

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Rick Perry, Governor of Texas, have signed House Bill No. 2425 together with this proclamation stating my objections to individual items of appropriation therein. In accordance with Article IV, Section 14 of the Texas Constitution, individual items of appropriation objected to shall be of no force or effect. The remaining portions of the bill shall be effective according to its terms. I have also disapproved House Bill No. 3175, which makes cash management appropriations for state fiscal years 2004 and 2005 and have used my line item veto authority to disapprove a similar provision in Section 122 of House Bill No. 2425. These appropriations exceed the amount necessary at this time to reimburse anticipated borrowing.

Since the Legislature by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.



IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 20th day of June, 2003.

Rick Perry
RICK PERRY
Governor of Texas

ATTESTED BY:

Gwyn Shea

GWYN SHEA
Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
7:30 PM O'CLOCK

JUN 20 2003

1 AN ACT

2 relating to state and certain local fiscal matters; making
3 appropriations.

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

5 SECTION 1. Section 103.051(a), Civil Practice and Remedies
6 Code, is amended to read as follows:

7 (a) To apply for compensation under this subchapter, the
8 claimant must file with the [~~judicial section of the~~] comptroller's
9 judiciary section [~~office~~]:

10 (1) an application for compensation provided for that
11 purpose by the comptroller;

12 (2) a verified copy of the pardon or court order
13 justifying the application for compensation; [~~and~~]

14 (3) a statement provided by the Texas Department of
15 Criminal Justice verifying the length of incarceration; and

16 (4) a certification of the claimant's actual innocence
17 of the crime for which the claimant was sentenced that is signed by
18 the attorney representing the state in the prosecution of felonies
19 in the county in which the sentence was rendered.

20 SECTION 2. Section 14(e), Article 42.12, Code of Criminal
21 Procedure, as added by Chapter 1188, Acts of the 76th Legislature,
22 Regular Session, 1999, is amended to read as follows:

23 (e) The clerk of a court that collects a fee imposed under
24 Subsection (c)(2) shall remit the fee to the comptroller not later

1 than the last day of the month following the end of the calendar
2 quarter in which the fee is collected, and the comptroller shall
3 deposit the fee into the general revenue fund. If the clerk does
4 not collect a fee imposed under Subsection (c)(2), the clerk is not
5 required to file any report required by the comptroller relating to
6 the collection of the fee. In requiring the payment of a fee under
7 Subsection (c)(2), the judge shall consider fines, fees, and other
8 necessary expenses for which the defendant is obligated in
9 establishing the amount of the fee. The judge may not:

10 (1) establish the fee in an amount that is greater than
11 25 percent of the defendant's gross income while the defendant is a
12 participant in residential aftercare; or

13 (2) require the defendant to pay the fee at any time
14 other than a time at which the defendant is both employed and a
15 participant in residential aftercare.

16 SECTION 3. Section 19(f), Article 42.12, Code of Criminal
17 Procedure, is amended to read as follows:

18 (f) A community corrections and supervision department
19 shall remit fees collected under Subsection (e) of this section to
20 the comptroller not later than the last day of the month following
21 the end of the calendar quarter in which the fee is collected. The
22 comptroller shall deposit the fee in the special revenue fund to the
23 credit of the sexual assault program fund established under Section
24 420.008, Government [~~44.0061, Health and Safety~~] Code. If the
25 department does not collect a fee imposed under Subsection (e), the
26 department is not required to file any report required by the
27 comptroller relating to the collection of the fee.

1 SECTION 4. Sections 42.259(c), (d), and (f), Education
2 Code, are amended to read as follows:

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

5 (1) 22 percent of the yearly entitlement of the
6 district shall be paid in an installment to be made on or before the
7 25th day of September of a fiscal year;

8 (2) 18 percent of the yearly entitlement of the
9 district shall be paid in an installment to be made on or before the
10 25th day of October;

11 (3) 9.5 percent of the yearly entitlement of the
12 district shall be paid in an installment to be made on or before the
13 25th day of November;

14 (4) 7.5 percent of the yearly entitlement of the
15 district shall be paid in an installment to be made on or before the
16 25th day of April;

17 (5) five percent of the yearly entitlement of the
18 district shall be paid in an installment to be made on or before the
19 25th day of May;

20 (6) 10 percent of the yearly entitlement of the
21 district shall be paid in an installment to be made on or before the
22 25th day of June;

23 (7) 13 percent of the yearly entitlement of the
24 district shall be paid in an installment to be made on or before the
25 25th day of July; and

26 (8) 15 percent of the yearly entitlement of the
27 district shall be paid in an installment to be made after the fifth

1 day of September and not later than the 10th day of September of the
2 calendar year following the calendar year of the payment made under
3 Subdivision (1) [~~on or before the 25th day of August~~].

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

6 (1) 45 percent of the yearly entitlement of the
7 district shall be paid in an installment to be made on or before the
8 25th day of September of a fiscal year;

9 (2) 35 percent of the yearly entitlement of the
10 district shall be paid in an installment to be made on or before the
11 25th day of October; and

12 (3) 20 percent of the yearly entitlement of the
13 district shall be paid in an installment to be made after the fifth
14 day of September and not later than the 10th day of September of the
15 calendar year following the calendar year of the payment made under
16 Subdivision (1) [~~on or before the 25th day of August~~].

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

21 SECTION 5. Section 44.901, Education Code, as amended by
22 Chapter 573, Acts of the 77th Legislature, Regular Session, 2001,
23 is amended to read as follows:

24 Sec. 44.901. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR WATER~~
25 ~~CONSERVATION MEASURES~~]. (a) In this section, "energy savings
26 performance contract" means a contract for energy or water
27 conservation measures to reduce energy or water consumption or

1 operating costs of school facilities in which the estimated savings
2 in utility costs resulting from the measures is guaranteed to
3 offset the cost of the measures over a specified period. The term
4 includes a contract for the installation or implementation of:
5 ~~[The board of trustees of a school district may enter into a~~
6 ~~contract for energy or water conservation measures to reduce energy~~
7 ~~or water consumption or operating costs of school facilities in~~
8 ~~accordance with this section.~~

9 ~~[(b) A contract to which this section applies includes a~~
10 ~~contract for the installation of:]~~

11 (1) insulation of a ~~[the]~~ building structure
12 ~~[structures]~~ and systems within the building;

13 (2) storm windows or doors, caulking or
14 weatherstripping, multiglazed windows or doors, heat absorbing or
15 heat reflective glazed and coated window or door systems, or other
16 window or door system modifications that reduce energy consumption;

17 (3) automatic energy control systems, including
18 computer software and technical data licenses;

19 (4) heating, ventilating, or air-conditioning system
20 modifications or replacements that reduce energy or water
21 consumption;

22 (5) lighting fixtures that increase energy
23 efficiency;

24 (6) energy recovery systems;

25 (7) electric systems improvements;

26 (8) water-conserving fixtures, appliances, and
27 equipment or the substitution of non-water-using fixtures,

1 appliances, and equipment;

2 (9) water-conserving landscape irrigation equipment;

3 (10) landscaping measures that reduce watering
4 demands and capture and hold applied water and rainfall, including:

5 (A) landscape contouring, including the use of
6 berms, swales, and terraces; and

7 (B) the use of soil amendments that increase the
8 water-holding capacity of the soil, including compost;

9 (11) rainwater harvesting equipment and equipment to
10 make use of water collected as part of a storm-water system
11 installed for water quality control;

12 (12) equipment for recycling or reuse of water
13 originating on the premises or from other sources, including
14 treated municipal effluent;

15 (13) equipment needed to capture water from
16 nonconventional, alternate sources, including air conditioning
17 condensate or graywater, for nonpotable uses;

18 (14) metering equipment needed to segregate water use
19 in order to identify water conservation opportunities or verify
20 water savings; or

21 (15) other energy or water conservation-related
22 improvements or equipment, [~~+~~]including improvements or equipment
23 relating to renewable energy or nonconventional water sources or
24 water reuse[~~+~~].

25 (b) The board of trustees of a school district may enter
26 into an energy savings performance contract in accordance with this
27 section.

1 (c) Each [~~All~~] energy or water conservation measure
2 [~~measures~~] must comply with current local, state, and federal
3 construction, plumbing, and environmental codes and regulations.
4 Notwithstanding [~~anything to the contrary in~~] Subsection (a) [~~(b)~~],
5 an energy savings performance [a] contract may [~~for energy or water~~
6 ~~conservation measures shall~~] not include improvements or equipment
7 that allow or cause water from any condensing, cooling, or
8 industrial process or any system of nonpotable usage over which the
9 public water supply system officials do not have sanitary control,
10 to be returned to the potable water supply.

11 (d) The [~~person with whom the~~] board may enter into energy
12 savings performance contracts only with persons who are [~~must be~~]
13 experienced in the design, implementation, and installation of the
14 energy or water conservation measures addressed by the contract.

15 (e) Before entering into an energy savings performance [a]
16 contract [~~for energy or water conservation measures~~], the board
17 shall require the provider of the energy or water conservation
18 measures to file with the board a payment and performance bond
19 relating to the installation of the [~~energy or water conservation~~]
20 measures in accordance with Chapter 2253, Government Code. The
21 [~~that is in an amount the~~] board [~~finds reasonable and necessary to~~
22 ~~protect the interests of the school district and that~~] may also
23 require a separate bond to cover the value of the guaranteed savings
24 on the contract [~~and is conditioned on the faithful execution of the~~
25 ~~terms of the contract~~].

26 (f) An energy savings performance contract [~~Energy or water~~
27 ~~conservation measures with respect to existing buildings or~~

1 ~~facilities~~] may be financed:

2 (1) under a lease/purchase contract that has a term
3 not to exceed 15 years from the final date of installation and that
4 meets federal tax requirements for tax-free municipal leasing or
5 long-term financing;

6 (2) with the proceeds of bonds; or

7 (3) under a contract with the provider of the energy or
8 water conservation measures that has a term not to exceed 15 years
9 from the final date of installation.

10 (g) An energy savings performance [A] contract [~~for energy~~
11 ~~or water conservation measures~~] shall contain provisions requiring
12 [~~pursuant to which~~] the provider of the energy or water
13 conservation measures to guarantee [~~guarantees~~] the amount of the
14 savings to be realized by the school district under the contract.
15 If the term of an energy savings performance [a] contract [~~for~~
16 ~~energy or water conservation measures~~] exceeds one year, the school
17 district's contractual obligations in any one year during the term
18 of the contract beginning after the final date of installation may
19 not exceed the total energy, water, wastewater, and operating cost
20 savings, including [~~but not limited to~~] electrical, gas, water,
21 wastewater, or other utility cost savings and operating cost
22 savings resulting from the measures, [~~automatic monitoring and~~
23 ~~control~~] as determined by the school district in this subsection,
24 divided by the number of years in the contract term.

25 (h) An energy savings performance [A] contract shall [~~under~~
26 ~~this section may~~] be let according to the procedures established
27 for procuring certain professional services by Section 2254.004,

1 Government Code [~~under competitive proposal procedures~~]. Notice of
2 the request for qualifications [~~proposals~~] shall be published in
3 the manner provided for competitive bidding. [~~Requests for~~
4 ~~proposals must solicit quotations and must specify the relative~~
5 ~~importance of guaranteed savings, price, return on investment,~~
6 ~~financial performance and stability, quality, technical ability,~~
7 ~~experience, and other evaluation factors. The contract shall be~~
8 ~~awarded to the responsible offeror whose proposal, following~~
9 ~~negotiations, is determined to be the most advantageous to the~~
10 ~~school district considering the guaranteed savings and other~~
11 ~~evaluation factors set forth in the request for proposals.~~]

12 (i) Before [~~To obtain the best final offers, the school~~
13 ~~district may allow proposal revisions after submissions and before~~
14 ~~the award of the contract.~~]

15 [~~(j) Prior to~~] entering into an energy savings performance
16 [~~a~~] contract [~~under this section~~], the board must require that the
17 cost savings projected by an offeror be reviewed by a licensed
18 professional engineer who is not an officer or employee of an
19 offeror for the contract under review or otherwise associated with
20 the contract or the offeror. An engineer who reviews a contract
21 shall maintain the confidentiality of any proprietary information
22 the engineer acquires while reviewing the contract. Sections
23 1001.053 and 1001.407, Occupations Code, apply [~~Section 19, The~~
24 ~~Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
25 ~~Statutes), applies] to work performed under the contract.~~

26 SECTION 6. Section 51.927, Education Code, as amended by
27 Chapter 573, Acts of the 77th Legislature, Regular Session, 2001,

1 is amended to read as follows:

2 Sec. 51.927. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR WATER~~
3 ~~CONSERVATION MEASURES~~]. (a) In this section, "energy savings
4 performance contract" means a contract for energy or water
5 conservation measures to reduce energy or water consumption or
6 operating costs of institutional facilities in which the estimated
7 savings in utility costs resulting from the measures is guaranteed
8 to offset the cost of the measures over a specified period. The
9 term [~~The governing board of an institution of higher education may~~
10 ~~enter into a contract for energy or water conservation measures to~~
11 ~~reduce energy or water consumption or operating costs of~~
12 ~~institutional facilities in accordance with this section.~~

13 ~~[(b) A contract to which this section applies]~~ includes a
14 contract for the installation or implementation of:

15 (1) insulation of a building structure and systems
16 within a building;

17 (2) storm windows or doors, caulking or weather
18 stripping, multiglazed windows or doors, heat-absorbing or
19 heat-reflective glazed and coated window or door systems, or other
20 window or door system modifications that reduce energy consumption;

21 (3) automatic energy control systems, including
22 computer software and technical data licenses;

23 (4) heating, ventilating, or air conditioning system
24 modifications or replacements that reduce energy or water
25 consumption;

26 (5) lighting fixtures that increase energy
27 efficiency;

- 1 (6) energy recovery systems;
- 2 (7) electric systems improvements;
- 3 (8) water-conserving fixtures, appliances, and
4 equipment or the substitution of non-water-using fixtures,
5 appliances, and equipment;
- 6 (9) water-conserving landscape irrigation equipment;
- 7 (10) landscaping measures that reduce watering
8 demands and capture and hold applied water and rainfall, including:
9 (A) landscape contouring, including the use of
10 berms, swales, and terraces; and
11 (B) the use of soil amendments that increase the
12 water-holding capacity of the soil, including compost;
- 13 (11) rainwater harvesting equipment and equipment to
14 make use of water collected as part of a storm-water system
15 installed for water quality control;
- 16 (12) equipment for recycling or reuse of water
17 originating on the premises or from other sources, including
18 treated municipal effluent;
- 19 (13) equipment needed to capture water from
20 nonconventional, alternate sources, including air conditioning
21 condensate or graywater, for nonpotable uses;
- 22 (14) metering equipment needed to segregate water use
23 in order to identify water conservation opportunities or verify
24 water savings; or
- 25 (15) other energy or water conservation-related
26 improvements or equipment, [+]including improvements or equipment
27 related to renewable energy or nonconventional water sources or

1 water reuse[→].

2 (b) The governing board of an institution of higher
3 education may enter into an energy savings performance contract in
4 accordance with this section.

5 (c) Each [~~All~~] energy or water conservation measure
6 [~~measures~~] must comply with current local, state, and federal
7 construction, plumbing, and environmental codes and regulations.
8 Notwithstanding [~~anything to the contrary in~~] Subsection (a) [~~(b)~~],
9 an energy savings performance [a] contract may [~~for energy or water~~
10 ~~conservation measures shall~~] not include improvements or equipment
11 that allow or cause water from any condensing, cooling, or
12 industrial process or any system of nonpotable usage over which the
13 public water supply system officials do not have sanitary control,
14 to be returned to the potable water supply.

15 (d) The [~~entity with whom the~~] board may enter into energy
16 savings performance contracts only with entities that are [~~must be~~]
17 experienced in the design, implementation, and installation of the
18 energy or water conservation measures addressed by the contract.

19 (e) Before entering into an energy savings performance [a]
20 contract [~~for energy or water conservation measures~~], the board
21 shall require the provider of the energy or water conservation
22 measures to file with the board a payment and performance bond in
23 accordance with Chapter 2253, Government Code. The [~~that is in an~~
24 ~~amount the~~] board may also require a separate bond to cover the
25 value of the guaranteed savings on [~~finds reasonable and necessary~~
26 ~~to protect the interests of the institution and is conditioned on~~
27 ~~the faithful execution of the terms of~~] the contract.

1 (f) The board may enter into an energy savings performance
2 [a] contract for a period of more than one year only [~~for energy or~~
3 ~~water conservation measures with an entity~~] if the board finds that
4 the amount the institution would spend on the energy or water
5 conservation measures will not exceed the amount to be saved in
6 energy, water, wastewater, and operating costs over 15 years from
7 the date of installation. If the term of the [a] contract [~~for~~
8 ~~energy or water conservation measures~~] exceeds one year, the
9 institution's [~~board's~~] contractual obligation in any year during
10 the term of the contract beginning after the final date of
11 installation may not exceed the total energy, water, wastewater,
12 and operating cost savings, including [~~but not limited to~~]
13 electrical, gas, water, wastewater, or other utility cost savings
14 and operating cost savings resulting from the measures [~~automatic~~
15 ~~monitoring and control~~], as determined by the board in this
16 subsection, divided by the number of years in the contract term
17 beginning after the final date of installation. The board shall
18 consider all costs of the energy or water conservation measures,
19 including costs of design, engineering, installation, maintenance,
20 repairs, and debt service.

21 (g) An energy savings performance contract [~~Energy or water~~
22 ~~conservation measures~~] may be financed:

23 (1) under a lease/purchase contract that has a term
24 not to exceed 15 years from the final date of installation and that
25 meets federal tax requirements for tax-free municipal leasing or
26 long-term financing, including a lease/purchase contract under the
27 master equipment lease purchase program administered by the Texas

1 Public Finance Authority under Chapter 1232, Government Code;

2 (2) with the proceeds of bonds; or

3 (3) under a contract with the provider of the energy or
4 water conservation measures that has a term not to exceed 15 years
5 from the final date of installation.

6 (h) An energy savings performance [A] contract [~~for energy~~
7 ~~or water conservation measures~~] shall contain provisions requiring
8 [~~pursuant to which~~] the provider of the energy or water
9 conservation measures to guarantee [~~guarantees~~] the amount of the
10 savings to be realized by the institution of higher education under
11 the contract. [~~The Master Equipment Lease Purchase Program~~
12 ~~operated by the Texas Public Finance Authority may be utilized by an~~
13 ~~institution to fund a contract for energy or water conservation~~
14 ~~measures so long as the costs of the energy or water conservation~~
15 ~~measures, including costs of design, engineering, installation,~~
16 ~~maintenance, repairs, and anticipated debt service requirements of~~
17 ~~the Master Equipment Lease Purchase Program, do not exceed the~~
18 ~~total energy and operating cost savings, as described in Subsection~~
19 ~~(f), beginning after the final date of installation.~~]

20 (i) An energy savings performance [A] contract shall [~~under~~
21 ~~this section may~~] be let according to the procedures established
22 for procuring certain professional services by Section 2254.004,
23 Government Code [~~under competitive sealed proposal procedures~~].
24 Notice of the request for qualifications [~~proposals~~] shall be given
25 in the manner provided by Section 2156.002 [~~for in Chapter 2156~~],
26 Government Code. The Texas Higher Education Coordinating Board, in
27 consultation with the State Energy Conservation Office [~~and the~~

1 ~~Texas Energy Coordination Council~~] with regard to energy and water
2 conservation measures, shall establish guidelines and an approval
3 process for awarding energy savings performance contracts [~~awarded~~
4 ~~under this section~~]. The guidelines must require that the cost
5 savings projected by an offeror be reviewed by a licensed
6 professional engineer who is not an officer or employee of an
7 offeror for the contract under review or otherwise associated with
8 the contract. An engineer who reviews a contract shall maintain the
9 confidentiality of any proprietary information the engineer
10 acquires while reviewing the contract. A contract is not required
11 to be reviewed or approved by the State Energy Conservation Office
12 [~~or Texas Energy Coordination Council~~]. Sections 1001.053 and
13 1001.407, Occupations Code, apply [~~Section 19, The Texas~~
14 ~~Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
15 ~~Statutes), applies~~] to work performed under the contract. [~~The~~
16 ~~contract shall be awarded to the responsible offeror whose~~
17 ~~proposal, following negotiations, is determined by the institution~~
18 ~~to be the most advantageous to the institution considering the~~
19 ~~guaranteed savings and other evaluation factors set forth in the~~
20 ~~request for proposals, except that if the institution finds that no~~
21 ~~offer is acceptable, it shall refuse all offers.~~]

22 (j) [~~In accordance with regulations adopted by the~~
23 ~~institution, the institution may conduct discussions with offerors~~
24 ~~who submit proposals and who are determined to be reasonably~~
25 ~~qualified for the award of the contract. Offerors shall be treated~~
26 ~~fairly and equally with respect to any opportunity for discussion~~
27 ~~and revision of proposals. To obtain the best final offers, the~~

1 ~~institution may allow proposal revisions after submissions and~~
2 ~~before the award of the contract.~~

3 ~~[(k) If provided in a request for proposals under Subsection~~
4 ~~(i), proposals shall be opened in a manner that avoids disclosure of~~
5 ~~the contents to competing offerors and keeps the proposals secret~~
6 ~~during negotiations. All proposals are open for public inspection~~
7 ~~after a contract is awarded unless the information is excepted from~~
8 ~~disclosure under Chapter 552, Government Code.~~

9 [(1)] The legislature shall base an institution's
10 appropriation for energy, water, and wastewater costs during a
11 fiscal year on the sum of:

12 (1) the institution's estimated energy, water, and
13 wastewater costs for that fiscal year; and

14 (2) if an energy savings performance [a] contract
15 [~~under this section~~] is in effect, the institution's estimated net
16 savings resulting from the contract during the contract term,
17 divided by the number of years in the contract term.

