CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 30, 2003
Date

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2292 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Sen. Nelson

Sen. Janek

Sen. Barrientos

Sen. Zaffirini

On the part of the Senate
Sen. Bivins

Rep. Wohlgemuth

Rep. Ellis

Rep. Truitt

Rep. Gutierrez

On the part of the House
Rep. Davis

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2292

A BILL TO BE ENTITLED

AN ACT

relating to the provision of health and human services in this state, including the powers and duties of the Health and Human Services Commission and other state agencies; providing penalties.

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

ARTICLE 1. ORGANIZATION OF THE HEALTH AND HUMAN SERVICES COMMISSION AND HEALTH AND HUMAN SERVICES AGENCIES

SECTION 1.01. (a) Section 531.001(3), Government Code, is amended to read as follows:

(3) "Executive commissioner" [~~"Commissioner"~~] means the executive commissioner of the Health and Human Services Commission [~~health and human services~~].

(b) Section 531.001(4), Government Code, as amended by Chapters 53, 957, and 1420, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(4) "Health and human services agencies" includes the:

(A) Interagency Council on Early Childhood Intervention;

(B) Texas Department on Aging;

(C) Texas Commission on Alcohol and Drug Abuse;

(D) Texas Commission for the Blind;

(E) Texas Commission for the Deaf and Hard of

Hearing;

(F) Texas Department of Health;

(G) Texas Department of Human Services;

(H) Texas Department of Mental Health and Mental Retardation;

(I) Texas Rehabilitation Commission;

(J) Department of Family and Protective [~~and Regulatory~~] Services; [~~and~~]

(K) Texas Health Care Information Council;

(L) Department of Aging and Disability Services;

(M) Department of State Health Services; and

(N) Department of Assistive and Rehabilitative Services.

(c) Effective on the date the agencies listed in Section 1.26 of this article are abolished as provided by that section, Section 531.001(4), Government Code, as amended by Chapters 53, 957, and 1420, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(4) "Health and human services agencies" includes the:

(A) Department of Aging and Disability Services [~~Interagency Council on Early Childhood Intervention~~];

(B) Department of State Health Services [~~Texas Department on Aging~~];

(C) Department of Assistive and Rehabilitative Services [~~Texas Commission on Alcohol and Drug Abuse~~]; and

(D) [~~Texas Commission for the Blind;~~

[~~(E) Texas Commission for the Deaf and Hard of Hearing;~~

[~~(F) Texas Department of Health;~~

[~~(G) Texas Department of Human Services;~~

[~~(H) Texas Department of Mental Health and Mental Retardation;~~

[~~(I) Texas Rehabilitation Commission;~~

[~~(J)~~] Department of Family and Protective [~~and Regulatory~~] Services[~~; and~~

[~~(K) Texas Health Care Information Council~~].

(d) A reference in law to the commissioner of health and human services means the executive commissioner of the Health and Human Services Commission.

SECTION 1.02. Section 531.004, Government Code, is amended to read as follows:

Sec. 531.004. SUNSET PROVISION. The Health and Human Services Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2009 [~~2007~~].

SECTION 1.02A. Section 531.005, Government Code, is amended to read as follows:

Sec. 531.005. EXECUTIVE COMMISSIONER. (a) The commission is governed by an executive commissioner [~~a commissioner of health and human services~~] appointed by the governor with the advice and consent of the senate.

(b) The executive commissioner shall be appointed without regard to race, color, disability, sex, religion, age, or national origin.

SECTION 1.03. Section 531.0055, Government Code, is amended to read as follows:

Sec. 531.0055. EXECUTIVE COMMISSIONER: GENERAL RESPONSIBILITY FOR [~~RELATING TO CERTAIN FUNCTIONS OF~~] HEALTH AND HUMAN SERVICES AGENCIES. (a) In this section and in Section 531.0056, "agency director"[~~:~~

[~~(1) "Agency director"~~] means the [~~director, executive director, or~~] commissioner of a health and human services agency.

[~~(2) "Policymaking body" means the board or commission~~

~~with policymaking authority over a health and human services agency.~~]

(b) The commission shall:

(1) supervise the administration and operation of the Medicaid program, including the administration and operation of the Medicaid managed care system in accordance with Section 531.021;

(2) perform [~~supervise~~] information systems planning and management for health and human services agencies under Section 531.0273, with:

(A) the provision of information technology services at health and human services agencies considered to be a centralized administrative support service either performed by commission personnel or performed under a contract with the commission; and

(B) an emphasis on research and implementation on a demonstration or pilot basis of appropriate and efficient uses of new and existing technology to improve the operation of health and human services agencies and delivery of health and human services;

(3) monitor and ensure the effective use of all federal funds received by a health and human services agency in accordance with Section 531.028 and the General Appropriations Act; [~~and~~]

(4) implement Texas Integrated Enrollment Services as required by Subchapter F, except that notwithstanding Subchapter F, determining eligibility for benefits under the following programs is the responsibility of and must be centralized by the commission:

(A) the child health plan program;

(B) the financial assistance program under Chapter 31, Human Resources Code;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the nutritional assistance programs under Chapter 33, Human Resources Code;

(E) long-term care services, as defined by Section 22.0011, Human Resources Code;

(F) community-based support services identified or provided in accordance with Section 531.02481; and

(G) other health and human services programs, as appropriate; and

(5) implement programs intended to prevent family violence and provide services to victims of family violence.

(c) The [~~After implementation of the commission's duties under Subsection (b), the~~] commission shall implement the powers and duties given to the commission under Sections 531.0246, 531.0247, 2155.144, [~~as added by Chapter 1045, Acts of the 75th Legislature, Regular Session, 1997,~~] and 2167.004.

