effect only if this Act receives a vote of two-thirds of the members present in each house of the legislature, as provided by Section 49-g(m), Article III, Texas Constitution.

Floor Amendment No. 25

Amend **CSSB 2** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Consolidation of the Texas Youth Commission and the Juvenile Probation Commission. (a) Of general revenue appropriated to the Texas Education Agency in Article III of H.B. 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), for Strategy A.1.1, FSP-Equalized Operations (page III-2), not more than $10,000,000 each state fiscal year may be used to contract with the Texas Juvenile Probation Commission or its successor agency.

(b) Of general revenue appropriated to the Department of Family and Protective Services in Article II of H.B. 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), for Strategy C.1.1, Star Program (page II-32), not more than $16,328,649 each state fiscal year may be used to contract with the Texas Juvenile Probation Commission or its successor agency.

(c) Of general revenue appropriated to the Department of Family and Protective Services in Article II, H.B. 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), for Strategy C.1.3, Texas Families Program (page II-32), not more than $1,953,206 each state fiscal year may be used to implement the provisions of S.B. 653, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011, related to prevention and intervention services.

(d) Of general revenue appropriated to the Department of Family and Protective Services in Article II, H.B. 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), for Strategy C.1.5, Other At-Risk Prevention Programs (page II-32), not more than $1,145,288 each state fiscal year may be used to implement the provisions of S.B. 653, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011, related to prevention and intervention services.

(e) Of general revenue appropriated to the Department of Family and Protective Services in Article II, H.B. 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), for Strategy C.1.6, At-Risk Prevention Program Support (page II-32), not more than $1,055,245 each state fiscal year may be used to implement the provisions of S.B. 653, Acts of the 82nd Legislature, Regular Session, 2011, as effective September 1, 2011, related to prevention and intervention services.

(f) Notwithstanding Subsections (a)-(e) of this section, any unexpended balance of money used for contracts as provided by this section in the state fiscal year ending August 31, 2012, may be applied to contracts for the same purpose in the state fiscal year beginning September 1, 2012.

(g) Out of the funds transferred to the Texas Juvenile Probation Commission or its successor agency for contracts under this section, the Texas Juvenile Probation Commission may use not more than $250,000 for an external evaluation of the current methods of delivering at-risk youth services in this state. The evaluation must include recommendations for a model system of at-risk youth service delivery with clear accountability measures. The recommendations may include recommendations to state agencies regarding program functions of those agencies that the Texas Juvenile Probation Commission or its successor agency may perform.

Floor Amendment No. 27

Amend **CSSB 2** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Contingency for House Bill 26: Inmate Fee for Health Care. Contingent on the enactment of House Bill 26, 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to the containment of costs incurred in the correctional health care system, the Department of Criminal Justice is appropriated from the general revenue fund an amount not to exceed $7,705,800 in the state fiscal year ending August 31, 2012, and $5,779,350 in the state fiscal year ending August 31, 2013, out of health care services fees deposited to the general revenue fund from inmate trust funds. Unexpended and unobligated balances of the appropriated amounts as of August 31, 2012, and August 31, 2013, are transferred to the undedicated portion of the general revenue fund.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 2** on third reading at the end of the subsection entitled "Contingency for Senate Bill 1: Foundation School Program Deferral" (house committee printing, page 5, line 15) by adding the following new paragraph:

Contingent on enactment of S.B. 1, Acts of the 82nd Legislature, 1st Called Session, 2011, or similar legislation providing for a partial deferral of the August 2013 Foundation School Program payment to school districts, and notwithstanding any other provision of this Act, the reduction in Foundation School Program appropriations referenced by this subsection shall be adjusted by an amount identified by the Legislative Budget Board in determining the percentage of the deferred August payment that can be paid in August 2013, in accordance with the provisions of the legislation. The sum-certain appropriation for the Foundation School Program as identified in Subsection (b) above shall be adjusted commensurately.