18 SECTION 7. Section 53.02, Education Code, is amended by
19 adding Subdivision (14) to read as follows:

20 (14) "Borrower" means any of the following entities
21 that is the recipient of a loan made under Section 53.34:

22 (A) an institution of higher education;

23 (B) a nonprofit corporation incorporated by and
24 under the exclusive control of an institution of higher education;

25 (C) an accredited primary or secondary school; or

26 (D) an accredited charter school.

27 SECTION 8. Section 53.33, Education Code, is amended to

1 read as follows:

2 Sec. 53.33. LIMITED POWER TO ACQUIRE, OWN, AND OPERATE
3 EDUCATIONAL AND HOUSING FACILITIES [~~+ CONSTRUCTION, ACQUISITION,~~
4 ~~ETC~~]. (a) An [The] authority or a nonprofit instrumentality
5 created under Section 53.35(b) may acquire, own, hold title to,
6 lease, or operate an educational facility or housing facility or
7 any facility incidental, subordinate, or related to or appropriate
8 in connection with an educational facility or housing facility, but
9 only if:

10 (1) the facility is or will be located within the
11 corporate limits of the city that created the authority or
12 nonprofit instrumentality;

13 (2) the governing body of an institution of higher
14 education officially requests the authority or nonprofit
15 instrumentality to acquire and own the facility for the benefit of
16 the institution of higher education;

17 (3) the institution of higher education officially
18 agrees to accept, and has authority to receive legal title to, the
19 facility not later than the date on which any bonds or other
20 obligations issued to acquire the facility are paid in full; and

21 (4) the ownership of the facility by the authority or
22 the nonprofit instrumentality is approved by official action of the
23 governing body of:

24 (A) the city that created the authority or
25 nonprofit instrumentality;

26 (B) the school district in which the facility is
27 or will be located; and

1 (C) the county in which the facility is or will be
2 located.

3 (b) An authority or instrumentality that exercises the
4 powers granted by Subsection (a) may contract for the operation of
5 the facility by public or private entities or persons on the terms
6 and conditions set forth in a contract relating to the operation of
7 the facility.

8 (c) The changes in law made by the amendment of this section
9 by the 78th Legislature, Regular Session, 2003, do not affect the
10 acquisition, ownership, construction, or improvement of a
11 facility, or the acquisition and ownership of land that were
12 approved by official action of the authority or nonprofit corporate
13 instrumentality before March 15, 2003, and the law in effect
14 immediately before the effective date of the amendment of this
15 section by the 78th Legislature, Regular Session, 2003, is
16 continued in effect for that purpose [~~by purchase, purchase~~
17 ~~contract, or lease, may construct, or may enlarge, extend, repair,~~
18 ~~renovate, or otherwise improve educational facilities or housing~~
19 ~~facilities. It may acquire land for those purposes, furnish and~~
20 ~~equip the facilities, and provide by contract, lease, or otherwise~~
21 ~~for the operation and maintenance of the facilities. The~~
22 ~~facilities need not be located within the city limits of the city or~~
23 ~~cities)].~~

24 SECTION 9. Section 53.34, Education Code, is amended to
25 read as follows:

26 Sec. 53.34. REVENUE BONDS. (a) An [The] authority or a
27 nonprofit instrumentality created under Section 53.35(b),

1 including an authority or nonprofit instrumentality authorized to
2 own facilities under Section 53.33(a), may issue and execute
3 revenue bonds or other obligations to loan or otherwise provide
4 funds to a borrower if:

5 (1) the governing body of the borrower by official
6 action requests the issuer of the bonds or other obligations to loan
7 the proceeds under this subsection;

8 (2) the purpose of the loan is to enable the borrower
9 to acquire, construct, enlarge, extend, repair, renovate, or
10 otherwise improve an educational facility or housing facility or
11 any facility incidental, subordinate, or related to or appropriate
12 in connection with an educational facility or housing facility, or
13 for acquiring land to be used for those purposes, or to create
14 operating and debt service reserves for and to pay issuance costs
15 related to the bonds or other obligations; and

16 (3) under the terms of the loan, and unless a mortgage
17 lien granted to secure the loan is in default, the ownership of the
18 facility is required to be at all times under the exclusive control,
19 and held for the exclusive benefit, of the borrower [~~for any of its~~
20 purposes].

21 (b) In issuing revenue bonds or other obligations under this
22 chapter, the issuer of the bonds or other obligations [authority]
23 is considered to be acting on behalf of the [any] city by which it
24 was created.

25 (c) Bonds or other obligations issued under Subsection (a)
26 [~~(b) The bonds~~] shall be payable from and secured by a pledge of
27 the revenues, income, [~~all or any part of the gross or net revenue~~

1 ~~to be derived from the operation of the facility or facilities and~~
2 ~~any other revenue]~~ or assets pledged for the purpose by the
3 borrower. The bonds or other obligations may be additionally
4 secured by a mortgage, ~~[or]~~ deed of trust, ~~[on real property of the~~
5 ~~authority]~~ or ~~[by a]~~ chattel mortgage on real or [its] personal
6 property, or on [by] both real and personal property, if granted by
7 the borrower.

8 (d) A facility financed with the proceeds of a loan or loans
9 made to a borrower under Subsection (a) is not required to be
10 located within the corporate limits of the city that created the
11 issuer of the bonds or other obligations.

12 (e) An authority or a nonprofit instrumentality that is
13 authorized to acquire and own educational facilities and housing
14 facilities under Section 53.33(a) may issue and execute revenue
15 bonds and other obligations for the purpose of acquiring, owning,
16 and operating the educational and housing facilities, to create
17 operating reserves for the facilities, and to create debt service
18 reserves for and to pay issuance costs related to the bonds or other
19 obligations.

20 (f) Bonds or other obligations issued under Subsection (e)
21 shall be payable from and secured by a pledge of all or any part of
22 the gross or net revenues to be derived from the operation of the
23 educational facilities and housing facilities being acquired and
24 any other revenues, income, or assets, including the revenues and
25 income of the educational facilities or housing facilities
26 previously acquired or subsequently to be acquired. The bonds or
27 other obligations may be additionally secured by a mortgage, deed

1 of trust, or chattel mortgage on real or personal property, or on
2 both real and personal property, if granted by the authority or
3 nonprofit instrumentality issuing the bonds or other obligations.

4 (g) The changes in law made by the amendment of this section
5 by the 78th Legislature, Regular Session, 2003, affect and apply
6 only to transactions involving bonds or other obligations that are
7 issued or executed under this chapter on or after March 15, 2003.
8 Bonds or other obligations that are issued or executed under this
9 chapter before March 15, 2003, are governed by the law in effect
10 immediately before the amendment of this section by the 78th
11 Legislature, Regular Session, 2003, and that former law is
12 continued in effect for that purpose.

13 SECTION 10. Section 53.35(b), Education Code, is amended to
14 read as follows:

15 (b) In addition to or in lieu of establishing an authority
16 under the provisions of this chapter, the governing body of a city
17 or cities may request or order created one or more nonprofit
18 corporations to act on its behalf and as its duly constituted
19 authority and instrumentality to exercise the powers granted to an
20 authority under the provisions of Sections [~~Section~~] 53.33 and
21 53.34 [~~, Texas Education Code~~]. If a nonprofit corporation is
22 created for such purposes or agrees to such request, the directors
23 thereof shall thereafter be appointed and be subject to removal by
24 the governing body of the city or cities. In addition to the powers
25 [~~of lease or acquisition of facilities~~] granted under, and subject
26 to the limitations provided by, Sections [~~Section~~] 53.33 and 53.34,
27 the corporation shall have all powers granted under the Texas

1 Non-Profit Corporation Act for the purpose of aiding institutions
2 of higher education in providing educational facilities and housing
3 facilities and facilities incidental, subordinate, or related
4 thereto or appropriate in connection therewith. In addition to
5 Sections [the provisions of Section] 53.33 and 53.34 and the Texas
6 Non-Profit Corporation Act, as amended (Article 1396-1.01,
7 Vernon's Texas Civil Statutes), Sections 53.131, 53.14, 53.15,
8 53.31, 53.32, 53.331, 53.34, 53.35, 53.38, and 53.41 of this code[~~7~~
9 ~~Texas Education Code, shall~~] apply to and govern such corporation
10 and its procedures, [and] bonds, and other obligations.

11 SECTION 11. Section 53.48, Education Code, is amended to
12 read as follows:

13 Sec. 53.48. BONDS FOR ACCREDITED PRIMARY OR SECONDARY
14 SCHOOLS. In the same manner that a corporation may issue and
15 execute bonds or other obligations under this chapter for an
16 institution of higher education, a corporation created under
17 Section 53.35(b) may issue and execute bonds or other obligations
18 to finance or refinance educational facilities or housing
19 facilities to be used by an accredited primary or secondary school
20 or by an authorized charter school.

21 SECTION 12. Section 54.619, Education Code, is amended by
22 adding Subsection (j) to read as follows:

23 (j) The board may temporarily suspend new enrollment in the
24 program on the request of the comptroller as the comptroller
25 considers necessary to ensure the actuarial soundness of the fund.

26 SECTION 13. Section 54.624, Education Code, is amended to
27 read as follows:

1 Sec. 54.624. SENIOR COLLEGE PLAN. (a) Through the senior
2 college plan, a prepaid tuition contract shall provide prepaid
3 tuition and required fees for the beneficiary to attend a public
4 senior college or university for a specified number of
5 undergraduate credit hours not to exceed the typical number of
6 hours required for a baccalaureate degree awarded by a public
7 senior college or university.

8 (b) When the beneficiary of a senior college plan prepaid
9 tuition contract enrolls in a public senior college or university,
10 the university shall accept as payment in full of the beneficiary's
11 tuition and required fees the lesser of:

12 (1) the amount of tuition and required fees charged by
13 the institution; or

14 (2) an amount paid by the board under the contract
15 equal to the weighted average amount of tuition and required fees of
16 all public senior colleges and universities for that semester or
17 other academic period as determined by the board.

18 (c) Each public senior college or university shall provide
19 the information requested by the board on or before June 1 each year
20 to assist the board in determining the weighted average amount of
21 tuition and required fees of all public senior colleges and
22 universities for each semester or other academic term of the
23 following academic year for purposes of this section.

24 SECTION 14. Section 55.1731(a), Education Code, is amended
25 to read as follows:

26 (a) In addition to the other authority granted by this
27 subchapter, the board of regents of The Texas A&M University System

1 may issue in accordance with this subchapter and in accordance with
2 a systemwide revenue financing program adopted by the board bonds
3 for the following institutions not to exceed the following
4 aggregate principal amounts to finance projects specified as
5 follows:

6 (1) Prairie View A&M University:

7 (A) \$53 million to construct or renovate
8 engineering facilities, construct and renovate an architecture
9 building, and carry out other campus renovations; and

10 (B) \$15 million to construct a juvenile justice
11 and psychology building;

12 (2) Tarleton State University, \$18.7 million for a
13 library addition and renovation of a mathematics building;

14 (3) Texas A&M University--Commerce, \$14,960,000 to
15 construct [~~replace~~] a science building [~~wing~~];

16 (4) Texas A&M University--Corpus Christi, \$34 million
17 to construct a classroom and laboratory facility and for
18 construction of the Harte Research Center;

19 (5) Texas A&M International University, \$21,620,000
20 to construct a science building (Phase IV);

21 (6) Texas A&M University at Galveston, \$10,030,000 to
22 construct an engineering building;

23 (7) Texas A&M University--Kingsville, \$20,060,000 to
24 construct facilities for a pharmacy school and to construct a
25 student services building;

26 (8) Texas A&M University--Texarkana, \$17 million to
27 construct a health science building and for library renovation;

1 (9) West Texas A&M University, \$22,780,000 to
2 construct a fine arts complex; and

3 (10) The Texas A&M University Health Science Center,
4 \$14.3 million for construction of classroom and faculty office
5 facilities for the School of Rural Public Health.

6 SECTION 15. Section 403.016(f), Government Code, is amended
7 to read as follows:

8 (f)(1) Except as provided by Subdivisions [~~Subdivision~~] (2)
9 and (4) and subject to any limitation in rules adopted by the
10 comptroller, an automated clearinghouse, or the federal
11 government, the comptroller may use the electronic funds transfer
12 system to deposit payments only to one or more accounts of a payee
13 at one or more financial institutions, including credit unions.

14 (2) The comptroller may also use the electronic funds
15 transfer system to deposit a portion of an employee's gross pay into
16 the employee's account at a credit union as prescribed by
17 Subchapter G, Chapter 659.

18 (3) A single electronic funds transfer may contain
19 payments to multiple payees. Individual transfers or warrants are
20 not required for each payee.

21 (4) The comptroller may also use the electronic funds
22 transfer system to deposit a portion of an employee's gross pay into
23 an account of an eligible state employee organization for a
24 membership as prescribed by Subchapter G, Chapter 659.

25 SECTION 16. Section 403.020, Government Code, is amended to
26 read as follows:

27 Sec. 403.020. PERFORMANCE REVIEW OF SCHOOL DISTRICTS AND

1 INSTITUTIONS OF HIGHER EDUCATION. (a) In this section, "public
2 junior college" and "general academic teaching institution" have
3 the meanings assigned by Section 61.003, Education Code.

4 (b) The comptroller may periodically review the
5 effectiveness and efficiency of the budgets and operations of:

6 (1) school districts;

7 (2) public junior colleges; and

8 (3) general academic teaching institutions.

9 (c) A review of a school district may be initiated by the
10 comptroller or by the request of the [~~school~~] district. Except as
11 provided by Subsection (c-1), a review of a public junior college or
12 general academic teaching institution may be initiated only at the
13 request of:

14 (1) the governor;

15 (2) the Legislative Budget Board; or

16 (3) the governing body of the college or institution.

17 (c-1) A review of a general academic teaching institution
18 may be initiated by the comptroller if the rate of graduation within
19 six years of initial enrollment for entering freshman students of
20 the institution for the most recent six-year period for which that
21 information is available is less than 35 percent, as determined by
22 the Texas Higher Education Coordinating Board.

23 (d) A review may be initiated by a school district only by
24 resolution adopted by a majority of the members of the board of
25 trustees of the district. A review may be initiated by a public
26 junior college or general academic teaching institution only at the
27 request of the president of the college or institution or by a

1 resolution adopted by a majority of the governing body of the
2 college or institution.

3 (e) [~~b~~] If a review is initiated by the school district,
4 public junior college, or general academic teaching institution,
5 the district, college, or institution shall pay 25 percent of the
6 cost incurred in conducting the review.

7 (f) [~~e~~] The comptroller shall:

8 (1) prepare a report showing the results of each
9 review conducted under this section;

10 (2) file the report with:

11 (A) the school district, public junior college,
12 or general academic teaching institution that is the subject of the
13 report;

14 (B) [~~r~~] the governor;

15 (C) [~~r~~] the lieutenant governor;

16 (D) [~~r~~] the speaker of the house of
17 representatives;

18 (E) [~~r~~] the chairs of the standing committees of
19 the senate and of the house of representatives with jurisdiction
20 over public education;

21 (F) the commissioner of higher education, if a
22 public junior college or general academic teaching institution is
23 the subject of the report; [~~r~~] and

24 (G) the commissioner of education, if a school
25 district is the subject of the report; and

26 (3) make the entire report and a summary of the report
27 available to the public on the Internet.

1 SECTION 17. Section 403.027(g), Government Code, is amended
2 to read as follows:

3 (g) In this section, "digital signature" means an
4 electronic identifier intended by the person using it to have the
5 same force and effect as the use of a manual signature [~~has the~~
6 ~~meaning assigned by Section 2.108(d), Business & Commerce Code~~].

7 SECTION 18. Section 403.054, Government Code, is amended by
8 amending Subsection (b) and adding Subsection (i) to read as
9 follows:

10 (b) The comptroller may not issue a replacement warrant if:

11 (1) the comptroller has paid the original warrant,
12 unless the comptroller:

13 (A) has received [~~obtained~~] a refund of the
14 payment; or

15 (B) is satisfied that the state agency on whose
16 behalf the comptroller issued the original warrant has taken
17 reasonable steps to obtain a refund of the payment;

18 (2) the period during which the comptroller may pay
19 the original warrant has expired under Section 404.046 or other
20 applicable law;

21 (3) the payee of the replacement warrant is not the
22 same as the payee of the original warrant; or

23 (4) the comptroller is prohibited by a payment law
24 [~~Section 403.055 or 481.0841, or by Section 57.48, Education Code,~~]
25 from issuing a warrant to the payee of the replacement warrant.

26 (i) In this section, "payment law" means:

27 (1) Section 403.055;

1 (2) Section 57.48, Education Code;

2 (3) Section 231.007, Family Code; or

3 (4) any similar law that prohibits the comptroller
4 from issuing a warrant or initiating an electronic funds transfer
5 to a person.

6 SECTION 19. Sections 403.092(a) and (b), Government Code,
7 are amended to read as follows:

8 (a) To allow efficient management of the cash flow of the
9 general revenue fund and to avoid a temporary cash deficiency in
10 that fund, the comptroller may transfer available [~~surplus~~] cash,
11 except constitutionally dedicated revenues, between funds that are
12 managed by or in the custody of the comptroller [~~state treasury~~].
13 As soon as practicable the comptroller shall return the available
14 [~~surplus~~] cash to the fund from which it was transferred. The
15 comptroller shall preserve the [~~fund~~] equity of the fund from which
16 the cash was transferred and shall allocate the earned [~~depository~~]
17 interest as if the transfer had not been made.

18 (b) If the comptroller submits a statement under Article
19 III, Section 49a, of the Texas Constitution when available
20 [~~surplus~~] cash transferred under Subsection (a) is in the general
21 revenue fund, the comptroller shall indicate in that statement that
22 the transferred available [~~surplus~~] cash is in the general revenue
23 fund, is a liability of that fund, and is not available for
24 appropriation by the legislature except as necessary to return cash
25 to the fund from which it was transferred as required by Subsection
26 (a).

27 SECTION 20. Sections 403.1042(b), (c), (e), and (f),

1 Government Code, are amended to read as follows:

2 (b) The advisory committee is composed of 11 members
3 appointed [~~by the advisory committee~~] as follows:

4 (1) one member appointed [~~nominated~~] by the
5 comptroller to represent a public hospital or hospital district
6 located in a county with a population of 50,000 or less or a public
7 hospital owned or maintained by a municipality;

8 (2) one member appointed [~~nominated~~] by the political
9 subdivision that, in the year preceding the appointment, received
10 the largest annual distribution paid from the account;

11 (3) one member appointed [~~nominated~~] by the political
12 subdivision that, in the year preceding the appointment, received
13 the second largest annual distribution paid from the account;

14 (4) four members appointed [~~nominated~~] by political
15 subdivisions that:

16 (A) in the year preceding the appointment,
17 received the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, or 12th
18 largest annual distribution paid from the account; and

19 (B) do not have an appointee [~~a nominee~~] serving
20 on the advisory committee at the time of appointment;

21 (5) one member appointed [~~nominated~~] by the County
22 Judges and Commissioners Association of Texas;

23 (6) one member appointed [~~nominated~~] by the North and
24 East Texas County Judges and Commissioners Association;

25 (7) one member appointed [~~nominated~~] by the South
26 Texas County Judges and Commissioners Association; and

27 (8) one member appointed [~~nominated~~] by the West Texas

1 County Judges and Commissioners Association.

2 (c) A commissioners court that sets the tax rate for a
3 hospital district must approve any person appointed [~~nominated~~] by
4 the hospital district to serve on the advisory committee.

5 (e) Except as provided by this subsection, members
6 [~~Members~~] of the advisory committee serve staggered six-year terms
7 expiring on August 31 of each odd-numbered year. A member of the
8 advisory committee whose term expires or who attempts to resign
9 from the committee remains a member of the committee until the
10 member's successor is appointed.

11 (f) An individual or entity authorized to make an
12 appointment [~~or nominate someone for appointment~~] to the advisory
13 committee created under this section shall attempt to appoint [~~or~~
14 ~~nominate~~] persons who represent the gender composition, minority
15 populations, and geographic regions of the state.

16 SECTION 21. Section 403.401(4), Government Code, is amended
17 to read as follows:

18 (4) "Office" means the office of the governor
19 [~~comptroller~~].

20 SECTION 22. Section 403.403(d), Government Code, is amended
21 to read as follows:

22 (d) The governor shall designate [~~comptroller is~~] the
23 presiding officer of the board to serve in that capacity at the
24 pleasure of the governor.