(d) After implementation of the commission's duties under Subsections (b) and (c), the commission shall implement the powers and duties given to the commission under Section 531.0248. Nothing in the priorities established by this section is intended to limit the authority of the commission to work simultaneously to achieve the multiple tasks assigned to the commission in this section, when such an approach is beneficial in the judgment of the commission. The commission shall plan and implement an efficient and effective centralized system of administrative support services for health and human services agencies. The performance of administrative support services for health and human services agencies is the responsibility of the commission. The term "administrative support services" includes, but is not limited to, strategic planning and evaluation, audit, legal, human resources, information resources, purchasing, contract

management, financial management, and accounting services.

(e) Notwithstanding any other law, the executive commissioner shall adopt rules and policies for the operation of and provision of health and human services by the health and human services agencies. In addition, the executive commissioner, as necessary to perform the functions described by Subsections (b), (c), and (d) in implementation of applicable [~~the~~] policies established for an agency by the executive commissioner [~~each agency's policymaking body~~], shall:

(1) manage and direct the operations of each health and human services agency; [~~and~~]

(2) supervise and direct the activities of each agency director; and

(3) be responsible for the administrative supervision of the internal audit program for all health and human services agencies, including:

(A) selecting the director of internal audit;

(B) ensuring that the director of internal audit reports directly to the executive commissioner; and

(C) ensuring the independence of the internal audit function.

(f) The operational authority and responsibility of the executive commissioner for purposes of Subsection (e) at each health and human services agency includes authority over and responsibility for the:

(1) management of the daily operations of the agency, including the organization and management of the agency and agency operating procedures;

(2) allocation of resources within the agency, including use of federal funds received by the agency;

(3) personnel and employment policies;

(4) contracting, purchasing, and related policies,

subject to this chapter and other laws relating to contracting and purchasing by a state agency;

(5) information resources systems used by the agency;

(6) location of agency facilities; and

(7) coordination of agency activities with activities of other state agencies, including other health and human services agencies.

(g) Notwithstanding any other law, the operational authority and responsibility of the executive commissioner for purposes of Subsection (e) at each health and human services agency includes the authority and responsibility to adopt or approve, subject to applicable limitations, any rate of payment or similar provision required by law to be adopted or approved by the agency.

(h) For each health and human services agency, the executive commissioner shall implement a program to evaluate and supervise the daily operations of the agency. The program must include measurable performance objectives for each agency director and adequate reporting requirements to permit the executive commissioner to perform the duties assigned to the executive commissioner under this section.

(i) To facilitate the operations of a health and human services agency in accordance with this section, the executive commissioner may delegate a specific power or duty given under Subsection (f) or (g) to an agency director. The agency director shall, at the request of the executive commissioner, assist in the development of rules and policies for the operation and provision of health and human services by the agency. The agency director acts on behalf of the executive commissioner in performing the delegated function and reports to the executive commissioner regarding the delegated function and any matter affecting agency programs and operations.

(j) The executive commissioner shall [~~may~~] adopt rules to implement the executive commissioner's authority under this section.

(k) The executive commissioner and each agency director shall enter into a memorandum of understanding in the manner prescribed by Section 531.0163 that:

(1) clearly defines the responsibilities of the agency director and the executive commissioner, including:

(A) the responsibility of the agency director to report to the governor and to report to and implement policies of the executive commissioner; and

(B) the extent to which the agency director acts as a liaison between the agency and the commission;

(2) establishes the program of evaluation and supervision of daily operations required by Subsection (h); and

(3) describes each delegation of a power or duty made under Subsection (i) or other law.

(l) Notwithstanding any other law, the executive commissioner [~~provision of this section, a policymaking body~~] has the authority [~~provided by law~~] to adopt policies and rules governing the delivery of services to persons who are served by each health and human services [~~the~~] agency and the rights and duties of persons who are served or regulated by each [~~the~~] agency. [~~The commissioner and each policymaking body shall enter into a memorandum of understanding that clearly defines:~~

[~~(1) the policymaking authority of the policymaking body; and~~

[~~(2) the operational authority of the commissioner.~~]

SECTION 1.04. Section 531.0056, Government Code, is amended to read as follows:

Sec. 531.0056. APPOINTMENT [~~EMPLOYMENT~~] OF AGENCY DIRECTOR BY EXECUTIVE COMMISSIONER. (a) The executive commissioner shall

appoint an agency director for each health and human services agency with the approval of the governor. [~~This section applies only to an agency director employed by the commissioner.~~]

(b) An agency director appointed by the executive commissioner serves at the pleasure of the executive commissioner. [~~An agency director employed by the commissioner may be employed only with the concurrence of the agency's policymaking body and the approval of the governor.~~]

(c) In addition to the requirements of [~~As established in~~] Section 531.0055(k)(1), the memorandum of understanding required by that section must [~~the commissioner and agency director shall enter into a memorandum of understanding that~~] clearly define [~~defines~~] the responsibilities of the agency director [~~and may establish terms and conditions of employment in the memorandum of understanding~~].

(d) The terms of the memorandum of understanding shall outline specific performance objectives, as defined [~~jointly~~] by the executive commissioner [~~and the policymaking body~~], to be fulfilled by the agency director, including the performance objectives outlined in Section 531.0055(h).

(e) Based upon the performance objectives outlined in the memorandum of understanding, the executive commissioner shall perform an employment evaluation of the agency director.

(f) The executive commissioner shall submit the evaluation[~~, along with any recommendation regarding the employment of the agency director,~~] to the [~~agency's policymaking body and the~~] governor not later than January 1 of each even-numbered year.

[~~(g) The policymaking body shall consider the evaluation in a meeting of the policymaking body and take necessary action, if any, not later than 90 days after the date of the receipt of the evaluation.~~

[~~(h) An agency director employed by the commissioner serves at the pleasure of the commissioner but may be discharged only with the concurrence of the agency's policymaking body.~~]

SECTION 1.05. Section 531.008, Government Code, is amended to read as follows:

Sec. 531.008. DIVISIONS OF COMMISSION. (a) Subject to Subsection (c), the executive [~~The~~] commissioner may establish divisions within the commission as necessary for effective administration and for the discharge of the commission's functions.

(b) Subject to Subsection (c), the executive [~~The~~] commissioner may allocate and reallocate functions among the commission's divisions.