Floor Amendment No. 2 on Third Reading

Amend **CSSB 2** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. If Section 13.07, Article IX, House Bill 1, 82nd Legislature, Regular Session, 2011, becomes law, Section 13.07(a) of that Article is amended to read as follows:

(a) Except as provided by Subsection (c) of this Section, for the fiscal biennium beginning September 1, 2011, the amounts appropriated to an agency under Articles I-VIII of this Act include, regardless of whether or not the amounts may be shown under or limited by the bill pattern or riders of the agency or the special provisions applicable to the Article of this Act under which the agency's appropriation might be located, [~~fifty percent of~~] all revenue collected by an agency on or after September 1, 2011, that are associated with the sale of a Texas specialty license plate, as authorized by Subchapter G, Chapter 504, Transportation Code, or other applicable statute, during the 2012-13 biennium, including any new license plates that may be authorized or issued after September 1, 2011.

Floor Amendment No. 4 on Third Reading

Amend **CSSB 2** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ____. Contingent on legislation of the 82nd Legislature, 1st Called Session, 2011, becoming law that is substantively similar to provisions of House Bill 2403, Acts of the 82nd Legislature, Regular Session, 2011, relating to retailers engaged in business in this state for purposes of sales and use taxes, in addition to the amounts appropriated by House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011 (the General Appropriations Act), there is appropriated to the Higher Education Coordinating Board, the amount of $2,685,000 in general revenue funds for each year of the state fiscal biennium ending August 31, 2013, for the purpose of providing additional funding for the biennium in the amount of $5,370,000 for Strategy B.1.13, TX Armed Services Scholarship Pgm, as designated by House Bill 1 in the appropriations to the coordination board.

The amendments were read.

Senator Ogden moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 2** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Ogden, Chair; Duncan, Hinojosa, Nelson, and Williams.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time, and referred to the committees indicated:

SB 3 by Carona
Relating to the operation and name of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association; providing penalties.
To Committee on Business and Commerce.

SB 28 by Ellis
Relating to reducing state Medicaid and other health care costs by prohibiting smoking in certain public places; providing penalties.
To Committee on Health and Human Services.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Carona and by unanimous consent, Senate Rule 11.19(a), Senate Rule 11.10(a), and Senate Rule 11.18(a) were suspended in order that the Committee on Business and Commerce might meet and consider **SB 3** tomorrow.

ACKNOWLEDGMENT

Senator Shapiro was recognized and acknowledged the Dallas Mavericks for winning the National Basketball Association championship.

REMARKS ORDERED PRINTED

On motion of Senator Watson and by unanimous consent, the remarks by Senator Estes regarding Graham B. Purcell, Jr., were ordered reduced to writing and printed in the *Senate Journal* as follows:

> I rise now and ask you to join me in honoring the life of a great statesman, while extending condolences to his family. Graham Boynton Purcell, Jr., born May 5, 1919, died June 11, 2011, a former United States Congressman, passed away Saturday at the age of 92 in his home in Wichita Falls. Graham Purcell was a native of Archer City, Texas, and an alumni of Texas A&M University and Baylor Law School. He bravely served our country in World War II, where he earned a Silver Star for his gallantry in action. After the war, he practiced law in Wichita Falls until he was appointed as a District Judge in 1955. In 1961, he was elected to the United States House of Representatives, where he served until 1973. His many accomplishments while serving in Washington included restarting the Congressional Prayer Breakfast and bringing the NATO Pilot Training Program to Sheppard Air Force Base in Wichita Falls. After his distinguished political career, Graham Purcell practiced law in Washington for 15 years, where he founded a prestigious law firm. In 1988, he returned to Wichita Falls, where he continued to live an exemplary life full of devotion to his family, his country, and God. Congressman Graham Purcell

was a dear friend and a true inspiration to everyone he met. He was a dedicated public servant and a great statesman. I will sorely miss my friend and the guidance he often shared.

REMARKS ORDERED PRINTED

On motion of Senator Wentworth and by unanimous consent, the remarks by Senators Watson, Huffman, and Wentworth were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Watson: Members, I ask that we adjourn today in memory of Courtney Paige Griffin. Courtney passed away as a result of a tragic accident on May 27, 2011. Courtney was a native Austinite who loved this great city. Her family has deep roots in Austin and here in the Texas Senate. Her grandmother, Billie Leach, served as the head of Senate Purchasing for many years and later was a Senate greeter for many sessions, and her mother, Laurie Griffin, is a former Senate employee, having worked for former Senator Ted B. Lyon and Senate E&E.