25 SECTION 23. Section 403.406(a), Government Code, is amended
26 to read as follows:

27 (a) The board shall hold regular meetings in Austin and other

1 meetings at places and times scheduled by the board in formal
2 sessions and called by the governor [~~comptroller~~].

3 SECTION 24. Section 403.413, Government Code, is amended by
4 amending Subsections (b) and (e) and adding Subsection (h) to read
5 as follows:

6 (b) In determining eligible products and [~~small~~]
7 businesses, the board shall give special preference to products or
8 businesses in the areas of semiconductors, nanotechnology,
9 biotechnology, and biomedicine that have the greatest likelihood of
10 commercial success, job creation, and job retention in this state.
11 The board shall give further preference to providing financing to
12 projects or businesses that are:

13 (1) grantees under the small business innovation
14 research program established under 15 U.S.C. Section 638, as
15 amended;

16 (2) companies formed in this state to commercialize
17 research funded at least in part with state funds;

18 (3) applicants that have acquired other sources of
19 financing;

20 (4) companies formed in this state and receiving
21 assistance from designated state small business development
22 centers; or

23 (5) applicants who are residents of this state doing
24 business in this state and performing financed activities
25 predominantly in this state.

26 (e) The board may appoint an advisory committee of experts
27 in the areas of semiconductors, nanotechnology, biotechnology, and

1 biomedicine to review projects and businesses seeking financing
2 from the board.

3 (h) Any business in this state may be eligible for funding
4 through the small business incubator fund if it is determined to
5 have a substantial likelihood of developing and expanding the
6 opportunities for small businesses in the semiconductor, nanotech,
7 biotech, or biomedicine industries in Texas.

8 SECTION 25. Section 404.024, Government Code, is amended by
9 amending Subsection (b) and adding Subsection (l) to read as
10 follows:

11 (b) State funds not deposited in state depositories shall be
12 invested by the comptroller in:

13 (1) direct security repurchase agreements;

14 (2) reverse security repurchase agreements;

15 (3) direct obligations of or obligations the principal
16 and interest of which are guaranteed by the United States;

17 (4) direct obligations of or obligations guaranteed by
18 agencies or instrumentalities of the United States government;

19 (5) bankers' acceptances that:

20 (A) are eligible for purchase by the Federal
21 Reserve System;

22 (B) do not exceed 270 days to maturity; and

23 (C) are issued by a bank that has received the
24 highest short-term credit rating by a nationally recognized
25 investment rating firm;

26 (6) commercial paper that:

27 (A) does not exceed 270 days to maturity; and

1 (B) except as provided by Subsection (i), has
2 received the highest short-term credit rating by a nationally
3 recognized investment rating firm;

4 (7) contracts written by the treasury in which the
5 treasury grants the purchaser the right to purchase securities in
6 the treasury's marketable securities portfolio at a specified price
7 over a specified period and for which the treasury is paid a fee and
8 specifically prohibits naked-option or uncovered option trading;

9 (8) direct obligations of or obligations guaranteed by
10 the Inter-American Development Bank, the International Bank for
11 Reconstruction and Development (the World Bank), the African
12 Development Bank, the Asian Development Bank, and the International
13 Finance Corporation that have received the highest credit rating by
14 a nationally recognized investment rating firm;

15 (9) bonds issued, assumed, or guaranteed by the State
16 of Israel;

17 (10) obligations of a state or an agency, county,
18 city, or other political subdivision of a state;

19 (11) mutual funds secured by obligations that are
20 described by Subdivisions (1) through (6), including pooled funds:

21 (A) established by the Texas Treasury
22 Safekeeping Trust Company;

23 (B) operated like a mutual fund; and

24 (C) with portfolios consisting only of
25 dollar-denominated securities; and

26 (12) foreign currency for the sole purpose of
27 facilitating investment by state agencies that have the authority

1 to invest in foreign securities.

2 (1) The comptroller may lend securities under procedures
3 established by the comptroller. The procedures must be consistent
4 with industry practice and must include a requirement to fully
5 secure the loan with cash, obligations, or a combination of cash and
6 obligations. In this subsection, "obligation" means an item
7 described by Subsections (b)(1)-(6).

8 SECTION 26. Section 404.102, Government Code, is amended by
9 amending Subsection (a) and adding Subsection (c) to read as
10 follows:

11 (a) The comptroller may incorporate a special-purpose trust
12 company called the Texas Treasury Safekeeping Trust Company. The
13 purposes of the trust company are to provide a means for the
14 comptroller to obtain direct access to services provided by the
15 Federal Reserve System and to enable the comptroller to manage,
16 disburse, transfer, safekeep, and invest funds and securities more
17 efficiently and economically by using established and reasonable
18 financial practices, including the pooling of funds and the lending
19 of securities to the extent practical or necessary. The
20 comptroller may deposit funds and securities with the trust company
21 to achieve its purpose.

22 (c) The trust company may establish government investment
23 pools consisting of state agency funds not required to be deposited
24 in the state treasury and local government funds that are placed
25 into the pools for investment or reinvestment by the trust company.
26 A state agency or local government may place funds into the pools
27 for investment or reinvestment as authorized by Subsection (a) or

1 other law. In this subsection, "local government" and "state
2 agency" have the meanings assigned by Section 2256.002.

3 SECTION 27. Section 404.107(b), Government Code, is amended
4 to read as follows:

5 (b) A participant that has money or securities on [~~Agencies~~
6 ~~and local political subdivisions of the state and nonprofit~~
7 ~~corporations, foundations, and other charitable organizations~~
8 ~~created on behalf of the state or an agency or local political~~
9 ~~subdivision of the state that are authorized or required to]~~
10 deposit [~~money and securities~~] with the trust company shall pay the
11 fees provided in [~~established on~~] the trust company's fee schedule
12 developed under Section 404.103(f). The trust company may:

13 (1) deduct a fee from the principal or earning of a
14 participant on deposit with the trust company; or

15 (2) require a participant to pay a fee from an amount
16 not on deposit with the trust company.

17 SECTION 28. Section 404.123(b), Government Code, is amended
18 to read as follows:

19 (b) The committee may impose a limit on the sum of the total
20 amount of the notes outstanding and the total outstanding liability
21 of the general revenue fund under Section 403.092 [~~may not at any~~
22 ~~time exceed 25 percent of the taxes and revenues to be credited to~~
23 ~~the general revenue fund for the fiscal year as determined by the~~
24 ~~comptroller, based on the certification made by the comptroller in~~
25 ~~the enactment of the General Appropriations Act applicable to that~~
26 ~~fiscal year]~~.

27 SECTION 29. Chapter 447, Government Code, as amended by

1 Chapters 573, 1158, and 1398, Acts of the 77th Legislature, Regular
2 Session, 2001, is reenacted to read as follows:

3 CHAPTER 447. STATE ENERGY CONSERVATION OFFICE

4 Sec. 447.001. GOVERNANCE AND GENERAL AUTHORITY. The state
5 energy conservation office:

6 (1) is under the direction and control of the
7 comptroller;

8 (2) shall promote the policies enumerated in this
9 chapter; and

10 (3) may act in any capacity authorized by state or
11 federal law.

12 Sec. 447.002. INFORMATION; PROCEDURES AND RULES; MEASURES
13 AND PROGRAMS. (a) The state energy conservation office shall
14 develop and provide energy and water conservation information for
15 the state.

16 (b) The state energy conservation office may establish
17 procedures and adopt rules relating to the development and
18 implementation of energy and water conservation measures and
19 programs applicable to state buildings and facilities.

20 (c) A procedure established or a rule adopted under
21 Subsection (b) may include provisions relating to:

22 (1) the retrofitting of existing state buildings and
23 facilities with energy-saving or water-saving devices; and

24 (2) the energy-related or water-related renovation of
25 those buildings and facilities.

26 (d) To the extent that the governor receives money
27 appropriated for energy and water efficiency measures and programs,

1 the governor, through the state energy conservation office, shall
2 implement measures and programs that the state energy conservation
3 office identifies as encouraging energy or water conservation by
4 state government.

5 (e) A state agency shall implement an energy or water
6 conservation measure or program in accordance with plans developed
7 under Section 447.009.

8 (f) The state energy conservation office shall coordinate
9 all water conservation-related activities with the Texas Water
10 Development Board. The board shall assist the office in the
11 development of all proposed water conservation and reuse
12 requirements and provide training and expertise to the office
13 regarding water conservation issues.

14 Sec. 447.003. LIAISON TO FEDERAL GOVERNMENT. The state
15 energy conservation office is the state liaison to the federal
16 government for the implementation and administration of federal
17 programs relating to state agency energy matters. The office shall
18 administer state programs established under:

19 (1) Part D, Title III, Energy Policy and Conservation
20 Act (42 U.S.C. Section 6321 et seq.), and its subsequent
21 amendments;

22 (2) Part G, Title III, Energy Policy and Conservation
23 Act (42 U.S.C. Section 6371 et seq.), and its subsequent
24 amendments; and

25 (3) other federal energy conservation programs as
26 assigned to the office by the governor or the legislature.

27 Sec. 447.004. DESIGN STANDARDS. (a) The state energy

1 conservation office shall establish and publish mandatory energy
2 and water conservation design standards for each new state building
3 or major renovation project, including a new building or major
4 renovation project of a state-supported institution of higher
5 education. The office shall define "major renovation project" for
6 purposes of this section and shall review and update the standards
7 biennially.

8 (b) The standards established under Subsection (a) must:

9 (1) include performance and procedural standards for
10 the maximum energy and water conservation allowed by the latest and
11 most cost-effective technology that is consistent with the
12 requirements of public health, safety, and economic resources;

13 (2) be stated in terms of energy and water consumption
14 levels;

15 (3) consider the various types of building uses; and

16 (4) allow for design flexibility.

17 (c) Any procedural standard established under this section
18 must be directed toward specific design and building practices that
19 produce good thermal resistance and low infiltration and toward
20 requiring practices in the design of mechanical and electrical
21 systems that maximize energy and water efficiency. The procedural
22 standards must address, as applicable:

23 (1) insulation;

24 (2) lighting;

25 (3) ventilation;

26 (4) climate control;

27 (5) water-conserving fixtures, appliances, and

1 equipment or the substitution of non-water-using fixtures,
2 appliances, and equipment;

3 (6) water-conserving landscape irrigation equipment;

4 (7) landscaping measures that reduce watering demands
5 and capture and hold applied water and rainfall, including:

6 (A) landscape contouring, including the use of
7 berms, swales, and terraces; and

8 (B) the use of soil amendments that increase the
9 water-holding capacity of the soil, including compost;

10 (8) rainwater harvesting equipment and equipment to
11 make use of water collected as part of a storm-water system
12 installed for water quality control;

13 (9) equipment for recycling or reusing water
14 originating on the premises or from other sources, including
15 treated municipal effluent;

16 (10) equipment needed to capture water from
17 nonconventional, alternate sources, including air conditioning
18 condensate or graywater, for nonpotable uses;

19 (11) metering equipment needed to segregate water use
20 in order to identify water conservation opportunities or verify
21 water savings;

22 (12) special energy requirements of health-related
23 facilities of higher education and state agencies; and

24 (13) any other item that the state energy conservation
25 office considers appropriate.

26 (d) A state agency or an institution of higher education
27 shall submit a copy of its design and construction manuals to the

1 state energy conservation office as the office considers necessary
2 to demonstrate compliance by the agency or institution with the
3 standards established under this section.

4 (e) A state agency or an institution of higher education may
5 not begin construction of a new state building or a major renovation
6 project before the design architect or engineer for the
7 construction or renovation has:

8 (1) certified to the agency or institution that the
9 construction or renovation complies with the standards established
10 under this section; and

11 (2) provided a copy of that certification to the state
12 energy conservation office.

13 Sec. 447.005. ENERGY AND WATER EFFICIENCY PROJECTS.
14 Subject to applicable state and federal laws or guidelines, the
15 state energy conservation office may:

16 (1) implement an energy or water efficiency project at
17 a state agency; or

18 (2) assist the agency in implementing the project
19 through an energy or water efficiency program.

20 Sec. 447.006. ADDITIONAL ENERGY AND WATER SERVICES. (a)
21 The state energy conservation office may provide additional energy
22 and water services, including:

23 (1) training of designated state employees in energy
24 and water management, energy-accounting techniques,
25 water-accounting techniques, and energy efficient and water
26 efficient design and construction;

27 (2) technical assistance regarding energy efficient

1 and water efficient capital improvements, energy efficient and
2 water efficient building design, and cogeneration and thermal
3 storage investments;

4 (3) technical assistance to the state auditor or a
5 state agency regarding energy and water management performance
6 audits and the monitoring of utility bills to detect billing
7 errors;

8 (4) technical assistance to a state agency regarding
9 third-party financing of an energy efficient and water efficient
10 capital improvement project; and

11 (5) other energy-related and water-related assistance
12 that the office considers appropriate, if the assistance is
13 requested by a state agency, an institution of higher education, a
14 consortium of institutions of higher education, or another
15 governmental entity created by state law.

16 (b) Using available state, federal, or oil overcharge
17 funds, the state energy conservation office may provide technical
18 assistance to a state agency or an institution of higher education
19 in analyzing or negotiating rates for electricity or natural gas
20 supplies from a locally certificated electric supplier, a natural
21 gas supplier, or a state-owned energy resource, including a
22 transportation charge for natural gas.

23 (c) A state agency or an institution of higher education may
24 request the assistance of the state energy conservation office
25 before negotiating or contracting for the supply or transportation
26 of natural gas or electricity.

27 (d) A state agency or an institution of higher education

1 with expertise in rate analysis, negotiation, or any other matter
2 related to the procurement of electricity and natural gas supplies
3 from a locally certificated electric supplier, a natural gas
4 supplier, or a state-owned energy resource may assist the state
5 energy conservation office whenever practicable. The attorney
6 general on request shall assist the office and other state agencies
7 and institutions of higher education in negotiating rates for
8 electricity and other terms of electric utility service.

9 (e) Using available funds from any source, the state energy
10 conservation office may assist a state agency, an institution of
11 higher education, a consortium of institutions of higher education,
12 or another governmental entity created by state law to further the
13 goals and pursue the policies of the state in energy research as may
14 be determined by the governor or the legislature. The office may
15 assist a state agency in implementing current federal energy
16 policy.

17 (f) The state energy conservation office on request may
18 negotiate rates for electricity and other terms of electric utility
19 service for a state agency or an institution of higher education.
20 The office also may negotiate the rates and the other terms of
21 service for a group of agencies or institutions in a single
22 contract.

23 (g) The state energy conservation office may analyze the
24 rates for electricity charged to and the amount of electricity used
25 by state agencies and institutions of higher education to determine
26 ways the state could obtain lower rates and use less electricity.
27 Each state agency, including the Public Utility Commission of

1 Texas, and institution of higher education shall assist the office
2 in obtaining the information the office needs to perform its
3 analysis.

4 Sec. 447.007. ENERGY AND WATER AUDITS. (a) The state
5 energy conservation office may audit a state-owned building used by
6 a state agency to assist the agency in reducing energy and water
7 consumption and costs through improved energy and water efficiency.

8 (b) Based on any audit performed under Subsection (a), the
9 state energy conservation office may recommend changes to improve
10 energy and water efficiency.

11 (c) Each state agency or institution of higher education
12 shall review and audit utility billings and contracts to detect
13 billing errors. Any contract with a private person to conduct the
14 review or audit must comply with all applicable provisions of
15 Subchapter A, Chapter 2254, regarding professional services
16 contracts. The contract may not be awarded on a contingent fee
17 basis unless the governor determines that the contract is
18 necessary, reasonable, and prudent.

19 Sec. 447.008. ENERGY-SAVING AND WATER-SAVING DEVICES OR
20 MEASURES. (a) On approval by the state energy conservation office,
21 a state agency that reduces its energy or water expenses may use any
22 funds saved by the agency from appropriated utility funds for the
23 purchase of an energy-saving or water-saving device or measure.
24 For purposes of this section, "energy-saving or water-saving device
25 or measure" means a device or measure that directly reduces:

- 26 (1) energy or water costs; or
27 (2) the energy or water consumption of equipment,

1 including a lighting, heating, ventilation, air-conditioning
2 system, or other water-using system, without materially altering
3 the quality of the equipment.

4 (b) A state agency, in accordance with the recommendations
5 of an energy or water audit, may purchase energy-saving and
6 water-saving devices or measures from appropriated utility funds if
7 the savings in utility funds projected by the audit will offset the
8 purchase. The agency shall retain in its files a copy of the
9 recommendation and repayment schedule as evidence of the projected
10 savings.

11 Sec. 447.009. ENERGY AND WATER MANAGEMENT PLANNING. (a)
12 The state energy conservation office shall provide energy and water
13 management planning assistance to a state agency or an institution
14 of higher education, including:

15 (1) preparation by the agency or institution of a
16 long-range plan for the delivery of reliable, cost-effective
17 utility services for the state agency or institution;

18 (2) assistance to the Department of Public Safety for
19 energy emergency contingency planning, using state or federal funds
20 when available;

21 (3) assistance to each state agency or institution of
22 higher education in preparing comprehensive energy and water
23 management plans; and

24 (4) assistance to state agencies other than
25 institutions of higher education in meeting the requirements of
26 Section 447.002, including assistance in scheduling and assigning
27 priorities to implementation plans to ensure that state agencies

1 adopt qualified cost-effective efficiency measures and programs
2 for all state facilities not later than September 1, 2006.

3 (b) A state agency or an institution of higher education
4 shall develop the plan described in Subsection (a)(1) and submit
5 the plan to the state energy conservation office upon request. The
6 agency or institution shall use the plan in preparing its five-year
7 construction and major renovation plans. After other energy-saving
8 or water-saving alternatives are considered, district heating and
9 cooling or on-site generation of electricity may be considered in
10 planning for reliable, efficient, and cost-effective utility
11 services.

12 (c) The state energy conservation office shall prepare
13 guidelines for preparation of the plan described in Subsection
14 (a)(3). A state agency or an institution of higher education that
15 occupies a state-owned building shall prepare and implement a
16 five-year energy and water management plan and shall submit that
17 plan to the office upon request. The agency or institution shall
18 update its plan biennially. A state agency or an institution of
19 higher education that occupies a building not owned by the state
20 shall cooperate with the office in addressing the energy or water
21 management of that building.

22 (d) The comprehensive energy and water management plan
23 described in Subsection (a)(3) shall be included in the five-year
24 construction and major repair and rehabilitation plans for
25 institutions of higher education as required by Section 61.0651,
26 Education Code.

27 SECTION 30. Subchapter A, Chapter 609, Government Code, is

1 amended by adding Section 609.014 to read as follows:

2 Sec. 609.014. COORDINATION OF PLANS. Notwithstanding any
3 other provision of this chapter, an institution of higher
4 education, as defined by Section 61.003, Education Code,
5 participating in a group benefits program under Chapter 1551,
6 Insurance Code, may participate under this chapter only in a
7 deferred compensation plan described by Subchapter C.

8 SECTION 31. Section 659.102, Government Code, is amended by
9 amending Subsection (c) and adding Subsection (d) to read as
10 follows:

11 (c) The supplemental optional benefits program may include
12 permanent life insurance, catastrophic illness insurance,
13 disability insurance, [~~or~~] prepaid legal services, or a qualified
14 transportation benefit.

15 (d) A qualified transportation benefit is a transportation
16 benefit meeting the requirements of Section 132(f), Internal
17 Revenue Code of 1986. The Employees Retirement System of Texas
18 shall determine a fee or charge that may be paid as a qualified
19 transportation benefit.

20 SECTION 32. Subchapter G, Chapter 659, Government Code, is
21 amended by adding Section 659.1031 to read as follows:

22 Sec. 659.1031. DEDUCTION OF MEMBERSHIP FEES FOR ELIGIBLE
23 STATE EMPLOYEE ORGANIZATIONS. (a) An employee of a state agency
24 may authorize in writing a deduction each pay period from the
25 employee's salary or wage payment for payment to an eligible state
26 employee organization of a membership fee in the organization.

27 (b) In this section, "eligible state employee organization"

1 means a state employee organization with a membership of at least
2 2,000 active or retired state employees who hold or who have held
3 certification from the Commission on Law Enforcement Officer
4 Standards and Education.

5 SECTION 33. Section 659.104(a), Government Code, is amended
6 to read as follows:

7 (a) An authorization for a deduction under this subchapter
8 must direct the comptroller or, if applicable, the appropriate
9 financial officer of an institution of higher education to transfer
10 the withheld funds to the program, eligible state employee
11 organization, or credit union designated by the employee.

12 SECTION 34. Section 659.110, Government Code, is amended to
13 read as follows:

14 Sec. 659.110. RULES. The comptroller may establish
15 procedures and adopt rules to administer the credit union and the
16 eligible state employee organization membership fee deduction
17 programs [~~program~~] authorized by this subchapter.

18 SECTION 35. Section 659.131(8), Government Code, is amended
19 to read as follows:

20 (8) "Indirect services" means [~~health and human~~]
21 services that:

22 (A) enable, augment, or otherwise support the
23 [~~are not~~] direct delivery of health and human services; and

24 (B) demonstrably benefit residents of this
25 state.