(c) The executive commissioner shall establish the following divisions and offices within the commission:

(1) the eligibility services division to make eligibility determinations for services provided through the commission or a health and human services agency related to:

(A) the child health plan program;

(B) the financial assistance program under Chapter 31, Human Resources Code;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the nutritional assistance programs under Chapter 33, Human Resources Code;

(E) long-term care services, as defined by Section 22.0011, Human Resources Code;

(F) community-based support services identified or provided in accordance with Section 531.02481; and

(G) other health and human services programs, as appropriate;

(2) the office of inspector general to perform fraud

and abuse investigation and enforcement functions as provided by Subchapter C and other law;

(3) the office of the ombudsman to:

(A) provide dispute resolution services for the commission and the health and human services agencies; and

(B) perform consumer protection functions related to health and human services;

(4) a purchasing division as provided by Section 531.017; and

(5) an internal audit division to conduct a program of internal auditing in accordance with Government Code, Chapter 2102.

SECTION 1.06. Subchapter A, Chapter 531, Government Code, is amended by adding Sections 531.0161, 531.0162, and 531.0163 to read as follows:

Sec. 531.0161. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE PROCEDURES. (a) The commission shall develop and implement a policy, for the commission and each health and human services agency, to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of rules for the commission and each agency; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's or agency's jurisdiction.

(b) The procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

Sec. 531.0162. USE OF TECHNOLOGY. (a) The commission shall develop and implement a policy requiring the agency

commissioner and employees of each health and human services agency to research and propose appropriate technological solutions to improve the agency's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about a health and human services agency on the Internet;

(2) ensure that persons who want to use a health and human services agency's services are able to:

(A) interact with the agency through the Internet; and

(B) access any service that can be provided effectively through the Internet;

(3) be cost-effective and developed through the commission's planning process; and

(4) meet federal accessibility standards for persons with disabilities.

(b) The commission shall develop and implement a policy described by Subsection (a) in relation to the commission's functions.

Sec. 531.0163. MEMORANDUM OF UNDERSTANDING. (a) The memorandum of understanding under Section 531.0055(k) must be adopted by the executive commissioner by rule in accordance with the procedures prescribed by Subchapter B, Chapter 2001, for adopting rules, except that the requirements of Section 2001.033(a)(1)(A) or (C) do not apply with respect to any part of the memorandum of understanding that:

(1) concerns only internal management or organization within or among health and human services agencies and does not affect private rights or procedures; or

(2) relates solely to the internal personnel practices of health and human services agencies.

(b) The memorandum of understanding may be amended only by following the procedures prescribed under Subsection (a).

SECTION 1.07. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0224 to read as follows:

Sec. 531.0224. PLANNING AND POLICY DIRECTION OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM. The commission shall:

(1) plan and direct the financial assistance program under Chapter 31, Human Resources Code, including the procurement, management, and monitoring of contracts necessary to implement the program;

(2) adopt rules and standards governing the financial assistance program under Chapter 31, Human Resources Code; and

(3) establish requirements for and define the scope of the ongoing evaluation of the financial assistance program under Chapter 31, Human Resources Code.

SECTION 1.08. Chapter 531, Government Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. HEALTH AND HUMAN SERVICES COUNCIL

Sec. 531.401. DEFINITION. In this subchapter, "council" means the Health and Human Services Council.

Sec. 531.402. HEALTH AND HUMAN SERVICES COUNCIL. (a) The Health and Human Services Council is created to assist the executive commissioner in developing rules and policies for the commission.

(b) The council is composed of nine members of the public appointed by the governor with the advice and consent of the senate. To be eligible for appointment to the council, a person must have demonstrated an interest in and knowledge of problems and available services related to the child health plan program, the financial assistance program under Chapter 31, Human Resources Code, the medical assistance program under Chapter 32, Human Resources Code, or the nutritional assistance programs

under Chapter 33, Human Resources Code.

(c) The council shall study and make recommendations to the executive commissioner regarding the management and operation of the commission, including policies and rules governing the delivery of services to persons who are served by the commission and the rights and duties of persons who are served or regulated by the commission.

(d) Chapter 551 applies to the council.

(e) Chapter 2110 does not apply to the council.

(f) A majority of the members of the council constitute a quorum for the transaction of business.

Sec. 531.403. APPOINTMENTS. (a) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) Appointments to the council shall be made so that each geographic area of the state is represented on the council. Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.

Sec. 531.404. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A person who is appointed as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the commission and the council;

(2) the programs operated by the commission;

(3) the role and functions of the commission and the council, including detailed information regarding the advisory responsibilities of the council;

(4) the rules of the executive commissioner applicable to the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the executive commissioner or the Texas Ethics Commission.

Sec. 531.405. TERMS. (a) Council members serve for staggered six-year terms with the terms of three members expiring February 1 of each odd-numbered year.

(b) A member of the council may not serve more than two consecutive full terms as a council member.

Sec. 531.406. VACANCY. The governor by appointment shall fill the unexpired term of a vacancy on the council.

Sec. 531.407. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) The governor shall designate a member of the council as the presiding officer to serve in that capacity at the pleasure of the governor.

(b) The members of the council shall elect any other necessary officers.

(c) The council shall meet quarterly and at other times at the call of the presiding officer. The council may hold meetings in different areas of the state.

Sec. 531.408. REIMBURSEMENT FOR EXPENSES. A council member

may not receive compensation for service as a member of the council but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided by the General Appropriations Act.

Sec. 531.409. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The executive commissioner, with the advice of the council, shall prepare information of public interest describing the functions of the commission and the procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state governmental entities.

(b) The executive commissioner by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for directing complaints to the commission.

Sec. 531.410. PUBLIC ACCESS AND TESTIMONY. The executive commissioner shall develop and implement policies that provide the public with a reasonable opportunity to appear before the council or executive commissioner and to speak on any issue under the jurisdiction of the commission.