Senator Huffman: Mr. President, I'd also like to request that we adjourn today in memory of another great Texan. And that is Ramsay Gillman, who sadly we lost earlier this month. Ramsay was a native of Houston and a sixth generation Texan. He was a successful businessman in the auto industry, and I know many of you in this room knew him. He was here just a few short weeks ago helping us negotiate the auto dealers bill, in the Ramsey Room, coincidentally. He was a passionate philanthropist and a devoted family man. He certainly lived his life to the fullest, and he was a vital member of our community, and we will surely miss his leadership and his friendship. Thank you.

Senator Wentworth: Mr. President, I'd like us to adjourn today also in memory of Sergeant Thomas Andrew Bohall, who was only 25 years old. He was killed in action in Kandahar province, Afghanistan, on May 26th. Sergeant Bohall, a 2004 graduate of Ronald Reagan High School in San Antonio, was a member of the 101st Airborne Division. He served two terms in Iraq and was on his second assignment in Afghanistan. Although his parents recently moved to Florida, he always considered San Antonio his home, and that is why he was buried at Fort Sam Houston National Cemetery because of all the friends and family still there.

MOTION TO RECESS

On motion of Senator Whitmire and by unanimous consent, the Senate at 3:01 p.m. agreed to recess, in memory of Graham B. Purcell, Jr., Courtney Paige Griffin, Ramsay Gillman, and Thomas Andrew Bohall, upon completion of the introduction of bills and resolutions on first reading, the receipt of messages, and the receipt of committee reports, until 3:00 p.m. Tuesday, June 14, 2011.

CO-AUTHORS OF SENATE BILL 23

On motion of Senator Rodriguez, Senators Carona, Ellis, Hinojosa, and Wentworth will be shown as Co-authors of **SB 23**.

CO-AUTHORS OF SENATE BILL 28

On motion of Senator Ellis, Senators Davis, Uresti, Van de Putte, and Zaffirini will be shown as Co-authors of **SB 28**.

CO-AUTHORS OF SENATE BILL 36

On motion of Senator Ellis, Senators Hinojosa and Rodriguez will be shown as Co-authors of **SB 36**.

CO-AUTHORS OF SENATE BILL 37

On motion of Senator Ellis, Senators Hinojosa and Rodriguez will be shown as Co-authors of **SB 37**.

CO-AUTHORS OF SENATE BILL 38

On motion of Senator Ellis, Senators Hinojosa and Rodriguez will be shown as Co-authors of **SB 38**.

CO-AUTHORS OF SENATE BILL 39

On motion of Senator Ellis, Senators Hinojosa and Rodriguez will be shown as Co-authors of **SB 39**.

CO-AUTHORS OF SENATE JOINT RESOLUTION 2

On motion of Senator Ellis, Senators Hinojosa and Rodriguez will be shown as Co-authors of **SJR 2**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SCR 1 by Carona, In memory of former Texas Senator John Nesbett Leedom.

SR 28 by Hinojosa, In memory of Rudolph T. Barrera of Corpus Christi.

SR 29 by Hinojosa, In memory of Jean Gatling Phillips of the Rio Grande Valley.

Congratulatory Resolutions

SR 26 by Eltife, Recognizing Harvey B. Hohenberger, Jr., on the occasion of his retirement from the Region 8 Educational Service Center.

SR 27 by Birdwell, Recognizing G. Stephen Howerton for his 30 years of service to the City of Ennis.

SR 30 by Jackson, Recognizing the Santa Fe High School Lady Indians softball team for winning the Class 4A state championship title.

SR 31 by Jackson, Congratulating Barbara Meeks on being elected chair of the Galveston County Republican Party.

SR 32 by Williams, Commending the Former Texas Rangers Foundation.

RECESS

Pursuant to a previously adopted motion, the Senate at 7:55 p.m. recessed, in memory of Graham B. Purcell, Jr., Courtney Paige Griffin, Ramsay Gillman, and Thomas Andrew Bohall, until 3:00 p.m. Tuesday, June 14, 2011.

APPENDIX

COMMITTEE REPORT

The following committee report was received by the Secretary of the Senate:

June 13, 2011

TRANSPORTATION AND HOMELAND SECURITY — **CSSB 9**

RESOLUTIONS ENROLLED

June 9, 2011

SR 14, **SR 15**, **SR 16**, **SR 17**, **SR 18**, **SR 19**, **SR 20**, **SR 21**, **SR 22**, **SR 23**, **SR 24**