26 SECTION 36. Section 659.146(c), Government Code, is amended
27 to read as follows:

1 (c) A federation or fund that seeks statewide participation
 2 in a state employee charitable campaign must apply on behalf of
 3 itself and its affiliated agencies to the state policy committee
 4 during the annual eligibility determination period specified by the
 5 committee. The state policy committee shall review each
 6 application and may approve a federation or fund for statewide
 7 participation only if the federation or fund qualifies as a
 8 statewide charitable organization [~~or as an international~~
 9 ~~federation or fund~~]. The state policy committee may approve an
 10 affiliated charitable organization for statewide participation
 11 only if the organization qualifies as a statewide charitable
 12 organization [~~or is an affiliated agency of an international~~
 13 ~~federation or fund~~].

14 SECTION 37. Section 659.150(b), Government Code, is amended
 15 to read as follows:

16 (b) A participating charitable organization may not use
 17 contributions under this subchapter to:

18 (1) directly or indirectly fund [~~conduct~~] litigation;
 19 or

20 (2) make expenditures that would require the
 21 organization to register under Chapter 305 if the organization were
 22 not an entity exempt from registration under that chapter.

23 SECTION 38. Section 659.253, Government Code, is amended to
 24 read as follows:

25 Sec. 659.253. TRANSFER WITHIN AGENCY FROM EXEMPT TO
 26 CLASSIFIED POSITION. (a) Except as provided by Subsection (b), a
 27 [A] state employee who transfers [~~moves~~] within a state agency from

1 an exempt [a] position [exempt from the state's position
 2 classification plan] to a classified position is entitled to [will]
 3 receive an annual salary in the [~~proper~~] salary group to which the
 4 classified position is allocated.

5 (b) During the fiscal biennium in which a state employee
 6 transfers within a state agency from an exempt position to a
 7 classified position, the employee's annual salary rate after the
 8 transfer may not [to] exceed:

9 (1) the rate for the salary step equal to the rate
 10 received by the employee when holding the [employee's current]
 11 exempt position [salary] or the rate for the next higher salary
 12 step, if the classified position is allocated [moving] to a
 13 [~~position in a]~~ salary group that is divided into steps; or

14 (2) the rate received by the employee when holding the
 15 [employee's current] exempt position [salary] or the maximum rate
 16 of the [~~new~~] salary group to which the classified position is
 17 allocated, whichever is lower, if the classified position is
 18 allocated to [moving to a position in] a salary group that is not
 19 divided into steps.

20 [~~(b) Except as provided by this section, a state agency that~~
 21 ~~at any time during a state fiscal biennium pays a state employee an~~
 22 ~~exempt salary specifically established in the General~~
 23 ~~Appropriations Act may not subsequently during the state fiscal~~
 24 ~~biennium pay the employee a greater salary under Salary Schedule A,~~
 25 ~~B, or C of the General Appropriations Act.]~~

26 (c) A merit salary increase for [state agency that pays] a
 27 state employee who transfers to a classified position from an

1 exempt position for which the [an exempt] salary is specifically
2 established in the General Appropriations Act [~~and that then~~
3 ~~transfers the employee to a position in which the employee is paid~~
4 ~~under Salary Schedule A, B, or C of the General Appropriations Act]~~
5 may not take effect if:

6 (1) the employee has spent less than [grant a merit
7 ~~salary increase to the employee until at least]~~ six months in the
8 classified position; or

9 (2) the increase would cause the salary limitation
10 prescribed by Subsection (b) to be exceeded [after the date that the
11 ~~agency begins to pay the employee under Salary Schedule A, B, or C~~
12 ~~of the General Appropriations Act].~~

13 (d) The Legislative Budget Board and the governor together
14 may approve an exception to the salary limitations prescribed by
15 Subsection (b) [this section] for a state employee:

16 (1) on receiving the employing state agency's
17 application for the exception; and

18 (2) if the employee's job responsibilities with the
19 state agency have changed substantially during the [~~state fiscal~~]
20 biennium.

21 (e) In this section:

22 (1) "Classified position" means a position classified
23 under the state's position classification plan.

24 (2) "Exempt position" means a position exempt from the
25 state's position classification plan.

26 SECTION 39. Subchapter K, Chapter 659, Government Code, is
27 amended by adding Section 659.2531 to read as follows:

1 Sec. 659.2531. TRANSFER WITHIN AGENCY BETWEEN CLASSIFIED
2 POSITIONS ALLOCATED TO SAME SALARY GROUP. (a) In this section:

3 (1) "Classified position" means a position classified
4 under the state's position classification plan.

5 (2) "Transfer" means the transfer of a state employee
6 within a state agency between two classified positions that:

7 (A) are allocated to the same salary group; and

8 (B) have different position titles as listed in
9 the General Appropriations Act.

10 (b) Except as provided by Subsection (c), a state employee's
11 annual salary rate immediately after a transfer may not exceed:

12 (1) the rate for the salary step that is one step
13 higher than the salary step at which the employee was paid
14 immediately before the transfer, if the classified position to
15 which the employee transfers is allocated to a salary group that is
16 divided into steps; or

17 (2) 103.4 percent of the employee's annual salary rate
18 immediately before the transfer, if the classified position to
19 which the employee transfers is allocated to a salary group that is
20 not divided into steps.

21 (c) A state employee's annual salary rate immediately after
22 a transfer may not exceed the maximum rate for the appropriate
23 salary group.

24 SECTION 40. Section 659.255, Government Code, is amended to
25 read as follows:

26 Sec. 659.255. MERIT SALARY INCREASES; ONE-TIME MERIT
27 PAYMENTS. (a) In this [This] section:

1 (1) "Classified employee" means a state employee who
2 holds a classified position.

3 (2) "Classified position" means a position [applies
4 only to positions] classified under the state's position
5 classification plan.

6 (3) "Merit salary increase" means an increase in
7 compensation to:

8 (A) a higher step rate in the same classified
9 salary group, if the classified employee is compensated under
10 Salary Schedule A of the General Appropriations Act; or

11 (B) a higher rate within the range of the same
12 classified salary group, if the classified employee is compensated
13 under Salary Schedule B of the General Appropriations Act.

14 ~~(b) [A state agency administrator may grant merit salary~~
15 ~~increases including one-time merit payments to employees~~
16 ~~compensated under Salary Schedules A and B of the General~~
17 ~~Appropriations Act whose job performance and productivity are~~
18 ~~consistently above that normally expected or required. For~~
19 ~~classified employees compensated under Salary Schedule A of the~~
20 ~~General Appropriations Act, a merit increase involves an increase~~
21 ~~in an employee's salary to a higher step rate in the same salary~~
22 ~~group. For classified employees compensated under Salary Schedule~~
23 ~~B of the General Appropriations Act, a merit increase involves an~~
24 ~~increase in an employee's salary to a higher rate within the range~~
25 ~~of the same salary group. Merit increases including one-time merit~~
26 ~~payments are subject to the restrictions prescribed by Subsections~~
27 ~~(c)-(e).~~

1 ~~[(e)]~~ The comptroller shall prescribe accounting and
2 reporting procedures as necessary to ensure the availability of
3 information reflecting each state agency's use of merit salary
4 increases, including one-time merit payments.

5 (c) Each state agency shall establish:

6 (1) a procedure for determining the eligibility of a
7 classified employee to receive a merit salary increase or a
8 one-time merit payment from the agency; and

9 (2) requirements for substantiating the eligibility
10 of a classified employee who receives a merit salary increase or a
11 one-time merit payment from the agency.

12 (d) Merit salary increases and ~~[including]~~ one-time merit
13 payments shall be applied throughout the range of classified salary
14 groups used by each state agency.

15 (e) A state agency may award a merit salary increase to a
16 classified employee in relation to the employee's performance in
17 the current classified position held by the employee if ~~[For an~~
18 ~~employee to be eligible for a merit salary increase or a one-time~~
19 ~~merit payment, the following additional criteria must be met]:~~

20 (1) the employee has ~~[must have]~~ been employed by the
21 ~~[state]~~ agency in that position for at least six continuous months
22 before ~~[prior to]~~ the effective date ~~[award]~~ of the increase ~~[ex~~
23 ~~payment]~~;

24 (2) the effective date of the increase is at least six
25 months after the effective date of the employee's ~~[must have~~
26 ~~elapsed since the employee's]~~ last:

27 (A) promotion; ~~[, enhanced compensation award~~

1 ~~authorized by the General Appropriations Act, one-time merit~~
2 ~~payment,~~] or

3 (B) merit salary increase for performance in that
4 position [at the agency]; [and]

5 (3) the agency has complied with Subsection (c);

6 (4) the employee's job performance and productivity in
7 that position are consistently above that normally expected or
8 required; and

9 (5) the effective date of the increase is at least six
10 months after the effective date of the agency's last:

11 (A) payment to the employee of an enhanced
12 compensation award authorized by the General Appropriations Act; or

13 (B) one-time merit payment for performance in
14 that position.

15 (f) A state agency may make a one-time merit payment to a
16 classified employee in relation to the employee's performance in
17 the current classified position held by the employee if:

18 (1) the employee has been employed by the agency in
19 that position for at least six continuous months before the
20 effective date of the payment;

21 (2) the effective date of the payment is at least six
22 months after the effective date of the employee's last:

23 (A) promotion; or

24 (B) merit salary increase for performance in that
25 position;

26 (3) the agency has complied with Subsection (c);

27 (4) the employee's job performance and productivity in

1 that position are consistently above that normally expected or
2 required; and

3 (5) the effective date of the payment is at least six
4 months after the effective date of the agency's last:

5 (A) payment to the employee of an enhanced
6 compensation award authorized by the General Appropriations Act; or

7 (B) one-time merit payment for performance in
8 that position. [~~criteria for granting merit salary increases or~~
9 ~~one-time merit payments must include specific criteria and~~
10 ~~documentation to substantiate the granting of a merit increase or~~
11 ~~one-time merit payment.]~~

12 SECTION 41. Section 659.260, Government Code, is amended to
13 read as follows:

14 Sec. 659.260. TEMPORARY ASSIGNMENT. (a) [~~This section~~
15 ~~applies only to an employee whose permanent position is classified~~
16 ~~under the state's position classification plan.~~

17 [(b)] To facilitate a state agency's work during an
18 emergency or other special circumstance, an employee may be
19 temporarily assigned to other duties for a period not to exceed six
20 months. The employee is entitled to receive during the period of
21 reassignment at least the same rate of pay that the employee
22 received immediately before the reassignment. An employee may not
23 be temporarily assigned under this subsection to a position
24 classified in a salary group with a lower minimum salary rate.

25 (b) [(c)] An employee may not be assigned temporary duties
26 under this section for more than six months during a twelve-month
27 period.

1 (c) [~~(d)~~] An employee temporarily designated to act as the
 2 administrative head of a state agency may continue to receive a
 3 salary for a classified position in an amount not to exceed the
 4 amount established by the General Appropriations Act for the
 5 administrative head of the agency.

6 (d) [~~(e)~~] While the employee is temporarily assigned under
 7 this section, the state agency may not:

- 8 (1) award a merit salary increase to the employee; or
- 9 (2) promote or demote the employee.

10 SECTION 42. Subchapter K, Chapter 659, Government Code, is
 11 amended by adding Section 659.262 to read as follows:

12 Sec. 659.262. ADMINISTRATION. The comptroller may
 13 establish procedures and adopt rules to administer this subchapter.

14 SECTION 43. Section 661.152(d), Government Code, is amended
 15 to read as follows:

16 (d) An employee accrues vacation leave and may carry
 17 vacation leave forward from one fiscal year to the next in
 18 accordance with the following schedule:

	Hours Accrued	Maximum Hours Carried Forward
	Per Month for	From One Fiscal Year to the Next
	Full-time	for a Full-time
	Employment	Employee
23 Employees With Total		
24 State Employment of:		
25 less than 2 years	<u>8</u> [7]	<u>180</u> [168]
26 at least 2 but less than 5 years	<u>9</u> [8]	<u>244</u> [232]
27 at least 5 but less than 10 years	<u>10</u> [9]	<u>268</u> [256]

1	at least 10 but less than 15 years	<u>11</u> [10]	<u>292</u> [280]
2	at least 15 but less than 20 years	<u>13</u> [12]	<u>340</u> [328]
3	at least 20 but less than 25 years	<u>15</u> [14]	<u>388</u> [376]
4	at least 25 but less than 30 years	<u>17</u> [16]	<u>436</u> [424]
5	at least 30 but less than 35 years	<u>19</u> [18]	<u>484</u> [472]
6	at least 35 years or more	<u>21</u> [20]	<u>532</u> [520]

7 SECTION 44. Section 661.152(e), Government Code, is amended
8 to read as follows:

9 (e) In this subsection, "duty day" means an employee's last
10 physical day on the job. An employee accrues vacation leave at the
11 applicable rate beginning on the first day of state employment and
12 ending on the last duty day of state employment. An employee
13 accrues and is entitled to be credited for one month's vacation
14 leave for each month of employment with the state beginning on the
15 first day of employment with the state and on the first calendar day
16 of each succeeding month of state employment. An employee who is
17 employed by the state during any part of a calendar month accrues
18 vacation leave entitlement for the entire calendar month.

19 SECTION 45. Section 661.202(b), Government Code, is amended
20 to read as follows:

21 (b) In this subsection, "duty day" means an employee's last
22 physical day on the job. An employee accrues sick leave beginning
23 on the first day of state employment and ending on the last duty day
24 of state employment. An employee is entitled to be credited for one
25 month's accrual of sick leave at the rate specified by Subsection
26 (c) for each month of employment with the state beginning on the
27 first day of employment with the state and on the first calendar day

1 of each succeeding month of state employment.

2 SECTION 46. Section 661.206(b), Government Code, is amended
3 to read as follows:

4 (b) An employee may use up to eight hours of sick leave each
5 fiscal [~~calendar~~] year to attend parent-teacher conference
6 sessions for the employee's children.

7 SECTION 47. Section 662.010, Government Code, is amended to
8 read as follows:

9 Sec. 662.010. HOLIDAY BEFORE WORK BEGINS OR AFTER WORK
10 ENDS. (a) An individual must be a state employee on the workday
11 before and after a state or national holiday in order to be paid for
12 that holiday, unless the holiday falls on the employee's first or
13 last workday of the month [~~who is not a state employee on the last~~
14 ~~workday before a state or national holiday but who is a state~~
15 ~~employee on the first workday after the holiday may not be paid for~~
16 ~~the holiday if it occurs during the same month as the last workday~~
17 ~~before the holiday)].~~

18 (b) [~~An individual who is a state employee on the last~~
19 ~~workday before a state or national holiday but who is not a state~~
20 ~~employee on the first workday after the holiday may not be paid for~~
21 ~~the holiday if it occurs before the first workday of a month and~~
22 ~~during that month.~~

23 [(c)] In this section, "state employee":

24 (1) includes an individual who uses paid leave from a
25 state agency; and

26 (2) does not include an individual who uses unpaid
27 leave from a state agency.

1 SECTION 48. Subchapter A, Chapter 811, Government Code, is
2 amended by adding Sections 811.007 and 811.008 to read as follows:

3 Sec. 811.007. IMMUNITY FROM LIABILITY. The board of
4 trustees, executive director, and employees of the retirement
5 system are not liable for any action taken or omission made or
6 suffered by them in good faith in the performance of any duty in
7 connection with any program or system administered by the
8 retirement system.

9 Sec. 811.008. INSURANCE. Notwithstanding any other law,
10 the board of trustees may self-insure or purchase any insurance in
11 amounts the board considers reasonable and prudent.

12 SECTION 49. The heading to Section 813.104, Government
13 Code, is amended to read as follows:

14 Sec. 813.104. ALTERNATIVE PAYMENTS AND METHODS TO ESTABLISH
15 OR REESTABLISH SERVICE CREDIT.

16 SECTION 50. Section 813.104, Government Code, is amended by
17 adding Subsection (e) to read as follows:

18 (e) The retirement system may provide for the electronic
19 filing of agreements to establish or reestablish service credit.
20 In this subsection, "electronic filing" has the meaning assigned by
21 Section 814.010(a).

22 SECTION 51. Subchapter A, Chapter 814, Government Code, is
23 amended by adding Section 814.010 to read as follows:

24 Sec. 814.010. ELECTRONIC FILING OF BENEFICIARY
25 DESIGNATION. (a) In this section, "electronic filing" means the
26 filing of data in the form of digital electronic signals
27 transformed by computer and stored on magnetic tape, optical disks,

1 or any other medium.

2 (b) A person entitled to designate a beneficiary under any
3 system or program administered by the retirement system may make
4 the designation by electronic filing under procedures adopted by
5 the retirement system.

6 SECTION 52. Section 815.103, Government Code, is amended by
7 adding Subsection (f) to read as follows:

8 (f) Chapter 412, Labor Code, does not apply to the
9 retirement system. The board of trustees may acquire services
10 described by that chapter in any manner or amount the board
11 considers reasonable.

12 SECTION 53. Section 832.002, Government Code, is amended to
13 read as follows:

14 Sec. 832.002. MEMBERSHIP FEE. (a) Each member of the
15 retirement system annually shall pay the system a membership fee of
16 \$10. A contributing member shall pay the fee with the member's
17 first contribution to the retirement system in each fiscal year in
18 the manner provided by Section 835.101 for payment of the member's
19 contribution to the retirement system.

20 (b) If the membership fee is not paid with the member's
21 first contribution of the fiscal year to the retirement system, the
22 board of trustees may deduct the amount of the fee from that
23 contribution or from any benefit to which the member becomes
24 entitled.

25 SECTION 54. Sections 2101.0115(a) and (b), Government Code,
26 are amended to read as follows:

27 (a) A state agency shall submit an annual report to:

- 1 (1) the governor;
- 2 (2) ~~the comptroller,~~
- 3 ~~(3)]~~ the Legislative Reference Library;
- 4 (3) ~~(4)]~~ the state auditor; and
- 5 (4) ~~(5)]~~ the Legislative Budget Board.

6 (b) A state agency's annual report must cover an entire
7 fiscal year. The agency shall submit the report not later than
8 December 31 of each year ~~the date and in the form prescribed by the~~
9 ~~comptroller~~].

10 SECTION 55. Section 2113.205(b), Government Code, is
11 amended to read as follows:

12 (b) The comptroller may authorize a [A] state agency to
13 ~~may~~ use money appropriated for a particular fiscal year to pay the
14 entire cost or amount of a service, including an Internet
15 connection, a periodical subscription, a maintenance contract, a
16 post office box rental, insurance, or a surety or honesty bond,
17 regardless of whether the service is provided over ~~it covers~~ more
18 than one fiscal year.

19 SECTION 56. Section 2162.001, Government Code, is amended
20 to read as follows:

21 Sec. 2162.001. DEFINITIONS ~~DEFINITION~~. In this chapter:

22 (1) "Council" ~~,"council"~~ means the State Council on
23 Competitive Government.

24 (2) "Local government" means a county, municipality,
25 special district, school district, junior college district, or
26 other legally constituted political subdivision of the state.

27 SECTION 57. Section 2162.102, Government Code, is amended

1 by adding Subsection (d) to read as follows:

2 (d) To the extent the council determines is feasible, a
3 local government may voluntarily participate in a contract awarded
4 by the council or a state agency under this chapter. A local
5 government that purchases a good or a service under a contract
6 awarded under this chapter is considered to have satisfied any
7 state law requiring the local government to follow a competitive
8 purchasing procedure for the purchase.

9 SECTION 58. Section 2166.406, Government Code, as amended
10 by Chapter 573, Acts of the 77th Legislature, Regular Session,
11 2001, is amended to read as follows:

12 Sec. 2166.406. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR~~
13 ~~WATER CONSERVATION MEASURES~~]. (a) In this section, "energy
14 savings performance contract" means a contract for energy or water
15 conservation measures to reduce energy or water consumption or
16 operating costs of governmental facilities in which the estimated
17 savings in utility costs resulting from the measures is guaranteed
18 to offset the cost of the measures over a specified period. The term
19 ~~[Notwithstanding any other provisions of this chapter, the~~
20 ~~governing body of a state agency, without the consent of the~~
21 ~~commission, may enter into a contract for energy conservation~~
22 ~~measures to reduce energy or water consumption or operating costs~~
23 ~~of governmental facilities in accordance with this section.~~

24 [~~(b) A contract authorized under this section~~] includes a
25 contract for the installation of:

26 (1) insulation of a [~~the~~] building structure and
27 systems within the building;

- 1 (2) storm windows or doors, caulking or weather
2 stripping, multiglazed windows or doors, heat absorbing or heat
3 reflective glazed and coated window or door systems, or other
4 window or door system modifications that reduce energy consumption;
- 5 (3) automatic energy control systems, including
6 computer software and technical data licenses;
- 7 (4) heating, ventilating, or air-conditioning system
8 modifications or replacements that reduce energy or water
9 consumption;
- 10 (5) lighting fixtures that increase energy
11 efficiency;
- 12 (6) energy recovery systems;
- 13 (7) electric systems improvements;
- 14 (8) water-conserving fixtures, appliances, and
15 equipment or the substitution of non-water-using fixtures,
16 appliances, and equipment;
- 17 (9) water-conserving landscape irrigation equipment;
- 18 (10) landscaping measures that reduce watering
19 demands and capture and hold applied water and rainfall, including:
- 20 (A) landscape contouring, including the use of
21 berms, swales, and terraces; and
- 22 (B) the use of soil amendments that increase the
23 water-holding capacity of the soil, including compost;
- 24 (11) rainwater harvesting equipment and equipment to
25 make use of water collected as part of a storm-water system
26 installed for water quality control;
- 27 (12) equipment for recycling or reuse of water

1 originating on the premises or from other sources, including
2 treated municipal effluent;

3 (13) equipment needed to capture water from
4 nonconventional, alternate sources, including air conditioning
5 condensate or graywater, for nonpotable uses;

6 (14) metering equipment needed to segregate water use
7 in order to identify water conservation opportunities or verify
8 water savings; or

9 (15) other energy or water conservation-related
10 improvements or equipment including improvements or equipment
11 related to renewable energy or nonconventional water sources or
12 water reuse.