Sec. 531.411. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The executive commissioner, with the advice of the council, shall develop and the commission shall implement policies that clearly delineate the policymaking responsibilities of the executive commissioner from the management responsibilities of the commission and the staff of the commission.

SECTION 1.09. The Health and Safety Code is amended by adding Title 12 to read as follows:

TITLE 12. HEALTH AND MENTAL HEALTH

CHAPTER 1001. DEPARTMENT OF STATE HEALTH SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1001.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Commissioner" means the commissioner of state health services.

(3) "Council" means the State Health Services Council.

(4) "Department" means the Department of State Health Services.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 1001.002. AGENCY. The department is an agency of the state.

Sec. 1001.003. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2009.

[Sections 1001.004-1001.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 1001.021. STATE HEALTH SERVICES COUNCIL. (a) The State Health Services Council is created to assist the commissioner in developing rules and policies for the department.

(b) The council is composed of nine members of the public appointed by the governor with the advice and consent of the senate. To be eligible for appointment to the council, a person must have demonstrated an interest in and knowledge of problems and available services related to public health, mental health, or substance abuse.

(c) The council shall study and make recommendations to the executive commissioner and the commissioner regarding the management and operation of the department, including policies and rules governing the delivery of services to persons who are served by the department and the rights and duties of persons who

are served or regulated by the department.

(d) Chapter 551, Government Code, applies to the council.

(e) Chapter 2110, Government Code, does not apply to the council.

(f) A majority of the members of the council constitute a quorum for the transaction of business.

Sec. 1001.022. APPOINTMENTS. (a) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) Appointments to the council shall be made so that each geographic area of the state is represented on the council. Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.

Sec. 1001.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A person who is appointed as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department and the council;

(2) the programs operated by the department;

(3) the role and functions of the department and the council, including detailed information regarding:

(A) the division of authority and of responsibility between the commissioner and the executive commissioner; and

(B) the advisory responsibilities of the council;

(4) the rules of the executive commissioner applicable to the department, with an emphasis on the rules that relate to

disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the executive commissioner or the Texas Ethics Commission.

Sec. 1001.024. TERMS. (a) Council members serve for staggered six-year terms with the terms of three members expiring February 1 of each odd-numbered year.

(b) A member of the council may not serve more than two consecutive full terms as a council member.

Sec. 1001.025. VACANCY. The governor by appointment shall fill the unexpired term of a vacancy on the council.

Sec. 1001.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) The governor shall designate a member of the council as the presiding officer to serve in that capacity at the pleasure of the governor.

(b) The members of the council shall elect any other necessary officers.

(c) The council shall meet quarterly and at other times at the call of the presiding officer. The council may hold meetings in different areas of the state.

Sec. 1001.027. REIMBURSEMENT FOR EXPENSES. A council

member may not receive compensation for service as a member of the council but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided by the General Appropriations Act.

Sec. 1001.028. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The commissioner, with the advice of the council, shall prepare information of public interest describing the functions of the department and the procedures by which complaints are filed with and resolved by the department. The commission shall make the information available to the public and appropriate state governmental entities.

(b) The executive commissioner by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for directing complaints to the department.

Sec. 1001.029. PUBLIC ACCESS AND TESTIMONY. (a) The commissioner shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commissioner and to speak on any issue under the jurisdiction of the department.

(b) The commissioner shall grant an opportunity for a public hearing before the council makes recommendations to the commissioner regarding a substantive rule if a public hearing is requested by:

(1) at least 25 persons;

(2) a governmental entity; or

(3) an association with at least 25 members.

(c) The executive commissioner shall consider fully all written and oral submissions about a proposed rule.

Sec. 1001.030. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The commissioner, with the advice of the council and subject to the approval of the executive

commissioner, shall develop and the department shall implement policies that clearly delineate the policymaking responsibilities of the executive commissioner from the management responsibilities of the commission, the commissioner, and the staff of the department.

Sec. 1001.031. ANNUAL REPORT. (a) The commissioner shall file annually with the governor, the presiding officer of each house of the legislature, and the executive commissioner a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year.

(b) The annual report must be in the form and be reported in the time provided by the General Appropriations Act.

Sec. 1001.032. OFFICES. The department shall maintain its central office in Austin. The department may maintain offices in other areas of the state as necessary.

[Sections 1001.033-1001.050 reserved for expansion]

SUBCHAPTER C. PERSONNEL

Sec. 1001.051. COMMISSIONER. (a) The executive commissioner shall appoint a commissioner of the department with the approval of the governor. The commissioner is to be selected according to education, training, experience, and demonstrated ability.

(b) The commissioner serves at the pleasure of the executive commissioner.

(c) Subject to the control of the executive commissioner, the commissioner shall act as the department's chief administrative officer and as a liaison between the department and commission.

(d) The commissioner shall administer this chapter under operational policies established by the executive commissioner and in accordance with the memorandum of understanding under

Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

Sec. 1001.052. PERSONNEL. (a) The department may employ, compensate, and prescribe the duties of personnel necessary and suitable to administer this chapter.

(b) The executive commissioner shall prepare and by rule adopt personnel standards.

(c) A personnel position may be filled only by an individual selected and appointed on a nonpartisan merit basis.

(d) The commissioner, with the advice of the council, shall develop and the department shall implement policies that clearly define the responsibilities of the staff of the department.

Sec. 1001.053. INFORMATION ABOUT QUALIFICATIONS AND STANDARDS OF CONDUCT. The commissioner or the commissioner's designee shall provide to department employees, as often as necessary, information regarding the requirements for employment under this chapter or rules adopted by the executive commissioner, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state employees.

Sec. 1001.054. MERIT PAY. Subject to rules adopted by the executive commissioner, the commissioner or the commissioner's designee shall develop a system of annual performance evaluations. All merit pay for department employees must be given under the system established under this section or under rules adopted by the executive commissioner.

Sec. 1001.055. CAREER LADDER. The commissioner or the commissioner's designee shall develop an intra-agency career ladder program. The program must require intra-agency postings of all nonentry-level positions concurrently with any public posting.

Sec. 1001.056. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a)

Subject to rules adopted by the executive commissioner, the commissioner or the commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) Unless the following are included in a policy statement adopted by the executive commissioner that is applicable to the department, the policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually;

(2) reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) filed with the governor's office.

Sec. 1001.057. STATE EMPLOYEE INCENTIVE PROGRAM. The commissioner or the commissioner's designee shall provide to department employees information and training on the benefits and methods of participation in the state employee incentive program.

[Sections 1001.058-1001.070 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES OF DEPARTMENT

Sec. 1001.071. GENERAL POWERS AND DUTIES OF DEPARTMENT RELATED TO HEALTH CARE. The department is responsible for administering human services programs regarding the public

health, including:

(1) implementing the state's public health care delivery programs under the authority of the department;

(2) administering state health facilities, hospitals, and health care systems;

(3) developing and providing health care services, as directed by law;

(4) providing for the prevention and control of communicable diseases;

(5) providing public education on health-related matters, as directed by law;

(6) compiling and reporting health-related information, as directed by law;

(7) acting as the lead agency for implementation of state policies regarding the human immunodeficiency virus and acquired immunodeficiency syndrome and administering programs related to the human immunodeficiency virus and acquired immunodeficiency syndrome;

(8) investigating the causes of injuries and methods of prevention;

(9) administering a grant program to provide appropriated money to counties, municipalities, public health districts, and other political subdivisions for their use to provide or pay for essential public health services;

(10) administering the registration of vital statistics;

(11) licensing, inspecting, and enforcing regulations regarding health facilities, other than long-term care facilities regulated by the Department of Aging and Disability Services;

(12) implementing established standards and procedures for the management and control of sanitation and for health protection measures;

(13) enforcing regulations regarding radioactive materials;

(14) enforcing regulations regarding food, bottled and vended drinking water, drugs, cosmetics, and health devices;

(15) enforcing regulations regarding food service establishments, retail food stores, mobile food units, and roadside food vendors; and

(16) enforcing regulations controlling hazardous substances in households and workplaces.

Sec. 1001.072. GENERAL POWERS AND DUTIES OF DEPARTMENT RELATED TO MENTAL HEALTH. The department is responsible for administering human services programs regarding mental health, including:

(1) administering and coordinating mental health services at the local and state level;

(2) operating the state's mental health facilities; and

(3) inspecting, licensing, and enforcing regulations regarding mental health facilities, other than long-term care facilities regulated by the Department of Aging and Disability Services.

Sec. 1001.073. GENERAL POWERS AND DUTIES OF DEPARTMENT RELATED TO SUBSTANCE ABUSE. The department is responsible for administering human services programs regarding substance abuse, including:

(1) administering, coordinating, and contracting for the delivery of substance abuse prevention and treatment programs at the state and local level;

(2) inspecting, licensing, and enforcing regulations regarding substance abuse treatment facilities; and

(3) providing public education on substance abuse issues, as directed by law.

Sec. 1001.074. INFORMATION REGARDING COMPLAINTS. (a) The department shall maintain a file on each written complaint filed with the department. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the department;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint.

(b) The department shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the executive commissioner's and the department's policies and procedures relating to complaint investigation and resolution.

(c) The department, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 1001.075. RULES. The executive commissioner may adopt rules reasonably necessary for the department to administer this chapter, consistent with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

SECTION 1.10. Section 40.001, Human Resources Code, is amended by adding Subdivisions (2-a) and (4-a) and amending Subdivision (4) to read as follows:

(2-a) "Council" means the Family and Protective Services Council.

(4) "Commissioner" [~~"Executive director"~~] means the commissioner [~~executive director~~] of the Department of Family and Protective [~~and Regulatory~~] Services.

(4-a) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

SECTION 1.11. Section 40.002, Human Resources Code, is amended to read as follows:

Sec. 40.002. DEPARTMENT OF FAMILY AND PROTECTIVE [~~AND REGULATORY~~] SERVICES; GENERAL DUTIES OF DEPARTMENT [~~RESPONSIBILITY~~]. (a) The Department of Family and Protective [~~and Regulatory~~] Services is composed of the council [~~board~~], the commissioner [~~executive director~~], an administrative staff, and other officers and employees necessary to efficiently carry out the purposes of this chapter.

(b) Notwithstanding any other law, the [~~The~~] department shall [~~is the state agency with primary responsibility for~~]:

(1) provide [~~providing~~] protective services for children and elderly and disabled persons, including investigations of alleged abuse, neglect, or exploitation in facilities of the Texas Department of Mental Health and Mental Retardation or its successor agency;

(2) provide [~~providing~~] family support and family preservation services that [~~which~~] respect the fundamental right of parents to control the education and upbringing of their children;

(3) license, register, and enforce regulations applicable to [~~regulating~~] child-care facilities and child-care administrators; and

(4) implement [~~implementing~~] and manage [~~managing~~] programs intended to provide early intervention or prevent

at-risk behaviors that lead to child abuse, delinquency, running away, truancy, and dropping out of school.

(c) The department is the state agency designated to cooperate with the federal government in the administration of programs under:

(1) Parts B and E, Title IV, federal Social Security Act (42 U.S.C. Sections 620 et seq. and 670 et seq.); and

(2) other federal law for which the department has administrative responsibility.

(d) The department shall cooperate with the United States Department of Health and Human Services and other federal and state agencies in a reasonable manner and in conformity with the provisions of federal law and this subtitle to the extent necessary to qualify for federal assistance in the delivery of services.

(e) If the department determines that a provision of state law governing the department conflicts with a provision of federal law, the executive commissioner [~~department~~] may adopt policies and rules necessary to allow the state to receive and spend federal matching funds to the fullest extent possible in accordance with the federal statutes, this subtitle, and the state constitution and within the limits of appropriated funds.