13 (b) Notwithstanding any other provision of this chapter, a
14 state agency, without the consent of the commission, may enter into
15 an energy savings performance contract in accordance with this
16 section.

17 (c) Each [~~All~~] energy or water conservation measure
18 [~~measures~~] must comply with current local, state, and federal
19 construction, plumbing, and environmental codes and regulations.
20 Notwithstanding [~~anything to the contrary in~~] Subsection (a) [~~(b)~~],
21 an energy savings performance [a] contract may [~~for energy or water~~
22 ~~conservation measures shall~~] not include improvements or equipment
23 that allow or cause water from any condensing, cooling, or
24 industrial process or any system of nonpotable usage over which the
25 public water supply system officials do not have sanitary control
26 to be returned to the potable water supply.

27 (d) A state agency may enter into energy savings performance

1 ~~[The entity with whom the board]~~ contracts only with a person who is
2 ~~[must be]~~ experienced in the design, implementation, and
3 installation of the energy or water conservation measures addressed
4 by the contract.

5 (e) Before entering into an energy savings performance [a]
6 contract ~~[for energy or water conservation measures]~~, a [the
7 ~~governing body of the]~~ state agency shall require the provider of
8 the energy or water conservation measures to file with the agency
9 ~~[governing body]~~ a payment and performance bond relating to the
10 installation of the measures in accordance with Chapter 2253. The
11 agency may also require a separate bond to cover the value of the
12 guaranteed savings on the contract ~~[that is in an amount the~~
13 ~~governing body finds reasonable and necessary to protect the~~
14 ~~interests of the state agency and that is conditioned on the~~
15 ~~faithful execution of the terms of the contract]~~.

16 (f) The state agency may enter into an energy savings
17 performance [a] contract for a period of more than one year only
18 ~~[for energy or water conservation measures with an entity]~~ if the
19 state agency finds that the amount the state agency would spend on
20 the energy or water conservation measures will not exceed the
21 amount to be saved in energy, water, wastewater, and operating
22 costs over 15 years from the date of installation.

23 (g) An energy savings performance contract ~~[Energy or water~~
24 ~~conservation measures]~~ with respect to existing buildings or
25 facilities may be financed:

26 (1) under a lease/purchase contract that has a term
27 not to exceed 15 years from the final date of installation and that

1 meets federal tax requirements for tax-free municipal leasing or
2 long-term financing, including a lease/purchase contract under the
3 master equipment lease purchase program administered by the Texas
4 Public Finance Authority under Chapter 1232;

5 (2) with the proceeds of bonds; or

6 (3) under a contract with the provider of the energy or
7 water conservation measures that has a term not to exceed 15 years
8 from the final date of installation.

9 (h) An energy savings performance [A] contract [~~for energy~~
10 ~~or water conservation measures~~] shall contain provisions requiring
11 [~~pursuant to which~~] the provider of the energy or water
12 conservation measures to guarantee [~~guarantees~~] the amount of the
13 savings to be realized by the state agency under the contract. If
14 the term of the [a] contract [~~for energy or water conservation~~
15 ~~measures~~] exceeds one year, the agency's contractual obligation,
16 including costs of design, engineering, installation, and
17 anticipated debt service, in any one year during the term of the
18 contract beginning after the final date of installation may not
19 exceed the total energy, water, wastewater, and operating cost
20 savings, including [~~but not limited to~~] electrical, gas, water,
21 wastewater, or other utility cost savings and operating cost
22 savings resulting from the measures [~~automatic monitoring and~~
23 ~~control~~], as determined by the state agency in this subsection,
24 divided by the number of years in the contract term.

25 (i) An energy savings performance [A] contract shall [~~under~~
26 ~~this section may~~] be let according to the procedures established
27 for procuring certain professional services by Section 2254.004

1 ~~[under competitive sealed proposal procedures]~~. Notice of the
2 request for qualifications ~~[proposals]~~ shall be given in the manner
3 provided by Section 2156.002 ~~[for in Chapter 2156]~~. The State
4 Energy Conservation Office shall establish guidelines and an
5 approval process for awarding energy savings performance contracts
6 ~~[awarded under this section]~~. The guidelines adopted under this
7 subsection must require that the cost savings projected by an
8 offeror be reviewed by a licensed professional engineer who is not
9 an officer or employee of an offeror for the contract under review
10 or otherwise associated with the contract. An engineer who reviews
11 a contract shall maintain the confidentiality of any proprietary
12 information the engineer acquires while reviewing the contract. An
13 energy savings performance contract may not be entered into unless
14 the contract has been approved by the State Energy Conservation
15 Office. Sections 1001.053 and 1001.407, Occupations Code, apply
16 ~~[Section 19, The Texas Engineering Practice Act (Article 3271a,~~
17 ~~Vernon's Texas Civil Statutes), applies]~~ to work performed under
18 the contract. ~~[The contract shall be awarded to the responsible~~
19 ~~offeror whose proposal, following negotiations, is determined to be~~
20 ~~the most advantageous to the state agency considering the savings~~
21 ~~and other evaluation factors set forth in the request for proposals~~
22 ~~except that if the state agency finds that no offer is acceptable,~~
23 ~~it shall refuse all offers.]~~

24 (j) ~~[In accordance with regulations adopted by the state~~
25 ~~agency, the state agency may conduct discussions with offerors who~~
26 ~~submit proposals and who are determined to be reasonably qualified~~
27 ~~for the award of the contract. Offerors shall be treated fairly and~~

1 ~~equally with respect to any opportunity for discussion and revision~~
2 ~~of proposals.~~

3 ~~[(k) If provided in a request for proposals, proposals shall~~
4 ~~be opened in a manner that avoids disclosure of the contents to~~
5 ~~competing offerors and keeps the proposals secret during~~
6 ~~negotiations. All proposals are open for public inspection after a~~
7 ~~contract is awarded unless the information is excepted from~~
8 ~~disclosure under Chapter 552.~~

9 ~~[(l) To obtain the best final offers, the state agency may~~
10 ~~allow proposal revisions after submissions and before the award of~~
11 ~~a contract for energy or water conservation measures. Final review~~
12 ~~and approval of the contract will be provided by the State Energy~~
13 ~~Conservation Office.~~

14 ~~[(m)]~~ The legislature shall base an agency's appropriation
15 for energy, water, and wastewater costs during a fiscal year on the
16 sum of:

17 (1) the agency's estimated energy, water, and
18 wastewater costs for that fiscal year; and

19 (2) if an energy savings performance [a] contract
20 ~~[under this section]~~ is in effect, the agency's estimated net
21 savings resulting from the contract during the contract term,
22 divided by the number of years in the contract term.

23 SECTION 59. Section 2201.002, Government Code, is amended
24 to read as follows:

25 Sec. 2201.002. USE OF FUND. ~~[(a)]~~ The fund may be used
26 ~~[only]~~ to finance:

27 (1) the acquisition, construction, repair,

1 improvement, or equipping of a building by a state agency for a
2 state purpose;

3 (2) the acquisition of real or personal property
4 necessary for a state agency to take an action described by
5 Subdivision (1); ~~[or]~~

6 (3) the administration of the asset management
7 division of the General Land Office; or

8 (4) any other purpose for which funds may be
9 appropriated from general revenue.

10 ~~[(b) The fund may not be used to pay for an activity of,~~

11 ~~[(1) the Texas Department of Transportation,~~

12 ~~[(2) an institution of higher education as defined by~~

13 ~~Section 61.003, Education Code,~~

14 ~~[(3) the Texas State Technical College System,~~

15 ~~[(4) the Southwest Collegiate Institute for the Deaf,~~

16 ~~[(5) the Employees Retirement System of Texas, or~~

17 ~~[(6) the Teacher Retirement System of Texas.~~

18 ~~[(c) The fund may not be used to pay salaries.]~~

19 SECTION 60. Section 2201.003(b), Government Code, is
20 amended to read as follows:

21 (b) At the end of each fiscal biennium the unencumbered
22 balance of the fund [~~in excess of \$500 million~~] shall be transferred
23 to the credit of the general revenue fund.

24 SECTION 61. Section 2251.025(b), Government Code, is
25 amended to read as follows:

26 (b) The rate of interest that [~~Interest~~] accrues on an
27 overdue payment is [~~at~~] the rate in effect on September 1 of the

1 fiscal year in which the payment becomes overdue. The rate in
2 effect on September 1 is equal to the sum of:

3 (1) one percent; and

4 (2) the prime rate as published in the Wall Street
5 Journal on the first day of July of the preceding fiscal year that
6 does not fall on a Saturday or Sunday [each month].

7 SECTION 62. Section 2252.903(e), Government Code, is
8 amended by adding Subdivision (4) to read as follows:

9 (4) "Written contract" does not include a contract the
10 payments for which must be made through the comptroller's issuance
11 of warrants or initiation of electronic funds transfers under
12 Section 404.046, 404.069, or 2103.003.

13 SECTION 63. Section 2305.012, Government Code, is amended
14 to read as follows:

15 Sec. 2305.012. ADMINISTRATION [~~STAFF~~]; ASSISTANCE. (a)
16 The energy office shall [~~provide staff to~~] implement and administer
17 this chapter.

18 (b) The energy office or the governor through the energy
19 office may [~~also~~] enlist the assistance of a private entity or a
20 state agency, department, commission, or other entity to:

21 (1) evaluate or review a proposal;

22 (2) audit a program participant or a supervising state
23 agency;

24 (3) perform administrative duties under this chapter;

25 or

26 (4) develop eligibility or evaluation criteria.

27 SECTION 64. Section 2305.032(a), Government Code, is

1 amended to read as follows:

2 (a) The energy office under the loanstar revolving loan
3 program may ~~[approve and finance projects that]~~ provide loans to
4 finance energy and water efficiency measures for public facilities
5 ~~[eligible applicants for energy-saving capital improvements.~~
6 ~~Projects approved by the energy office should benefit,~~

7 ~~[(1) a state agency or institution of higher~~
8 ~~education,~~

9 ~~[(2) a public school,~~

10 ~~[(3) a political subdivision of the state,~~

11 ~~[(4) a small to medium-sized business, and~~

12 ~~[(5) a public or nonprofit hospital or health care~~
13 ~~facility].~~

14 SECTION 65. Sections 2305.033(b) and (d), Government Code,
15 are amended to read as follows:

16 (b) In accordance with Part D, Title III [B], Energy Policy
17 and Conservation Act (42 U.S.C. Sec. 6321 et seq.), and its
18 subsequent amendments, the energy office, under the program, shall
19 distribute funds for projects that save measurable quantities of
20 energy.

21 (d) A proposal under Subsection (b) must:

22 (1) promote the conservation of energy; or ~~[and]~~

23 (2) improve the efficient use of energy through
24 activities that result in quantifiable energy savings, including:

25 (A) energy audits of buildings;

26 (B) technical assistance in reducing energy
27 bills;

1 (C) training to building operators and fiscal
2 officers on various energy issues such as utility bill analysis and
3 energy management techniques; or [~~and~~]

4 (D) other technical assistance to programs for
5 which funds are appropriated.

6 SECTION 66. Section 2305.034, Government Code, is amended
7 to read as follows:

8 Sec. 2305.034. STATE AGENCIES PROGRAM. The energy office
9 is the supervising agency for the state agencies program that may
10 distribute funds through Chapter 447. Projects funded under this
11 section may include:

12 (1) energy manager training;
13 (2) energy savings performance contracting services,
14 including:

15 (A) education and training;
16 (B) contract review and approval;
17 (C) third-party contract review;
18 (D) development and dissemination of guidelines;

19 and

20 (E) identification of contract financing sources
21 [~~described by Section 51.927, Education Code~~];

22 (3) energy-efficient design assistance for new
23 facilities, including major renovation;

24 (4) projects for state building design standards
25 compliance;

26 (5) projects to create awareness of model energy codes
27 at the local and state levels;

1 (6) projects to develop and maintain the state's
2 utility database; and

3 (7) other appropriate energy and information
4 applications.

5 SECTION 67. Section 2305.039(b), Government Code, is
6 amended to read as follows:

7 (b) A project may:

8 (1) assist a service provider in providing services
9 such as:

10 (A) [~~traffic light synchronization,~~
11 [~~(B) fleet management,~~
12 [~~(C)~~] computerized transit routing that is
13 energy efficient;

14 (B) commuting solutions
15 [~~(D) car-care clinics,~~
16 [~~(E) vanpooling or ridesharing efforts~~]; and
17 (C) [~~(F)~~] public education related to mass
18 transit;

19 [~~(G) driver training in energy conservation~~
20 ~~awareness, and~~

21 [~~(H) transportation services for the elderly or~~
22 ~~persons with a disability,~~] and

23 (2) include studies to improve existing systems and
24 plan for future transportation systems in this state.

25 SECTION 68. Section 2306.783(a), Government Code, as added
26 by Chapter 432, Acts of the 77th Legislature, Regular Session,
27 2001, is amended to read as follows:

1 (a) The Texas Interagency Council for the Homeless is
2 composed of:

3 (1) one representative from each of the following
4 agencies, appointed by the administrative head of that agency:

5 (A) the Texas Department of Health;

6 (B) the Texas Department of Human Services;

7 (C) the Texas Department of Mental Health and
8 Mental Retardation;

9 (D) the Texas Department of Criminal Justice;

10 (E) the Texas Department on Aging;

11 (F) the Texas Rehabilitation Commission;

12 (G) the Texas Education Agency;

13 (H) the Texas Commission on Alcohol and Drug
14 Abuse;

15 (I) the Department of Protective and Regulatory
16 Services;

17 (J) the Health and Human Services Commission;

18 (K) the Texas Workforce Commission;

19 (L) the Texas Youth Commission; and

20 (M) the Texas Veterans Commission;

21 (2) ~~[one representative from the office of the~~
22 ~~comptroller appointed by the comptroller,~~

23 [~~3~~] two representatives from the department, one
24 each from the community affairs division and the housing finance
25 division, appointed by the director; and

26 (3) [~~4~~] three members representing service
27 providers to the homeless, one each appointed by the governor, the

1 lieutenant governor, and the speaker of the house of
2 representatives.

3 SECTION 69. Articles 4.51(2) and (13), Insurance Code, are
4 amended to read as follows:

5 (2) "Allocation date" means the date on which the
6 certified investors of a certified capital company are allocated
7 premium tax credits [~~certified capital~~] by the comptroller under
8 this subchapter.

9 (13) "State premium tax liability" means:

10 (A) any liability incurred by any person under
11 Subchapter A of this chapter; or

12 (B) if the tax liability imposed under Subchapter
13 A of this chapter on January 1, 2003 [~~2001~~], is eliminated or
14 reduced, any tax liability imposed on an insurance company or other
15 person that had premium tax liability under Subchapter A of this
16 chapter on that date.

17 SECTION 70. Article 4.52, Insurance Code, is amended to
18 read as follows:

19 Art. 4.52. DUTIES OF COMPTROLLER; RULES; IMPLEMENTATION.

20 The comptroller shall administer this subchapter and shall [~~may~~]
21 adopt rules and forms as necessary to implement this subchapter.

22 The rules must provide that:

23 (1) the comptroller shall begin accepting
24 applications for certification as a certified capital company not
25 later than the 30th day after the date the rules are adopted; and

26 (2) the comptroller shall accept premium tax credit
27 allocation claims on behalf of certified investors on a date not

1 later than the 120th day after the date the rules are adopted.

2 SECTION 71. Article 4.65(a), Insurance Code, is amended to
3 read as follows:

4 (a) A certified investor who makes an investment of
5 certified capital shall in the year of investment earn a vested
6 credit against state premium tax liability equal to 100 percent of
7 the certified investor's investment of certified capital, subject
8 to the limits imposed by this subchapter. Beginning with the tax
9 report due March 1, 2009, for the 2008 tax year, a [A] certified
10 investor may take up to 25 [10] percent of the vested premium tax
11 credit in any taxable year of the certified investor. The credit
12 may not be applied to estimated payments due in 2008.

13 SECTION 72. Article 4.66(a), Insurance Code, is amended to
14 read as follows:

15 (a) A premium tax credit allocation claim must be prepared
16 and executed by a certified investor on a form provided by the
17 comptroller. The certified capital company must file the claim with
18 the comptroller on the date on which the comptroller accepts
19 premium tax credit allocation claims on behalf of certified
20 investors under rules adopted under Article 4.52(2) of this code
21 [not later than February 15, 2002]. The premium tax credit
22 allocation claim form must include an affidavit of the certified
23 investor under which the certified investor becomes legally bound
24 and irrevocably committed to make an investment of certified
25 capital in a certified capital company in the amount allocated even
26 if the amount allocated is less than the amount of the claim,
27 subject only to the receipt of an allocation under Article 4.68 of

1 this code.

2 SECTION 73. Section 4.67(b), Insurance Code, is amended to
3 read as follows:

4 (b) The total amount of certified capital for which premium
5 tax credits may be allowed for all certified investors under this
6 subchapter may not exceed the amount that would entitle all
7 certified investors in certified capital companies to take total
8 credits of \$50 [~~\$20~~] million in a year.

9 SECTION 74. Article 4.68(c), Insurance Code, is amended to
10 read as follows:

11 (c) Not later than the 15th day after the date on which the
12 comptroller accepts premium tax credit allocation claims on behalf
13 of certified investors under rules adopted under Article 4.52(2) of
14 this code [~~March 1, 2002~~], the comptroller shall notify each
15 certified capital company of the amount of tax credits allocated to
16 each certified investor. Each certified capital company shall
17 notify each certified investor of their premium tax credit
18 allocation.

19 SECTION 75. Article 4.73(a), Insurance Code, is amended to
20 read as follows:

21 (a) The comptroller shall prepare a biennial report with
22 respect to results of the implementation of this subchapter. The
23 report must include:

24 (1) the number of certified capital companies holding
25 certified capital;

26 (2) the amount of certified capital invested in each
27 certified capital company;

1 (3) the amount of certified capital the certified
2 capital company has invested in qualified businesses as of January
3 1, 2006 [~~2004~~], and the cumulative total for each subsequent year;

4 (4) the total amount of tax credits granted under this
5 subchapter for each year that credits have been granted;

6 (5) the performance of each certified capital company
7 with respect to renewal and reporting requirements imposed under
8 this subchapter;

9 (6) with respect to the qualified businesses in which
10 certified capital companies have invested:

11 (A) the classification of the qualified
12 businesses according to the industrial sector and the size of the
13 business;

14 (B) the total number of jobs created by the
15 investment and the average wages paid for the jobs; and

16 (C) the total number of jobs retained as a result
17 of the investment and the average wages paid for the jobs; and

18 (7) the certified capital companies that have been
19 decertified or that have failed to renew the certification and the
20 reason for any decertification.

21 SECTION 76. Section 101.251, Insurance Code, is amended by
22 amending Subsections (b), (g), (i), and (j) and adding Subsection
23 (k) to read as follows:

24 (b) Except as provided by Subsection (j), an [~~unauthorized~~]
25 insurer shall pay to the comptroller, on a form prescribed by the
26 comptroller, a premium receipts tax of 4.85 percent of gross
27 premiums charged for insurance on a subject resident, located, or

1 to be performed in this state.

2 (g) The ~~[unauthorized]~~ insurer shall pay the premium
3 receipts tax required by this section before:

4 (1) March 1 following the calendar year in which the
5 insurance was effectuated, continued, or renewed; or

6 (2) another date specified by the comptroller.

7 (i) The tax under this section, if not paid when due, is a
8 liability ~~[On default]~~ of the ~~[an unauthorized]~~ insurer, the
9 insurer agent, and ~~[in the payment of the tax,]~~ the insured ~~[shall~~
10 ~~pay the tax]~~.

11 (j) This section does not apply to premiums on:

12 (1) insurance procured by a licensed surplus lines
13 agent from an eligible surplus lines insurer as defined by Article
14 1.14-2 on which premium tax is paid in accordance with Article
15 1.14-2; ~~[or]~~

16 (2) an independently procured contract of insurance on
17 which premium tax is paid in accordance with this chapter; or

18 (3) a contract of insurance written by an insurer that
19 holds a certificate of authority in this state and that is
20 authorized to write the contract.