SECTION 1.12. Sections 40.004, 40.021, 40.022, 40.0226, 40.024, 40.025, 40.026, and 40.027, Human Resources Code, are amended to read as follows:

Sec. 40.004. PUBLIC INTEREST INFORMATION AND PUBLIC ACCESS. (a) The commissioner [~~board~~] shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commissioner [~~board~~] and to speak on any issue under the jurisdiction of the department.

(b) The commissioner, with the advice of the council, [~~department~~] shall prepare information of public interest

describing the functions of the department. The commission [~~department~~] shall make the information available to the public and appropriate state agencies.

(c) The commissioner shall grant an opportunity for a public hearing before the council makes recommendations to the commissioner regarding a substantive rule if a public hearing is requested by:

(1) at least 25 persons;

(2) a governmental entity; or

(3) an association with at least 25 members.

(d) The executive commissioner shall consider fully all written and oral submissions about a proposed rule.

Sec. 40.021. FAMILY AND [~~BOARD OF~~] PROTECTIVE [~~AND REGULATORY~~] SERVICES COUNCIL. (a) The Family and Protective Services Council is created to assist the commissioner in developing rules and policies for the department [~~board is composed of six members appointed by the governor with the advice and consent of the senate. The governor shall designate one member to be the presiding officer of the board to serve in that capacity at the pleasure of the governor~~].

(b) The council is composed of nine members of the public appointed by the governor with the advice and consent of the senate. To be eligible for appointment to the council, a person must have demonstrated an interest in and knowledge of problems and available services related to the functions of the department. [~~Four members of the board must have a demonstrated interest in the services provided by the department, and two members must represent the public.~~]

(c) The council shall study and make recommendations to the executive commissioner and the commissioner regarding the management and operation of the department, including policies and rules governing the delivery of services to persons who are

served by the department and the rights and duties of persons who are served or regulated by the department.

(d) Chapter 551, Government Code, applies to the council.

(e) Chapter 2110, Government Code, does not apply to the council [~~board shall be appointed without regard to race, color, disability, sex, religion, age, or national origin~~].

(f) A majority of the members of the council constitute a quorum for the transaction of business.

Sec. 40.022. APPOINTMENTS [~~RESTRICTIONS ON BOARD APPOINTMENT OR MEMBERSHIP~~]. (a) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees. [~~A person is not eligible for appointment as a member of the board if the person or the person's spouse:~~

[~~(1) is a person who is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;~~

[~~(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that is regulated by the department or that receives funds from the department;~~

[~~(3) uses or receives a substantial amount of tangible goods, services, or money from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses, or as a client or a parent or guardian of a client receiving services from the department; or~~

[~~(4) is an employee, officer, or paid consultant of a trade association in a field under the jurisdiction of the department.~~]

(b) Appointments to the council shall be made so that each

geographic area of the state is represented on the council. Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state. [~~In addition to the requirements of Subsection (a), a person is not eligible for appointment as a public member of the board if the person or the person's spouse is registered, certified, or licensed by an occupational regulatory agency in a field under the jurisdiction of the department.~~]

Sec. 40.0226. [~~BOARD MEMBER~~] TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A person who is appointed as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with [~~Before a member of the board may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of the training program established under~~] this section.

(b) The [~~A~~] training program must [~~established under this section shall~~] provide information to the member regarding:

(1) the [~~enabling~~] legislation that created the department and the council [~~board~~];

(2) the programs operated by the department;

(3) the role and functions of the department and the council, including detailed information regarding:

(A) the division of authority and of responsibility between the commissioner and the executive commissioner; and

(B) the advisory responsibilities of the council;

(4) the rules of the executive commissioner applicable to the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the

department;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) public information [open records] law, Chapter 552, Government Code; and

(C) administrative procedure law, Chapter 2001, Government Code;

(8) the requirements of the conflict-of-interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the executive commissioner [board] or the Texas Ethics Commission.

Sec. 40.024. [BOARD] TERMS; VACANCY. (a) Members of the council [board] serve for staggered six-year terms, with the terms of three [two] members expiring February 1 of each odd-numbered year.

(b) A member of the council may not serve more than two consecutive full terms as a council member.

(c) The governor by appointment shall fill the unexpired term of a vacancy on the council.

Sec. 40.025. REIMBURSEMENT FOR EXPENSES [BOARD PER DIEM]. A council member may not receive compensation for service as a member of the council but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided [While performing their duties, board members are entitled to a per diem as prescribed] by the General Appropriations Act.

Sec. 40.026. PRESIDING OFFICER; OTHER OFFICERS; [BOARD] MEETINGS[; QUORUM]. (a) The governor shall designate a member of the council as the presiding officer to serve in that capacity at the pleasure of the governor [board shall meet at least quarterly and at the call of the presiding officer].

(b) The members of the council shall elect any other necessary officers [~~Four members of the board constitute a quorum~~].

(c) The council shall meet quarterly and at other times at the call of the presiding officer. The council may hold meetings in different areas of the state.

Sec. 40.027. COMMISSIONER [~~EXECUTIVE DIRECTOR~~]. (a) The executive commissioner [~~of health and human services~~] shall appoint a commissioner [~~employ the executive director~~] in accordance with Section 531.0056, Government Code. The commissioner is to be selected according to education, training, experience, and demonstrated ability.

(b) The commissioner serves at the pleasure of the executive commissioner.

(c) Subject to the control of the executive commissioner, the commissioner shall act as the department's chief administrative officer and as a liaison between the department and commission.

(d) The commissioner shall administer this chapter and other laws relating to the department under operational policies established [~~executive director is the executive head of the department. The executive director shall perform the duties assigned~~] by the executive commissioner and in accordance with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule [~~of health and human services and state law~~].

SECTION 1.13. Title 7, Human Resources Code, is amended by adding Chapter 117 to read as follows:

CHAPTER 117. DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 117.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Commissioner" means the commissioner of assistive and rehabilitative services.

(3) "Council" means the Assistive and Rehabilitative Services Council.

(4) "Department" means the Department of Assistive and Rehabilitative Services.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 117.002. AGENCY. The department is an agency of the state.

Sec. 117.003. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2009.

[Sections 117.004-117.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 117.021. ASSISTIVE AND REHABILITATIVE SERVICES COUNCIL. (a) The Assistive and Rehabilitative Services Council is created to assist the commissioner in developing rules and policies for the department.

(b) The council is composed of nine members of the public appointed by the governor with the advice and consent of the senate. To be eligible for appointment to the council, a person must have demonstrated an interest in and knowledge of problems and available services related to early childhood intervention services or to persons with disabilities other than developmental delay and mental retardation and persons who are blind, deaf, or hard of hearing.

(c) The council shall study and make recommendations to the

executive commissioner and the commissioner regarding the management and operation of the department, including policies and rules governing the delivery of services to persons who are served by the department and the rights and duties of persons who are served or regulated by the department.

(d) Chapter 551, Government Code, applies to the council.

(e) Chapter 2110, Government Code, does not apply to the council.

(f) A majority of the members of the council constitute a quorum for the transaction of business.

Sec. 117.022. APPOINTMENTS. (a) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) Appointments to the council shall be made so that each geographic area of the state is represented on the council. Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.

Sec. 117.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A person who is appointed as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department and the council;

(2) the programs operated by the department;

(3) the role and functions of the department and the council, including detailed information regarding:

(A) the division of authority and of responsibility between the commissioner and the executive commissioner; and

(B) the advisory responsibilities of the council;

(4) the rules of the executive commissioner applicable to the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the executive commissioner or the Texas Ethics Commission.

Sec. 117.024. TERMS. (a) Council members serve for staggered six-year terms with the terms of three members expiring February 1 of each odd-numbered year.

(b) A member of the council may not serve more than two consecutive full terms as a council member.

Sec. 117.025. VACANCY. The governor by appointment shall fill the unexpired term of a vacancy on the council.

Sec. 117.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) The governor shall designate a member of the council as the presiding officer to serve in that capacity at the pleasure of the governor.

(b) The members of the council shall elect any other necessary officers.

(c) The council shall meet quarterly and at other times at

the call of the presiding officer. The council may hold meetings in different areas of the state.

Sec. 117.027. REIMBURSEMENT FOR EXPENSES. A council member may not receive compensation for service as a member of the council but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided by the General Appropriations Act.

Sec. 117.028. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The commissioner, with the advice of the council, shall prepare information of public interest describing the functions of the department and the procedures by which complaints are filed with and resolved by the department. The commission shall make the information available to the public and appropriate state governmental entities.

(b) The executive commissioner by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for directing complaints to the department.

Sec. 117.029. PUBLIC ACCESS AND TESTIMONY. (a) The commissioner shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commissioner and to speak on any issue under the jurisdiction of the department.

(b) The commissioner shall grant an opportunity for a public hearing before the council makes recommendations to the commissioner regarding a substantive rule if a public hearing is requested by:

(1) at least 25 persons;

(2) a governmental entity; or

(3) an association with at least 25 members.

(c) The executive commissioner shall consider fully all written and oral submissions about a proposed rule.

Sec. 117.030. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The commissioner, with the advice of the council and subject to the approval of the executive commissioner, shall develop and the department shall implement policies that clearly delineate the policymaking responsibilities of the executive commissioner from the management responsibilities of the commission, the commissioner, and the staff of the department.

Sec. 117.031. ANNUAL REPORT. (a) The commissioner shall file annually with the governor, the presiding officer of each house of the legislature, and the executive commissioner a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year.

(b) The annual report must be in the form and be reported in the time provided by the General Appropriations Act.

Sec. 117.032. OFFICES. The department shall maintain its central office in Austin. The department may maintain offices in other areas of the state as necessary.

[Sections 117.033-117.050 reserved for expansion]

SUBCHAPTER C. PERSONNEL

Sec. 117.051. COMMISSIONER. (a) The executive commissioner shall appoint a commissioner of the department with the approval of the governor. The commissioner is to be selected according to education, training, experience, and demonstrated ability.

(b) The commissioner serves at the pleasure of the executive commissioner.

(c) Subject to the control of the executive commissioner, the commissioner shall act as the department's chief administrative officer and as a liaison between the department and commission.

(d) The commissioner shall administer this chapter under operational policies established by the executive commissioner and in accordance with the memorandum of understanding under

1 Section 531.0055(k), Government Code, between the commissioner
2 and the executive commissioner, as adopted by rule.
3 Sec. 117.052. PERSONNEL. (a) The department may employ,
4 compensate, and prescribe the duties of personnel necessary and
5 suitable to administer this chapter.
6 (b) The executive commissioner shall prepare and by rule
7 adopt personnel standards.
8 (c) A personnel position may be filled only by an
9 individual selected and appointed on a nonpartisan, merit basis.
10 (d) The commissioner, with the advice of the council, shall
11 develop and the department shall implement policies that clearly
12 define the responsibilities of the staff of the department.
13 Sec. 117.053. INFORMATION ABOUT QUALIFICATIONS AND STANDARDS
14 OF CONDUCT. The commissioner or the commissioner's designee shall
15 provide to department employees, as often as necessary, information
16 regarding the requirements for employment under this chapter or
17 rules adopted by the executive commissioner, including information
18 regarding a person's responsibilities under applicable laws
19 relating to standards of conduct for state employees.
20 Sec. 117.054. MERIT PAY. Subject to rules adopted by the
21 executive commissioner, the commissioner or the commissioner's
22 designee shall develop a system of annual performance evaluations.
23 All merit pay for department employees must be given under the
24 system established under this section or under rules adopted by the
25 executive commissioner.
26 Sec. 117.055. CAREER LADDER. The commissioner or the
27 commissioner's designee shall develop an intra-agency career ladder
28 program. The program must require intra-agency postings of all
29 nonentry-level positions concurrently with any public posting.
30 Sec. 117.056. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a)
31 Subject to rules adopted by the executive commissioner, the
32 commissioner or the commissioner's designee shall prepare and

maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) Unless the following are included in a policy statement adopted by the executive commissioner that is applicable to the department, the policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually;

(2) reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) filed with the governor's office.