21 (k) In this section, "insurer" has the meaning assigned by
22 Section 101.002 and includes an insurer that does not hold a
23 certificate of authority in this state, an eligible surplus lines
24 insurer, and an insurer that holds a certificate of authority in
25 this state.

26 SECTION 76A. Section 141.008, Local Government Code, is
27 amended by adding Subsection (a-1) to read as follows:

1 (a-1) The governing body shall make the payroll deduction
 2 described by Subsection (a) if requested in writing by employees
 3 who are fire protection personnel as defined by Section 419.021,
 4 Government Code, if the municipality receives revenue from the
 5 state, and if the municipality permits deductions for purposes
 6 other than charity, health insurance, taxes, or other purposes for
 7 which the municipality is required by law to permit a deduction.

8 SECTION 77. The heading to Chapter 302, Local Government
 9 Code, is amended to read as follows:

10 CHAPTER 302. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR WATER~~
 11 ~~CONSERVATION MEASURES~~] FOR LOCAL GOVERNMENTS

12 SECTION 78. Section 302.001, Local Government Code, is
 13 amended to read as follows:

14 Sec. 302.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

15 (1) "Energy savings performance contract" means a
 16 contract for energy or water conservation measures to reduce energy
 17 or water consumption or operating costs of local government
 18 facilities in which the estimated savings in utility costs
 19 resulting from the measures is guaranteed to offset the cost of the
 20 measures over a specified period. The term includes a contract for
 21 the installation or implementation of:

22 (A) insulation of a building structure and
 23 systems within the building;

24 (B) storm windows or doors, caulking or weather
 25 stripping, multiglazed windows or doors, heat-absorbing or
 26 heat-reflective glazed and coated window or door systems, or other
 27 window or door system modifications that reduce energy consumption;

1 (C) automatic energy control systems, including
2 computer software and technical data licenses;

3 (D) heating, ventilating, or air-conditioning
4 system modifications or replacements that reduce energy or water
5 consumption;

6 (E) lighting fixtures that increase energy
7 efficiency;

8 (F) energy recovery systems;

9 (G) electric systems improvements;

10 (H) water-conserving fixtures, appliances, and
11 equipment or the substitution of non-water-using fixtures,
12 appliances, and equipment;

13 (I) water-conserving landscape irrigation
14 equipment;

15 (J) landscaping measures that reduce watering
16 demands and capture and hold applied water and rainfall, including:

17 (i) landscape contouring, including the use
18 of berms, swales, and terraces; and

19 (ii) the use of soil amendments that
20 increase the water-holding capacity of the soil, including compost;

21 (K) rainwater harvesting equipment and equipment
22 to make use of water collected as part of a storm-water system
23 installed for water quality control;

24 (L) equipment for recycling or reuse of water
25 originating on the premises or from other sources, including
26 treated municipal effluent;

27 (M) equipment needed to capture water from

1 nonconventional, alternate sources, including air-conditioning
 2 condensate or graywater, for nonpotable uses;

3 (N) metering equipment needed to segregate water
 4 use in order to identify water conservation opportunities or verify
 5 water savings; or

6 (O) other energy or water conservation-related
 7 improvements or equipment, including improvements or equipment
 8 relating to renewable energy or nonconventional water sources or
 9 water reuse.

10 (2) "Local [,"local] government" means a county,
 11 municipality, or other political subdivision of this state. The
 12 term [~~local government~~] does not include a school district
 13 authorized to enter into an energy savings performance [a] contract
 14 [~~for energy or water conservation measures~~] under Section 44.901,
 15 Education Code.

16 SECTION 79. Section 302.002, Local Government Code, is
 17 amended to read as follows:

18 Sec. 302.002. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR~~
 19 ~~WATER CONSERVATION MEASURES~~]. (a) The governing body of a local
 20 government may enter into an energy savings performance [a]
 21 contract [~~for energy or water conservation measures to reduce~~
 22 ~~energy or water consumption or operating costs of governmental~~
 23 ~~facilities~~] in accordance with this chapter.

24 (b) Each [~~A contract authorized under this chapter includes~~
 25 ~~a contract for the installation or implementation of,~~

26 [~~(1) insulation of the building structure and systems~~
 27 ~~within the building,~~

1 ~~[(2) storm windows or doors, caulking or weather~~
2 ~~stripping, multiglazed windows or doors, heat absorbing or~~
3 ~~heat-reflective glazed and coated window or door systems, or other~~
4 ~~window or door system modifications that reduce energy consumption,~~

5 ~~[(3) automatic energy control systems, including~~
6 ~~computer software and technical data licenses,~~

7 ~~[(4) heating, ventilating, or air conditioning system~~
8 ~~modifications or replacements that reduce energy or water~~
9 ~~consumption,~~

10 ~~[(5) lighting fixtures that increase energy~~
11 ~~efficiency,~~

12 ~~[(6) energy recovery systems,~~

13 ~~[(7) electric systems improvements,~~

14 ~~[(8) water-conserving fixtures, appliances, and~~
15 ~~equipment or the substitution of non-water using fixtures,~~
16 ~~appliances, and equipment,~~

17 ~~[(9) water-conserving landscape irrigation equipment,~~

18 ~~[(10) landscaping measures that reduce watering~~
19 ~~demands and capture and hold applied water and rainfall, including:~~

20 ~~[(A) landscape contouring, including the use of~~
21 ~~berms, swales, and terraces, and~~

22 ~~[(B) the use of soil amendments that increase the~~
23 ~~water-holding capacity of the soil, including compost,~~

24 ~~[(11) rainwater harvesting equipment and equipment to~~
25 ~~make use of water collected as part of a storm-water system~~
26 ~~installed for water quality control,~~

27 ~~[(12) equipment for recycling or reuse of water~~

1 ~~originating on the premises or from other sources, including~~
 2 ~~treated municipal effluent,~~

3 ~~[(13) equipment needed to capture water from~~
 4 ~~nonconventional, alternate sources, including air conditioning~~
 5 ~~condensate or graywater, for nonpotable uses,~~

6 ~~[(14) metering equipment needed to segregate water use~~
 7 ~~in order to identify water conservation opportunities or verify~~
 8 ~~water savings, or~~

9 ~~[(15) other energy or water conservation-related~~
 10 ~~improvements or equipment, including improvements or equipment~~
 11 ~~related to renewable energy or nonconventional water sources or~~
 12 ~~water reuse.~~

13 ~~[(c) All]~~ energy or water conservation measure [measures]
 14 must comply with current local, state, and federal construction,
 15 plumbing, and environmental codes and regulations.
 16 Notwithstanding Section 302.001(1) [~~anything to the contrary in~~
 17 ~~Subsection (b)~~], an energy savings performance [a] contract may
 18 [~~for energy or water conservation measures shall~~] not include
 19 improvements or equipment that allow or cause water from any
 20 condensing, cooling, or industrial process or any system of
 21 nonpotable usage over which public water supply system officials do
 22 not have sanitary control to be returned to the potable water
 23 supply.

24 SECTION 80. Section 302.003, Local Government Code, as
 25 amended by Chapter 1319, Acts of the 77th Legislature, Regular
 26 Session, 2001, is amended to read as follows:

27 Sec. 302.003. PAYMENT AND PERFORMANCE BOND.

1 Notwithstanding any other law [~~to the contrary~~], before entering
 2 into an energy savings performance [a] contract [~~for energy~~
 3 ~~conservation measures~~], the governing body of the local government
 4 shall require the provider of the energy or water conservation
 5 measures to file with the governing body a payment and performance
 6 bond relating to the installation of the [~~energy conservation~~]
 7 measures in accordance with Chapter 2253, Government Code. The
 8 governing body may also require a separate bond to cover the value
 9 of the guaranteed savings on the contract.

10 SECTION 81. Section 302.004, Local Government Code, is
 11 amended to read as follows:

12 Sec. 302.004. METHOD OF FINANCING; TERMS OF CONTRACT. (a)
 13 An energy savings performance contract [~~Energy or water~~
 14 ~~conservation measures with respect to buildings or facilities~~] may
 15 be financed:

16 (1) under a lease-purchase contract that has a term
 17 not to exceed 15 years from the final date of installation and that
 18 meets federal tax requirements for tax-free municipal leasing or
 19 long-term financing;

20 (2) with the proceeds of bonds; or

21 (3) under a contract with the provider of the energy or
 22 water conservation measures that has a term not to exceed 15 years
 23 from the final date of installation.

24 (b) An energy savings performance [~~The~~] contract shall
 25 contain provisions requiring [~~pursuant to which~~] the provider of
 26 the energy or water conservation measures to guarantee [~~guarantees~~]
 27 the amount of the savings to be realized by the local government

1 under the contract. If the term of the [~~a~~] contract [~~for energy or~~
2 ~~water conservation measures~~] exceeds one year, the local
3 government's contractual obligations in any one year during the
4 term of the contract beginning after the final date of installation
5 may not exceed the total energy, water, wastewater, and operating
6 cost savings, including [~~but not limited to~~] electrical, gas,
7 water, wastewater, or other utility cost savings and operating cost
8 savings resulting from the measures as determined by the local
9 government in this subsection, divided by the number of years in the
10 contract term.

11 SECTION 82. Section 302.005, Local Government Code, as
12 amended by Chapters 573 and 1319, Acts of the 77th Legislature,
13 Regular Session, 2001, is reenacted and amended to read as follows:

14 Sec. 302.005. BIDDING PROCEDURES; AWARD OF CONTRACT. (a)
15 An energy savings performance [~~A~~] contract under this chapter may
16 be let in accordance with the procedures established for procuring
17 certain professional services by Section 2254.004, Government
18 Code. Notice of the request for qualifications shall be published
19 in the manner provided for competitive bidding.

20 (b) Before [~~(d) Prior to~~] entering into an energy savings
21 performance [~~a~~] contract [~~under this section~~], the governing body
22 must require that the cost savings projected by an offeror be
23 reviewed by a licensed [~~professional~~] engineer who is not an
24 officer or employee of an offeror for the contract under review or
25 otherwise associated with the contract or the offeror. An engineer
26 who reviews a contract shall maintain the confidentiality of any
27 proprietary information the engineer acquires while reviewing the

1 contract. Sections 1001.053 and 1001.407, Occupations Code, apply
2 [~~Section 19, The Texas Engineering Practice Act (Article 3271a,~~
3 ~~Vernon's Texas Civil Statutes), applies]~~ to work performed under
4 the contract.

5 SECTION 83. Chapter 430, Local Government Code, is amended
6 by adding Section 430.003 to read as follows:

7 Sec. 430.003. EXEMPTIONS OF STATE PROPERTY FROM
8 INFRASTRUCTURE FEES. No county, municipality, or utility district
9 may collect from a state agency or public institution of higher
10 education any fee charged for the development or maintenance of
11 programs or facilities for the control of excess water or storm
12 water.

13 SECTION 84. Section 74.103, Property Code, is amended by
14 adding Subsection (d) to read as follows:

15 (d) The comptroller may determine the liability of a holder
16 required to file a property report under Section 74.101 using the
17 best information available to the comptroller if the records of the
18 holder are unavailable or incomplete for any portion of the
19 required retention period.

20 SECTION 85. Section 74.501, Property Code, is amended by
21 adding Subsections (d) and (e) to read as follows:

22 (d) On receipt of a claim form and all necessary
23 documentation and as may be appropriate under the circumstances,
24 the comptroller may approve the claim of:

25 (1) the reported owner of the property;

26 (2) if the reported owner died testate:

27 (A) the appropriate legal beneficiaries of the

1 owner as provided by the last will and testament of the owner that
2 has been accepted into probate or filed as a muniment of title; or

3 (B) the executor of the owner's last will and
4 testament who holds current letters testamentary;

5 (3) if the reported owner died intestate:

6 (A) the legal heirs of the owner as provided by
7 Section 38, Texas Probate Code; or

8 (B) the court-appointed administrator of the
9 owner's estate;

10 (4) the legal heirs of the reported owner as
11 established by an affidavit of heirship order signed by a judge of
12 the county probate court or by a county judge;

13 (5) if the reported owner is a minor child or an adult
14 who has been adjudged incompetent by a court of law, the parent or
15 legal guardian of the child or adult;

16 (6) if the reported owner is a corporation:

17 (A) the president or chair of the board of
18 directors of the corporation, on behalf of the corporation; or

19 (B) any person who has legal authority to act on
20 behalf of the corporation;

21 (7) if the reported owner is a corporation that has
22 been dissolved or liquidated:

23 (A) the sole surviving shareholder of the
24 corporation, if there is only one surviving shareholder;

25 (B) the surviving shareholders of the
26 corporation in proportion to their ownership of the corporation, if
27 there is more than one surviving shareholder;

1 (C) the corporation's bankruptcy trustee; or
2 (D) the court-ordered receiver for the
3 corporation; or

4 (8) any other person that is entitled to receive the
5 unclaimed property under other law or comptroller policy.

6 (e) The comptroller may not pay to the following persons a
7 claim to which this section applies:

8 (1) a creditor, a judgment creditor, a lienholder, or
9 an assignee of the reported owner or of the owner's heirs; or

10 (2) a person holding a power of attorney from the
11 reported owner or the owner's heirs.

12 SECTION 86. Sections 111.104(b) and (c), Tax Code, are
13 amended to read as follows:

14 (b) A tax refund claim may be filed with the comptroller
15 only by the person who directly paid the tax to this state or by the
16 person's attorney, assignee, or other successor.

17 (c) A claim for a refund must:

18 (1) be written;

19 (2) state fully and in detail each reason or ground
20 [~~the grounds~~] on which the claim is founded; and

21 (3) be filed before the expiration of the applicable
22 limitation period as provided by this code or before the expiration
23 of six months after a jeopardy or deficiency determination becomes
24 final, whichever period expires later.

25 SECTION 87. Section 111.1042, Tax Code, is amended by
26 adding Subsection (d) to read as follows:

27 (d) If the right to a hearing is not exercised on a full or

1 partial denial of a claim for refund, the period during which the
2 comptroller informally reviewed the claim for refund does not toll
3 the limitation period for any subsequent claim for refund on the
4 same period and type of tax for which the claim for refund was fully
5 or partially denied.

6 SECTION 88. Section 111.105, Tax Code, is amended by
7 amending Subsection (a) and adding Subsection (e) to read as
8 follows:

9 (a) A person claiming a refund under Section 111.104 [~~of~~
10 ~~this code~~] is entitled to a hearing on the claim if the person
11 requests a hearing on or before the 30th day after the date [~~in~~
12 ~~accordance with procedures prescribed by~~] the comptroller issues a
13 letter denying the claim for refund. The person is entitled to 20
14 days' notice of the time and place of the hearing.

15 (e) During the administrative hearing process, a person
16 claiming a refund under Section 111.104 must submit documentation
17 to enable the comptroller to verify the claim for refund. The
18 comptroller may issue a notice of demand that all evidence to
19 support the claim for refund must be produced before the expiration
20 of a specified date in the notice. The specified date in the notice
21 may not be earlier than 180 days after the date the refund is
22 claimed. The comptroller may not consider evidence produced after
23 the specified date in the notice in an administrative hearing. The
24 limitation provided by this subsection does not apply to a judicial
25 proceeding filed in accordance with Chapter 112.

26 SECTION 89. Section 111.107, Tax Code, is amended to read as
27 follows:

1 Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. (a)

2 Except as otherwise expressly provided, a person may request a
3 refund or a credit or the comptroller may make a refund or issue a
4 credit for the overpayment of a tax imposed by this title at any
5 time before the expiration of the period during which the
6 comptroller may assess a deficiency for the tax and not thereafter
7 unless the refund or credit is requested:

8 (1) under Subchapter B of Chapter 112 and the refund is
9 made or the credit is issued under a court order;

10 (2) under the provision of Section 111.104(c)(3)
11 applicable to a refund claim filed after a jeopardy or deficiency
12 determination becomes final; or

13 (3) under Chapter 153, except Section 153.1195(e),
14 153.121(d), 153.2225(e), or 153.224(d).

15 (b) A person may not refile a refund claim for the same
16 transaction or item, tax type, period, and ground or reason that was
17 previously denied by the comptroller.

18 SECTION 90. Sections 111.206(b), (c), and (d), Tax Code,
19 are amended to read as follows:

20 (b) A final determination that affects the amount of
21 liability of a tax imposed by this title shall be reported to the
22 comptroller before the expiration of 120 [~~60~~] days after the day on
23 which the determination becomes final. The report must include a
24 detailed statement of the reasons for the difference in tax
25 liability as required by the comptroller.

26 (c) Notwithstanding the expiration of a period of
27 limitation provided in this title, the comptroller may assess and

1 collect or bring suit for the collection of any tax deficiency,
2 including penalties and interest, resulting from a final
3 determination [~~or from investigation~~] at any time before the
4 expiration of one year after:

5 (1) the later of the day the report is required to be
6 filed as provided by Subsection (b) or the day [~~of this section is~~
7 ~~received, if~~] the report is received [~~filed within the 60-day~~
8 ~~period~~]; or

9 (2) [~~if the report is not made or is made after the~~
10 ~~60-day period, the day the report is received or~~] the day the final
11 determination is discovered, if a report is not filed [~~whichever~~
12 ~~period is the shorter~~].

13 (d) If a final determination [~~or investigation~~] results in
14 the taxpayer having overpaid the amount of tax due the state, the
15 taxpayer may file a claim for refund with the comptroller [~~shall~~
16 ~~refund or issue a credit~~] for the amount of the overpayment before
17 the first anniversary of the date the final determination becomes
18 final. If the comptroller assesses tax by issuing a deficiency
19 determination within the [~~at any time during the one-year~~] period
20 provided by [~~during which assessments may be made under~~] Subsection
21 (c), the taxpayer may file a claim for refund for an amount of tax
22 that has been found due in a deficiency determination before the
23 180th day after the deficiency determination becomes final, but the
24 claim is limited to the items and the tax payment period for which
25 the determination was issued [~~of this section~~].

26 SECTION 91. Sections 111.207(a) and (b), Tax Code, are
27 amended to read as follows:

1 (a) In determining the expiration date for a period when a
2 tax imposed by this title may be assessed, ~~[or]~~ collected, or
3 refunded, the following periods are not considered:

4 (1) the period following the date of a tax payment made
5 under protest, but only if a lawsuit is timely filed in accordance
6 with Chapter 112;

7 (2) the period during which a judicial proceeding is
8 pending in a court of competent jurisdiction to determine the
9 amount of the tax due; and

10 (3) the period during which an administrative
11 redetermination or refund hearing ~~[proceeding]~~ is pending before
12 the comptroller ~~[for a redetermination of the tax liability]~~.

13 (b) The suspension of a period of limitation under
14 Subsection (a) is limited ~~[of this section applies only]~~ to the
15 issues that were contested ~~[amount of taxes in issue]~~ under
16 Subdivision (1), (2), or (3) of that subsection.

17 SECTION 92. Section 112.058(a), Tax Code, is amended to
18 read as follows:

19 (a) Payments ~~[Except as provided in Subsections (b) and (c)~~
20 ~~of this section, payments]~~ made under protest are to be handled as
21 follows:

22 (1) An officer who receives payments made under
23 protest as required by Section 112.051 ~~[of this code]~~ shall each day
24 send to the comptroller the payments, a list of the persons making
25 the payments, and a written statement that the payments were made
26 under protest.

27 (2) The comptroller shall, immediately on receipt,

1 credit the payments to each fund to which the tax or fee paid under
2 protest is allocated by law.

3 (3) The comptroller shall maintain detailed records of
4 payments made under protest.

5 (4) A payment under protest bears pro rata interest.
6 The pro rata interest is the amount of interest earned by the
7 protested funds [~~that would be due if the amount had been placed in~~
8 ~~the suspense account of the comptroller~~].

9 SECTION 93. Section 142.002, Tax Code, is amended by
10 amending Subdivisions (1), (2), (3), (4), and (6) and adding
11 Subdivisions (3-a), (3-b), and (3-c) to read as follows:

12 (1) "Agreement" means the Streamlined Sales and Use
13 Tax Agreement as amended and adopted on November 12, 2002 [~~January~~
14 ~~27, 2001~~].

15 (2) "Certified automated system" means software
16 certified under [~~jointly by the states that are signatories to~~] the
17 agreement to calculate [~~compute~~] the tax imposed by each
18 jurisdiction on a transaction, determine the amount of tax to remit
19 to the appropriate state, and maintain a record of the transaction.

20 (3) "Certified service provider" means an agent
21 certified under [~~jointly by the states that are signatories to~~] the
22 agreement to perform all of the seller's sales tax functions, other
23 than the seller's obligation to remit tax on the seller's own
24 purchases.

25 (3-a) "Model 1 seller" means a seller that has
26 selected a certified service provider as the seller's agent to
27 perform all of the seller's sales and use tax functions, other than

1 the seller's obligation to remit tax on the seller's own purchases.

2 (3-b) "Model 2 seller" means a seller that has
3 selected a certified automated system to perform part of the
4 seller's sales and use tax functions, but retains responsibility
5 for remitting the tax.

6 (3-c) "Model 3 seller" means a seller that has sales in
7 at least five member states, has total annual sales revenue of at
8 least \$500 million, has a proprietary system that calculates the
9 amount of tax due each jurisdiction, and has entered into a
10 performance agreement with the member states that establishes a tax
11 performance standard for the seller. The term includes an
12 affiliated group of sellers using the same proprietary system.

13 (4) "Sales tax" means a sales tax administered or
14 computed under Chapter 151 [~~this subtitle or Subtitle C, Title 3, or~~
15 ~~in a similar manner~~].

16 (6) "Use tax" means a use tax administered or computed
17 under Chapter 151 [~~this subtitle or Subtitle C, Title 3, or in a~~
18 ~~similar manner~~].

19 SECTION 94. Section 142.005, Tax Code, is amended by adding
20 Subsection (c) to read as follows:

21 (c) The comptroller may enter into the agreement on behalf
22 of this state if the governor, lieutenant governor, speaker of the
23 house of representatives, and comptroller unanimously agree that it
24 would be in this state's best interest to be a signatory to the
25 agreement.

26 SECTION 95. Chapter 142, Tax Code, is amended by adding
27 Section 142.0055 to read as follows:

1 Sec. 142.0055. RULES. The comptroller may adopt rules
2 relating to the administration and collection of the sales and use
3 tax as necessary to comply with the agreement, including rules
4 establishing the requirements for a seller to be a Model 1 seller,
5 Model 2 seller, or Model 3 seller.

6 SECTION 96. Chapter 142, Tax Code, is amended by adding
7 Section 142.011 to read as follows:

8 Sec. 142.011. SETTLEMENT OF TAX, PENALTY, AND INTEREST. On
9 or after the later of the date on which the agreement takes effect
10 as provided by the terms of the agreement or this state becomes a
11 signatory to the agreement, the comptroller may settle a claim for
12 tax, penalty, or interest on tax imposed by Chapter 151 if necessary
13 for the comptroller to comply with the terms of the agreement.

14 SECTION 97. Section 151.011(a), Tax Code, is amended to
15 read as follows:

16 (a) Except as provided by Subsection (c) of this section,
17 "use" means the exercise of a right or power incidental to the
18 ownership of tangible personal property over tangible personal
19 property, including tangible personal property other than printed
20 material that has been processed, fabricated, or manufactured into
21 other property or attached to or incorporated into other property
22 transported into this state, and, except as provided by Section
23 151.056(b) of this code, includes the incorporation of tangible
24 personal property into real estate or into improvements of real
25 estate whether or not the real estate is subsequently sold.

26 SECTION 98. Subchapter A, Chapter 151, Tax Code, is amended
27 by adding Section 151.012 to read as follows:

1 Sec. 151.012. EFFECTIVE DATE OF TAX RATE CHANGES. (a) A
2 change in the rate of the tax imposed under Sections 151.051 and
3 151.101 must take effect on the first day of a calendar quarter.

4 (b) If the performance of a taxable service begins before
5 the effective date of a change in the tax rate and the performance
6 will not be completed until after that effective date, the change in
7 the tax rate applies to the first billing period for the service
8 performed on or after that effective date.

9 SECTION 99. Section 151.025, Tax Code, is amended by adding
10 Subsection (d) to read as follows:

11 (d) If any nontaxable charges are combined with and not
12 separately stated from taxable telecommunications service charges
13 on the customer bill or invoice of a provider of telecommunications
14 services, the combined charge is subject to tax unless the provider
15 can identify the portion of the charges that are nontaxable through
16 the provider's books and records kept in the regular course of
17 business. If the nontaxable charges cannot reasonably be
18 identified, the charges from the sale of both nontaxable services
19 and taxable telecommunications services are attributable to
20 taxable telecommunications services. The provider of
21 telecommunications services has the burden of proving nontaxable
22 charges.

23 SECTION 100. Section 151.103, Tax Code, is amended by
24 adding Subsection (d) to read as follows:

25 (d) A retailer who holds a sales tax permit issued by the
26 comptroller under this chapter shall collect any applicable local
27 use tax that is due from a purchaser even if the retailer is not

1 engaged in business in the local jurisdiction into which the
2 taxable item is shipped or delivered.

3 SECTION 101. Section 151.152(b), Tax Code, is amended to
4 read as follows:

5 (b) A resale certificate must:

6 (1) be signed by the purchaser or contain an
7 electronic form of the purchaser's signature authorized by the
8 comptroller and contain the purchaser's name and address;

9 (2) state the purchaser's tax permit number or that the
10 purchaser's application for a tax permit is pending before the
11 comptroller; and

12 (3) contain a description of the tangible personal
13 property sold, leased, or rented by the purchaser in the regular
14 course of business or transferred as an integral part of a taxable
15 service performed in the regular course of business.

16 SECTION 102. Section 151.202, Tax Code, is amended by
17 adding Subsection (c) to read as follows:

18 (c) A person desiring to be a seller in this state must agree
19 to collect any applicable local use tax that may be imposed by a
20 local jurisdiction even if the seller is not engaged in business in
21 the local jurisdiction into which the taxable item is shipped or
22 delivered.

23 SECTION 103. Section 151.314, Tax Code, is amended by
24 amending Subsections (c), (e), (f), and (g) and adding Subsections
25 (c-1), (c-2), and (c-3) to read as follows:

26 (c) "Food products" shall not include:

27 (1) drugs, medicines, tonics, vitamins, dietary

1 supplements, and medicinal preparations in any form;

2 (2) carbonated and noncarbonated packaged soft
3 drinks, which are nonalcoholic beverages that contain natural or
4 artificial sweeteners [and diluted juices and ice and candy];

5 (3) ice; or

6 (4) candy [foods and drinks (which include meals, milk
7 and milk products, fruit and fruit products, sandwiches, salads,
8 processed meats and seafoods, vegetable juices, ice cream in cones
9 or small cups) served, prepared, or sold ready for immediate
10 consumption in or by restaurants, lunch counters, cafeterias,
11 vending machines, hotels, or like places of business or sold ready
12 for immediate consumption from pushcarts, motor vehicles, or any
13 other form of vehicle].

14 (c-1) For purposes of this section, diluted juice that is
15 more than 50 percent vegetable or fruit juice by volume is not
16 considered to be a soft drink.

17 (c-2) The exemption provided by Subsection (a) does not
18 include the following prepared food:

19 (1) food, food products, and drinks, including meals,
20 milk and milk products, fruit and fruit products, sandwiches,
21 salads, processed meats and seafoods, vegetable juice, and ice
22 cream in cones or small cups, served, prepared, or sold ready for
23 immediate consumption in or by restaurants, lunch counters,
24 cafeterias, vending machines, hotels, or like places of business or
25 sold ready for immediate consumption from pushcarts, motor
26 vehicles, or any other form of vehicle;

27 (2) food sold in a heated state or heated by the

1 seller; or

2 (3) two or more food ingredients mixed or combined by
3 the seller for sale as a single item, including items that are sold
4 in an unheated state by weight or volume as a single item, but not
5 including food that is only cut, repackaged, or pasteurized by the
6 seller.

7 (c-3) The exemption provided by Subsection (a) includes:

8 (1) bakery items sold without plates or other eating
9 utensils, including bread, rolls, buns, biscuits, bagels,
10 croissants, pastries, doughnuts, Danish, cakes, tortes, pies,
11 tarts, muffins, bars, cookies, and tortillas; and

12 (2) eggs, fish, meat, and poultry, and foods
13 containing these raw animal foods, that require cooking by the
14 consumer as recommended by the Food and Drug Administration in
15 Chapter 3, Section 401.11 of its Food Code to prevent food-borne
16 illness and any other food that requires cooking by the consumer
17 before the food is edible.

18 (e) Food products, candy, and soft drinks [~~carbonated~~
19 ~~beverages, and diluted juices~~] are exempted from the taxes imposed
20 by this chapter if sold at an exempt sale qualifying under this
21 subsection or if stored or used by the purchaser of the item at the
22 exempt sale. A sale is exempted under this subsection if:

23 (1) the sale is made by a person under 19 years old who
24 is a member of a nonprofit organization devoted to the exclusive
25 purpose of education or religious or physical training or by a group
26 associated with a public or private elementary or secondary school;

27 (2) the sale is made as a part of a fund-raising drive

1 sponsored by the organization or group; and

2 (3) all net proceeds from the sale go to the
3 organization or group for its exclusive use.

4 (f) The exemption provided by this section does
5 ~~[Subsections (a), (b), and (c) of this section do]~~ not apply to the
6 sale of food products through the use or operation of a vending
7 machine for which ~~[edible products for human consumption]~~ the
8 receipts or sales prices are determined by ~~[price for which are~~
9 ~~taxed subject to]~~ Section 151.007(d) ~~[of this code]~~.

10 (g) The exemption provided by Subsection (d)(3) does not
11 apply to food products, meals, soft drinks, and candy ~~[for human~~
12 ~~consumption]~~ sold to a person confined in a correctional facility
13 operated under the authority or jurisdiction of or under contract
14 with this state or a political subdivision of the state.

15 SECTION 104. Section 151.317(a), Tax Code, is amended to
16 read as follows:

17 (a) Subject to Subsection (d), gas and electricity are
18 exempted from the taxes imposed by this chapter when sold for:

19 (1) residential use;

20 (2) use in powering equipment exempt under Section
21 151.318 or 151.3185 by a person processing tangible personal
22 property for sale as tangible personal property, other than
23 preparation or storage of prepared food described by Section
24 151.314(c-2) ~~[food for immediate consumption];~~

25 (3) use in lighting, cooling, and heating in the
26 manufacturing area during the actual manufacturing or processing of
27 tangible personal property for sale as tangible personal property,

1 other than preparation or storage of prepared food described by
2 Section 151.314(c-2) [~~food for immediate consumption~~];

3 (4) use directly in exploring for, producing, or
4 transporting, a material extracted from the earth;

5 (5) use in agriculture, including dairy or poultry
6 operations and pumping for farm or ranch irrigation;

7 (6) use directly in electrical processes, such as
8 electroplating, electrolysis, and cathodic protection;

9 (7) use directly in the off-wing processing, overhaul,
10 or repair of a jet turbine engine or its parts for a certificated or
11 licensed carrier of persons or property;

12 (8) use directly in providing, under contracts with or
13 on behalf of the United States government or foreign governments,
14 defense or national security-related electronics, classified
15 intelligence data processing and handling systems, or
16 defense-related platform modifications or upgrades;

17 (9) a direct or indirect use, consumption, or loss of
18 electricity by an electric utility engaged in the purchase of
19 electricity for resale; or

20 (10) use in timber operations, including pumping for
21 irrigation of timberland.

22 SECTION 105. Section 151.317(c), Tax Code, as amended by
23 Chapters 631 and 1467, Acts of the 76th Legislature, Regular
24 Session, 1999, is reenacted to read as follows:

25 (c) In this section, "residential use" means use:

26 (1) in a family dwelling or in a multifamily apartment
27 or housing complex or building or in a part of a building occupied

1 as a home or residence when the use is by the owner of the dwelling,
2 apartment, complex, or building or part of the building occupied;
3 or

4 (2) in a dwelling, apartment, house, or building or
5 part of a building occupied as a home or residence when the use is by
6 a tenant who occupies the dwelling, apartment, house, or building
7 or part of a building under a contract for an express initial term
8 for longer than 29 consecutive days.

9 SECTION 106. Section 151.318, Tax Code, is amended by
10 amending Subsections (b) and (s) and adding Subsection (q-1) to
11 read as follows:

12 (b) The exemption includes:

13 (1) chemicals, catalysts, and other materials that are
14 used during a manufacturing, processing, or fabrication operation
15 to produce or induce a chemical or physical change, to remove
16 impurities, or to make the product more marketable; ~~and~~

17 (2) semiconductor fabrication cleanrooms and
18 equipment; and

19 (3) pharmaceutical biotechnology cleanrooms and
20 equipment that are installed as part of the construction of a new
21 facility with a value of at least \$150 million and on which
22 construction began after July 1, 2003, and before August 31, 2004.

23 (q-1) For purposes of Subsection (b), "pharmaceutical
24 biotechnology cleanrooms and equipment" means all tangible
25 personal property, without regard to whether the property is
26 affixed to or incorporated into realty, used in connection with the
27 manufacturing, processing, or fabrication in a cleanroom

1 environment of a pharmaceutical biotechnology product, without
2 regard to whether the property is actually contained in the
3 cleanroom environment. The term includes integrated systems,
4 fixtures, and piping, all property necessary or adapted to reduce
5 contamination or to control airflow, temperature, humidity,
6 chemical purity, or other environmental conditions or
7 manufacturing tolerances, and production equipment and machinery.
8 The term does not include the building or a permanent, nonremovable
9 component of the building that houses the cleanroom environment.
10 The term includes moveable cleanroom partitions and cleanroom
11 lighting. "Pharmaceutical biotechnology cleanrooms and equipment"
12 are not "intraplant transportation equipment" as that term is used
13 in Subsection (c)(1).

14 (s) The following do not apply to the semiconductor
15 fabrication cleanrooms and equipment in Subsection (q) or the
16 pharmaceutical biotechnology cleanrooms and equipment in
17 Subsection (q-1):

18 (1) limitations in Subsection (a)(2) that refer to
19 tangible personal property directly causing chemical and physical
20 changes to the product being manufactured, processed, or fabricated
21 for ultimate sale;

22 (2) Subsection (c)(1); and

23 (3) Subsection (c)(4).

24 SECTION 107. Section 151.3181, Tax Code, is amended by
25 adding Subsection (h) to read as follows:

26 (h) The use of "pharmaceutical biotechnology cleanrooms and
27 equipment," as that term is defined by Section 151.318(q-1), to

1 manufacture, process, or fabricate a pharmaceutical biotechnology
2 product that is not sold is not a divergent use if the use occurs
3 during the certification process by the United States Food and Drug
4 Administration.

5 SECTION 108. Section 153.119(d), Tax Code, is amended to
6 read as follows:

7 (d) If the quantity of gasoline used in Texas by auxiliary
8 power units or power take-off equipment on any motor vehicle can be
9 accurately measured while the motor vehicle is stationary by any
10 metering or other measuring device or method designed to measure
11 the fuel separately from fuel used to propel the motor vehicle, the
12 comptroller may approve and adopt the use of any device as a basis
13 for determining the quantity of gasoline consumed in those
14 operations for tax credit or tax refund. The climate-control air
15 conditioning or heating system of a motor vehicle that has a primary
16 purpose of providing for the convenience or comfort of the operator
17 or passengers is not a power take-off system, and a refund may not
18 be allowed for the tax paid on any portion of the gasoline that is
19 used for that purpose.

20 SECTION 109. Section 153.222(d), Tax Code, is amended to
21 read as follows:

22 (d) If the quantity of diesel fuel used in Texas by
23 auxiliary power units or power take-off equipment on any motor
24 vehicle can be accurately measured while the motor vehicle is
25 stationary by any metering or other measuring device or method
26 designed to measure the fuel separately from fuel used to propel the
27 motor vehicle, the comptroller may approve and adopt the use of any

1 device as a basis for determining the quantity of diesel fuel
2 consumed in those operations for tax credit or tax refund. If no
3 separate metering device or other approved measuring method is
4 provided, the following credit or refund procedures are authorized.
5 A permitted supplier, a dyed diesel fuel bonded user, or an
6 agricultural bonded user who operates diesel-powered motor
7 vehicles equipped with a power take-off or a diesel-powered
8 auxiliary power unit mounted on the motor vehicle and using the fuel
9 supply tank of the motor vehicle may be allowed a deduction from the
10 taxable gallons used in this state in each motor vehicle so
11 equipped. The comptroller shall determine the percentage of the
12 deduction. A user who is required to pay the tax on diesel fuel used
13 in motor vehicles so equipped may file a claim for a refund not to
14 exceed the percentage allowed by the comptroller of the total
15 taxable fuel used in this state in each motor vehicle so equipped.
16 The climate-control air conditioning or heating system of a motor
17 vehicle that has a primary purpose of providing for the convenience
18 or comfort of the operator or passengers is not a power take-off
19 system, and a refund may not be allowed for the tax paid on any
20 portion of the diesel fuel that is used for that purpose.

21 SECTION 110. Section 201.057(i), Tax Code, is amended to
22 read as follows:

23 (i) If, before the commission certifies that a well produces
24 high-cost gas or before the comptroller approves an application for
25 an exemption or tax reduction under this section, the tax imposed by
26 this chapter is paid on high-cost gas that otherwise qualifies for
27 the exemption or tax reduction provided by this section, the

1 producer or producers of the gas are entitled to a credit against
2 other taxes imposed by this chapter in an amount equal to the amount
3 of the tax paid on the gas that otherwise qualified for the
4 exemption or tax reduction on or after the first day of the next
5 month after the month in which the application for certification
6 under this section was filed with the commission. If the
7 application for certification is submitted to the commission after
8 January 1, 2004, the total allowable credit for taxes paid for
9 reporting periods before the date the application is filed may not
10 exceed the total tax paid on the gas that otherwise qualified for
11 the exemption or tax reduction and that was produced during the 24
12 consecutive calendar months immediately preceding the month in
13 which the application for certification under this section was
14 filed with the commission. The credit is allocated to each producer
15 according to the producer's proportionate share in the gas. To
16 receive a credit, one or more of the producers must apply to the
17 comptroller for the credit not later than the first anniversary
18 after the date the comptroller approves the application for an
19 exemption or tax reduction under this section. If a producer
20 demonstrates that the producer does not have sufficient tax
21 liability under this chapter to claim the credit within five years
22 from the date the application for the credit is made, the producer
23 is entitled to a refund in the amount of any credit the comptroller
24 determines may not be claimed within that five years. Nothing in
25 this subsection shall relieve the obligation imposed by Subsection
26 (b) to pay tax when due on high-cost gas produced from co-production
27 projects on or before July 31, 1995.

1 SECTION 111. Section 201.101, Tax Code, is amended to read
2 as follows:

3 Sec. 201.101. MARKET VALUE. (a) The market value of gas is
4 its value at the mouth of the well from which it is produced. The
5 value of gas at the mouth of the well is determined by ascertaining
6 the producer's actual marketing costs and subtracting those costs
7 from the producer's gross cash receipts from the sale of the gas.

8 (b) Marketing costs are the costs incurred by the producer
9 to get the gas from the mouth of the well to the market, including:

- 10 (1) costs for compressing the gas sold;
11 (2) costs for dehydrating the gas sold;
12 (3) costs for sweetening the gas sold; and
13 (4) costs for delivering the gas to the purchaser.

14 (c) Marketing costs do not include:

- 15 (1) costs incurred in producing the gas;
16 (2) costs incurred in normal lease separation of the
17 oil or condensate; or
18 (3) insurance premiums on the marketing facility.

19 (d) Marketing costs are determined by adding:

- 20 (1) a reasonable charge for depreciation of the
21 marketing facility being used, provided that, if the facility is
22 rented, the actual rental fee is added;
23 (2) a return on the producer-owned investment equal to
24 six percent per year on the average depreciable balance;
25 (3) costs of direct or allocated labor associated with
26 the marketing facility;
27 (4) costs of materials, supplies, maintenance,

1 repairs, and fuel associated with the marketing facility; and

2 (5) ad valorem taxes paid on the marketing facility.

3 (e) If the facility is used for a purpose other than
4 marketing the gas being sold, the cost shall be allocated
5 accordingly.

6 (f) If the facility is handling gas for outside parties, the
7 average cost for handling all of the gas shall be applied against
8 the facility owner's gas.

9 (g) The actual cost being charged a producer by an outside
10 party for marketing functions may be used for tax purposes if no
11 other benefit or value accrues to the producer.

12 (h) A producer receiving a cost reimbursement from the gas
13 purchaser shall include the reimbursement in the gross cash
14 receipts and is entitled to deduct the actual marketing costs
15 incurred.

16 SECTION 112. Section 201.102, Tax Code, is amended to read
17 as follows:

18 Sec. 201.102. CASH SALES. If gas is sold for cash only, the
19 tax shall be computed on the producer's gross cash receipts.
20 Payments from a purchaser of gas to a producer for the purpose of
21 reimbursing the producer for taxes due under this chapter are [~~not~~]
22 part of the gross cash receipts unless the reimbursement amount for
23 taxes due under this chapter is separately stated in the sales
24 contract.

25 SECTION 113. Section 313.021(2), Tax Code, is amended to
26 read as follows:

27 (2) "Qualified property" means:

1 (A) land:

2 (i) that is located in an area designated as
3 a reinvestment zone under Chapter 311 or 312 or as an enterprise
4 zone under Chapter 2303, Government Code;

5 (ii) on which a person proposes to
6 construct a new building or erect or affix a new improvement that
7 does not exist before the date the owner applies for a limitation on
8 appraised value under this subchapter;

9 (iii) that is not subject to a tax abatement
10 agreement entered into by a school district under Chapter 312; and

11 (iv) on which, in connection with the new
12 building or new improvement described by Subparagraph (ii), the
13 owner of the land proposes to:

14 (a) make a qualified investment in an
15 amount equal to at least the minimum amount required by Section
16 313.023; and

17 (b) create at least 25 new jobs;

18 (B) the new building or other new improvement
19 described by Paragraph (A)(ii); and

20 (C) tangible personal property that:

21 (i) is not subject to a tax abatement
22 agreement entered into by a school district under Chapter 312; and

23 (ii) except for new equipment described in
24 Section 151.318(q) or (q-1), is first placed in service in the new
25 building or in or on the new improvement described by Paragraph
26 (A)(ii), or on the land on which that new building or new
27 improvement is located, if the personal property is ancillary and

1 necessary to the business conducted in that new building or in or on
2 that new improvement.

3 SECTION 114. Section 321.003, Tax Code, is amended to read
4 as follows:

5 Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles
6 A and B, Title 2, and Chapters 142 and [~~Chapter~~] 151 apply to the
7 taxes and to the administration and enforcement of the taxes
8 imposed by this chapter in the same manner that those laws apply to
9 state taxes, unless modified by this chapter.

10 SECTION 115. Section 321.203, Tax Code, is amended by
11 amending Subsections (b), (c), (d), (e), and (g) and adding
12 Subsections (g-1), (g-2), (g-3), and (l) to read as follows:

13 (b) If a retailer has only one place of business in this
14 state, all of the retailer's retail sales of tangible personal
15 property are consummated at that place of business except as
16 provided by Subsection (e).

17 (c) If a retailer has more than one place of business in this
18 state, a sale of tangible personal property [~~a taxable item~~] by the
19 retailer is consummated at the retailer's place of business:

20 (1) from which the retailer ships or delivers the
21 property [~~item~~], if the retailer ships or delivers the property
22 [~~item~~] to a point designated by the purchaser or lessee; or

23 (2) where the purchaser or lessee takes possession of
24 and removes the property [~~item~~], if the purchaser or lessee takes
25 possession of and removes the property [~~item~~] from a place of
26 business of the retailer.

27 (d) If neither the possession of tangible personal property

1 ~~[a taxable item]~~ is taken at nor shipment or delivery of the
2 property ~~[item]~~ is made from the retailer's place of business in
3 this state, the sale is consummated at:

4 (1) the retailer's place of business in this state
5 where the order is received; or

6 (2) if the order is not received at a place of business
7 of the retailer, the place of business from which the retailer's
8 salesman who took the order operates.

9 (e) A sale of tangible personal property is consummated at
10 the location in this state to which the property ~~[a taxable item]~~ is
11 shipped or delivered or at which possession is taken by the customer
12 if transfer of possession of the property ~~[a taxable item]~~ occurs
13 at, or shipment or delivery of the property ~~[item]~~ originates from,
14 a location in this state other than a place of business of the
15 retailer and if:

16 (1) the retailer is an itinerant vendor who has no
17 place of business;

18 (2) the retailer's place of business where the
19 purchase order is initially received or from which the retailer's
20 salesman who took the order operates is outside this state; or

21 (3) the purchaser places the order directly with the
22 retailer's supplier and the property ~~[item]~~ is shipped or delivered
23 directly to the purchaser by the supplier.

24 (g) ~~The [sale of telecommunications services is consummated
25 at the location of the telephone or other telecommunications device
26 from which the call or other transmission originates, unless the
27 point of origin cannot be determined, in which case the sale is at~~

1 ~~the address to which the call is billed. However, the~~ sale of
2 mobile telecommunications services is consummated in accordance
3 with ~~[the provisions of]~~ Section 151.061.

4 (g-1) The sale of telecommunications services sold based on
5 a price that is measured by individual calls is consummated at the
6 location where the call originates and terminates or the location
7 where the call either originates or terminates and at which the
8 service address is also located.

9 (g-2) Except as provided by Subsection (g-3), the sale of
10 telecommunications services sold on a basis other than on a
11 call-by-call basis is consummated at the location of the customer's
12 place of primary use.

13 (g-3) A sale of post-paid calling services is consummated at
14 the location of the origination point of the telecommunications
15 signal as first identified by the seller's telecommunications
16 system or by information received by the seller from the seller's
17 service provider if the system used to transport the signal is not
18 that of the seller.

19 (1) Except as otherwise provided by this section, the sale
20 of a taxable service, other than a service described by Section
21 151.330(f), is consummated at the location at which the service is
22 performed or otherwise delivered.

23 SECTION 116. Section 322.107, Tax Code, is amended to read
24 as follows:

25 Sec. 322.107. EXEMPTION: SALES TAX ON ITEMS LEAVING ENTITY.
26 There are exempted from the sales tax of a taxing entity the
27 receipts of the sale of a taxable item that, under a sales contract,

1 is shipped to a point outside the entity by means of:

2 (1) facilities operated by the retailer;

3 (2) delivery by the retailer to a carrier for shipment
4 to a consignee at that point; or

5 (3) delivery by the retailer to a [~~customs broker or a~~]
6 forwarding agent for shipment outside the entity.

7 SECTION 117. Section 323.003, Tax Code, is amended to read
8 as follows:

9 Sec. 323.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles
10 A and B, Title 2, and Chapters 142 and [~~Chapter~~] 151 apply to the
11 taxes and to the administration and enforcement of the taxes
12 imposed by this chapter in the same manner that those laws apply to
13 state taxes unless modified by this chapter.

14 SECTION 118. Section 323.203, Tax Code, is amended by
15 amending Subsections (b), (c), (d), (e), and (g) and adding
16 Subsections (g-1), (g-2), (g-3), and (l) to read as follows:

17 (b) If a retailer has only one place of business in this
18 state, all of the retailer's retail sales of tangible personal
19 property are consummated at that place of business except as
20 provided by Subsection (e).

21 (c) If a retailer has more than one place of business in this
22 state, a sale of tangible personal property [~~a taxable item~~] by the
23 retailer is consummated at the retailer's place of business:

24 (1) from which the retailer ships or delivers the
25 property [~~item~~], if the retailer ships or delivers the property
26 [~~item~~] to a point designated by the purchaser or lessee; or

27 (2) where the purchaser or lessee takes possession of

1 and removes the property [~~item~~], if the purchaser or lessee takes
2 possession of and removes the property [~~item~~] from a place of
3 business of the retailer.

4 (d) If neither the possession of tangible personal property
5 [~~a taxable item~~] is taken at nor shipment or delivery of the
6 property [~~item~~] is made from the retailer's place of business in
7 this state, the sale is consummated at:

8 (1) the retailer's place of business in this state
9 where the order is received; or

10 (2) if the order is not received at a place of business
11 of the retailer, the place of business from which the retailer's
12 salesman who took the order operates.

13 (e) A sale of tangible personal property is consummated at
14 the location in this state to which the property [~~a taxable item~~] is
15 shipped or delivered or at which possession is taken by the customer
16 if transfer of possession of the property [~~a taxable item~~] occurs
17 at, or shipment or delivery of the property [~~taxable item~~]
18 originates from, a location in this state other than a place of
19 business of the retailer and if:

20 (1) the retailer is an itinerant vendor who has no
21 place of business;

22 (2) the retailer's place of business where the
23 purchase order is initially received or from which the retailer's
24 salesman who took the order operates is outside this state; or

25 (3) the purchaser places the order directly with the
26 retailer's supplier and the property [~~taxable item~~] is shipped or
27 delivered directly to the purchaser by the supplier.

1 (g) ~~The sale of [telecommunications services is consummated~~
2 ~~at the location of the telephone or other telecommunications device~~
3 ~~from which the call or other transmission originates, unless the~~
4 ~~point of origin cannot be determined, in which case the sale is at~~
5 ~~the address to which the call is billed. However, the sale of]~~
6 mobile telecommunications services is consummated in accordance
7 with ~~[the provisions of]~~ Section 151.061.

8 (g-1) The sale of telecommunications services sold based on
9 a price that is measured by individual calls is consummated at the
10 location where the call originates and terminates or the location
11 where the call either originates or terminates and at which the
12 service address is also located.

13 (g-2) Except as provided by Subsection (g-3), the sale of
14 telecommunications services sold on a basis other than on a
15 call-by-call basis is consummated at the location of the customer's
16 place of primary use.

17 (g-3) A sale of post-paid calling services is consummated at
18 the location of the origination point of the telecommunications
19 signal as first identified by the seller's telecommunications
20 system or by information received by the seller from the seller's
21 service provider if the system used to transport the signal is not
22 that of the seller.

23 (l) Except as otherwise provided by this section, the sale
24 of a taxable service, other than a service described by Section
25 151.330(f), is consummated at the location at which the service is
26 performed or otherwise delivered.

27 SECTION 119. Section 256.009, Transportation Code, is

1 amended to read as follows:

2 Sec. 256.009. REPORT TO COMPTROLLER. (a) Not later than
3 January 30 of each year, the county auditor or, if the county does
4 not have a county auditor, the official having the duties of the
5 county auditor shall file a report with the comptroller that
6 includes:

7 (1) an account of how the money allocated to a county
8 under Section 256.002 during the preceding year was spent;

9 (2) a description, including location, of any new
10 roads constructed in whole or in part with the money allocated to a
11 county under Section 256.002 during the preceding year;

12 (3) any other information related to the
13 administration of Sections 256.002 and 256.003 that the comptroller
14 requires; and

15 (4) [~~stating~~] the total amount of expenditures for
16 county road and bridge construction, maintenance, rehabilitation,
17 right-of-way acquisition, and utility construction and other
18 appropriate road expenditures of county funds in the preceding
19 county fiscal year that are required by the constitution or other
20 law to be spent on public roads or highways.

21 (b) The report must be in a form prescribed by the
22 comptroller.

23 (c) [~~(b)~~] The comptroller may distribute money under
24 Section 256.002(a) to a county only if the most recent report
25 required by Subsection (a) has been filed.

26 (d) A county official or employee shall provide to the
27 comptroller on request any information necessary to determine the

1 legality of the use of money allocated under Section 256.002.

2 SECTION 120. (a) The comptroller of public accounts shall
3 conduct a study of the economic and other costs to political
4 subdivisions of this state of changing the sourcing laws relating
5 to the sale of tangible personal property to comply with the
6 Streamlined Sales and Use Tax Agreement.

7 (b) The comptroller of public accounts may request from a
8 political subdivision of this state any information the comptroller
9 requires to complete the study, and the political subdivision shall
10 provide the requested information as soon as possible.

11 (c) Not later than December 31, 2004, the comptroller shall
12 provide to the lieutenant governor, speaker of the house of
13 representatives, and presiding officers of the senate and house
14 committees having primary jurisdiction over the comptroller a
15 report on the results of the study.

16 SECTION 121. The following are repealed:

17 (1) Section 44.901, Education Code, as amended by
18 Chapter 1319, Acts of the 77th Legislature, Regular Session, 2001;

19 (2) Section 51.927, Education Code, as amended by
20 Chapter 1319, Acts of the 77th Legislature, Regular Session, 2001;

21 (3) Section 395.103, Finance Code;

22 (4) Subchapter O, Chapter 403, Government Code;

23 (5) Section 403.403(f), Government Code;

24 (6) Section 403.408, Government Code;

25 (7) Section 403.413(f), Government Code;

26 (8) Section 609.515, Government Code;

27 (9) Section 659.131(10), Government Code;

- 1 (10) Section 659.146(b), Government Code;
2 (11) Section 659.152, Government Code;
3 (12) Section 815.211, Government Code;
4 (13) Section 840.210, Government Code;
5 (14) Section 2166.406, Government Code, as amended by
6 Chapter 1319, Acts of the 77th Legislature, Regular Session, 2001;
7 (15) Section 2305.025, Government Code;
8 (16) Section 2305.032(c), Government Code;
9 (17) Section 2305.033(c), Government Code;
10 (18) Section 2305.073, Government Code;
11 (19) Section 2305.074, Government Code;
12 (20) Section 2305.076, Government Code;
13 (21) Article 4.74, Insurance Code;
14 (22) Section 1551.054, Insurance Code, as effective
15 June 1, 2003;
16 (23) Section 302.003, Local Government Code, as
17 amended by Chapter 573, Acts of the 77th Legislature, Regular
18 Session, 2001;
19 (24) Section 111.207(d), Tax Code;
20 (25) Sections 112.058(b) and (c), Tax Code;
21 (26) Section 151.025(c), Tax Code;
22 (27) Section 151.326(c), Tax Code;
23 (28) Chapter 326, Tax Code;
24 (29) Sections 256.003(b) and (c), Transportation
25 Code; and
26 (30) Sections 1.02(b)-(i), Chapter 753, Acts of the
27 76th Legislature, Regular Session, 1999.

1 SECTION 122. (a) ~~For the fiscal biennium beginning~~
2 ~~September 1, 2003, the comptroller is appropriated from the general~~
3 ~~revenue fund the amount needed to return any available cash that was~~
4 ~~transferred to that fund from a fund outside the state treasury and~~
5 ~~to maintain the equity of the fund from which the transfer was made,~~
6 ~~as required by Section 403.092, Government Code, as amended by this~~
7 ~~Act.~~

8 (a-1) Proceeds from bonds issued pursuant to Section
9 403.410, Government Code, and deposited in the Texas product
10 development fund are hereby appropriated to the office of the
11 governor to be used only for purposes specified in Subchapter P,
12 Chapter 403, Government Code, Product Development and Small
13 Business Incubators, and Section 71, Article XVI, Texas
14 Constitution. All funds deposited in the Texas product development
15 fund for debt service payments pursuant to contractual agreements
16 between the Product Development and Small Business Incubator Board
17 and eligible entities receiving awards from the fund are hereby
18 appropriated.

19 (b) The changes in law made by this Act to Sections 54.619
20 and 54.624, Education Code, apply to each academic term or semester
21 that begins after the effective date of this Act, other than a term
22 or semester before the 2003 fall semester.

23 (c) The changes in law made by this Act to Section 403.1042,
24 Government Code, do not affect the entitlement of a member serving
25 on the tobacco settlement permanent trust account advisory
26 committee immediately before the effective date of this Act to
27 serve the remainder of the member's current term. As the terms of

1 the members of the tobacco settlement permanent trust account
2 investment advisory committee first expire after the effective date
3 of this Act, the entities authorized to appoint the committee
4 members under Section 403.1042(b), Government Code, as amended by
5 this Act, shall appoint their successors.

6 (d) Section 659.2531, Government Code, as added by this Act,
7 applies only to a transfer that takes effect on or after September
8 1, 2003. A transfer that takes effect before September 1, 2003, is
9 governed by the law in effect on the effective date of the transfer,
10 and the former law is continued in effect for that purpose. In this
11 subsection, "transfer" has the meaning assigned by Section
12 659.2531, Government Code, as added by this Act.

13 (e) The changes in law made by this Act to Section 659.255,
14 Government Code, apply only to a merit salary increase or a one-time
15 merit payment that takes effect or is made on or after September 1,
16 2003. A merit salary increase or a one-time merit payment that
17 takes effect or is made before September 1, 2003, is governed by the
18 law in effect on the date the increase takes effect or the payment
19 is made, and the former law is continued in effect for that purpose.

20 (f) The rate of interest that accrues on a payment that
21 becomes overdue on or after September 1, 2004, is the rate
22 determined under Section 2251.025(b), Government Code, as amended
23 by this Act. The rate of interest that accrues on a payment that
24 becomes overdue before September 1, 2004, is the rate determined
25 under the law in effect before July 1, 2004, and the former law is
26 continued in effect for that purpose.

27 (g) The changes in law made by this Act to Section 2252.903,

1 Government Code, apply only to a written contract that is entered
2 into on or after September 1, 2003. A written contract that is
3 entered into before September 1, 2003, is governed by the law in
4 effect on the date the contract is entered into, and the former law
5 is continued in effect for that purpose.

6 (h) The changes in law made by this Act to Section 74.103,
7 Property Code, apply only to an examination begun on or after
8 September 1, 2003. An examination begun before September 1, 2003,
9 is governed by the law in effect on the date the examination begins,
10 and the former law is continued in effect for that purpose.

11 (i) The changes in law made by this Act to Chapter 111, Tax
12 Code, apply only to a claim for a refund made on or after the
13 effective date of this Act, without regard to whether the taxes that
14 are the subject of the claim were due before, on, or after that
15 date.

16 (j) The changes in law made by this Act to Sections
17 153.119(d) and 153.222(d), Tax Code, apply only to fuel used on or
18 after September 1, 2003, for climate-control air conditioning or
19 heating in a motor vehicle. Fuel used before that date is governed
20 by the law in effect on the date the fuel is used, and that law is
21 continued in effect for that purpose.

22 SECTION 123. (a) Except as provided by this section, this
23 Act takes effect immediately if it receives a vote of two-thirds of
24 all the members elected to each house, as provided by Section 39,
25 Article III, Texas Constitution. If this Act does not receive the
26 vote necessary for immediate effect, this Act takes effect
27 September 1, 2003.

1 (b) The amendments by this Act to the following sections
2 take effect September 1, 2003:

3 (1) Section 14(e), Article 42.12, Code of Criminal
4 Procedure, as added by Chapter 1188, Acts of the 76th Legislature,
5 Regular Session, 1999;

6 (2) Section 19(f), Article 42.12, Code of Criminal
7 Procedure;

8 (3) Section 659.253, Government Code;

9 (4) Section 659.255, Government Code;

10 (5) Sections 2101.0115(a) and (b), Government Code;

11 (6) Section 2113.205(b), Government Code;

12 (7) Section 2252.903(e), Government Code;

13 (8) Section 74.103, Property Code;

14 (9) Section 74.501, Property Code;

15 (10) Section 112.058(a), Tax Code;

16 (11) Section 153.119(d), Tax Code;

17 (12) Section 153.222(d), Tax Code;

18 (13) Section 201.057(i), Tax Code;

19 (14) Section 201.101, Tax Code;

20 (15) Section 201.102, Tax Code; and

21 (16) Section 256.009, Transportation Code.

22 (c) The amendments by this Act to Section 2251.025(b),
23 Government Code, and Sections 321.203 and 323.203, Tax Code, take
24 effect July 1, 2004. Sections 151.103(d) and 151.202(c), Tax Code,
25 as added by this Act, take effect July 1, 2004.

26 (d) The repeal by this Act of Section 395.103, Finance Code,
27 and Sections 112.058(b) and (c), Tax Code, takes effect September

1 1, 2003.

2 (e) Sections 659.2531 and 659.262, Government Code, as
3 added by this Act, take effect September 1, 2003.

4 (f) The amendments by this Act to the following sections
5 take effect October 1, 2003:

6 (1) Section 142.002, Tax Code;

7 (2) Section 142.005, Tax Code;

8 (3) Section 151.011(a), Tax Code;

9 (4) Section 151.152(b), Tax Code;

10 (5) Section 151.314, Tax Code;

11 (6) Section 151.317, Tax Code;

12 (7) Section 321.003, Tax Code;

13 (8) Section 322.107, Tax Code; and

14 (9) Section 323.003, Tax Code.

15 (g) Sections 142.0055, 142.011, and 151.012, Tax Code, as
16 added by this Act, take effect October 1, 2003.

17 (h) The repeal by this Act of the following provisions takes
18 effect October 1, 2003:

19 (1) Section 151.326(c), Tax Code; and

20 (2) Chapter 326, Tax Code.

21 (i) The repeal by this Act of Section 151.025(c), Tax Code,
22 takes effect July 1, 2003, if this Act receives a vote of two-thirds
23 of all the members elected to each house, as provided by Section 39,
24 Article III, Texas Constitution. If this Act does not receive the
25 vote necessary for effect on that date, the repeal of Section
26 151.025(c), Tax Code, takes effect October 1, 2003.

27 (j) Section 151.025(d), Tax Code, as added by this Act,

1 takes effect July 1, 2003, if this Act receives a vote of two-thirds
2 of all the members elected to each house, as provided by Section 39,
3 Article III, Texas Constitution. If this Act does not receive the
4 vote necessary for effect on that date, Section 151.025(d), Tax
5 Code, takes effect October 1, 2003.

David Bushurst

President of the Senate

Tom Caddell

Speaker of the House

I certify that H.B. No. 2425 was passed by the House on May 12, 2003, by the following vote: Yeas 135, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2425 on May 29, 2003, by the following vote: Yeas 132, Nays 0, 4 present, not voting; and that the House adopted H.C.R. No. 290 authorizing certain corrections in H.B. No. 2425 on June 1, 2003, by a non-record vote, passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.

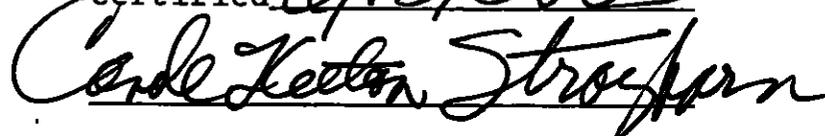
Robert Haney

Chief Clerk of the House

I certify that H.B. No. 2425 was passed by the Senate, with amendments, on May 27, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate adopted H.C.R. No. 290 authorizing certain corrections in H.B. No. 2425 on June 2, 2003, by a viva-voce vote, passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.


Secretary of the Senate

I certify that the amounts appropriated in the herein H.B. No. 2425, Regular Session of the 78th Legislature, are within amounts estimated to be available in the affected fund.

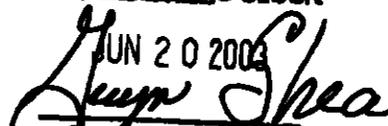
Certified 6/13/2003

Comptroller of Public Accounts

APPROVED: 20 Jun 03

Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
7:30 O'CLOCK

JUN 20 2003

Secretary of State