Sec. 117.057. STATE EMPLOYEE INCENTIVE PROGRAM. The commissioner or the commissioner's designee shall provide to department employees information and training on the benefits and methods of participation in the state employee incentive program.

[Sections 117.058-117.070 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES OF DEPARTMENT

Sec. 117.071. GENERAL POWERS AND DUTIES OF DEPARTMENT. The department is responsible for administering human services programs to provide early childhood intervention services and rehabilitation and related services to persons who are blind, deaf, or hard of hearing. The department is also responsible for providing and

coordinating programs for the rehabilitation of persons with disabilities so that those persons may prepare for and engage in a gainful occupation or achieve maximum personal independence.

Sec. 117.072. INFORMATION REGARDING COMPLAINTS. (a) The department shall maintain a file on each written complaint filed with the department. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the department;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint.

(b) The department shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the executive commissioner's and the department's policies and procedures relating to complaint investigation and resolution.

(c) The department, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 117.073. RULES. The executive commissioner may adopt rules reasonably necessary for the department to administer this chapter, consistent with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

SECTION 1.13A. The Human Resources Code is amended by adding Title 11 to read as follows:

TITLE 11. AGING, COMMUNITY-BASED, AND LONG-TERM CARE SERVICES

CHAPTER 161. DEPARTMENT OF AGING AND DISABILITY SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 161.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Commissioner" means the commissioner of aging and disability services.

(3) "Council" means the Aging and Disability Services Council.

(4) "Department" means the Department of Aging and Disability Services.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 161.002. AGENCY. The department is an agency of the state.

Sec. 161.003. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2009.

[Sections 161.004-161.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 161.021. AGING AND DISABILITY SERVICES COUNCIL. (a) The Aging and Disability Services Council is created to assist the commissioner in developing rules and policies for the department.

(b) The council is composed of nine members of the public appointed by the governor with the advice and consent of the senate. To be eligible for appointment to the council, a person

must have demonstrated an interest in and knowledge of issues and available services related to the aging and persons with developmental disabilities or mental retardation.

(c) The council shall study and make recommendations to the executive commissioner and the commissioner regarding the management and operation of the department, including policies and rules governing the delivery of services to persons who are served by the department and the rights and duties of persons who are served or regulated by the department.

(d) Chapter 551, Government Code, applies to the council.

(e) Chapter 2110, Government Code, does not apply to the council.

(f) A majority of the members of the council constitute a quorum for the transaction of business.

Sec. 161.022. APPOINTMENTS. (a) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(b) Appointments to the council shall be made so that each geographic area of the state is represented on the council. Notwithstanding Subsection (a), appointments to the council must reflect the ethnic diversity of this state.

Sec. 161.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) A person who is appointed as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the department and the council;

(2) the programs operated by the department;

(3) the role and functions of the department and the council, including detailed information regarding:

(A) the division of authority and of responsibility between the commissioner and the executive commissioner; and

(B) the advisory responsibilities of the council;

(4) the rules of the executive commissioner applicable to the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the department;

(6) the results of the most recent formal audit of the department;

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the executive commissioner or the Texas Ethics Commission.

Sec. 161.024. TERMS. (a) Council members serve for staggered six-year terms with the terms of three members expiring February 1 of each odd-numbered year.

(b) A member of the council may not serve more than two consecutive full terms as a council member.

Sec. 161.025. VACANCY. The governor by appointment shall fill the unexpired term of a vacancy on the council.

Sec. 161.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) The governor shall designate a member of the council as the

1 presiding officer to serve in that capacity at the pleasure of
2 the governor.
3 (b) The members of the council shall elect any other
4 necessary officers.
5 (c) The council shall meet quarterly and at other times at
6 the call of the presiding officer. The council may hold meetings
7 in different areas of the state.
8 Sec. 161.027. REIMBURSEMENT FOR EXPENSES. A council member
9 may not receive compensation for service as a member of the
10 council but is entitled to reimbursement for travel expenses
11 incurred by the member while conducting the business of the
12 council as provided by the General Appropriations Act.
13 Sec. 161.028. PUBLIC INTEREST INFORMATION AND COMPLAINTS.
14 (a) The commissioner, with the advice of the council, shall
15 prepare information of public interest describing the functions
16 of the department and the procedures by which complaints are
17 filed with and resolved by the department. The commission shall
18 make the information available to the public and appropriate
19 state governmental entities.
20 (b) The executive commissioner by rule shall establish
21 methods by which consumers and service recipients are notified of
22 the name, mailing address, and telephone number of the department
23 for directing complaints to the department.
24 Sec. 161.029. PUBLIC ACCESS AND TESTIMONY. (a) The
25 commissioner shall develop and implement policies that provide
26 the public with a reasonable opportunity to appear before the
27 commissioner and to speak on any issue under the jurisdiction of
28 the department.
29 (b) The commissioner shall grant an opportunity for a
30 public hearing before the council makes recommendations to the
31 commissioner regarding a substantive rule if a public hearing is
32 requested by:

(1) at least 25 persons;

(2) a governmental entity; or

(3) an association with at least 25 members.

(c) The executive commissioner shall consider fully all written and oral submissions about a proposed rule.

Sec. 161.030. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The executive commissioner, with the advice of the council and subject to the approval of the executive commissioner, shall develop and the department shall implement policies that clearly delineate the policymaking responsibilities of the executive commissioner from the management responsibilities of the commission, the commissioner, and the staff of the department.

Sec. 161.031. ANNUAL REPORT. (a) The commissioner shall file annually with the governor, the presiding officer of each house of the legislature, and the executive commissioner a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year.

(b) The annual report must be in the form and be reported in the time provided by the General Appropriations Act.

Sec. 161.032. OFFICES. The department shall maintain its central office in Austin. The department may maintain offices in other areas of the state as necessary.

[Sections 161.033-161.050 reserved for expansion]

SUBCHAPTER C. PERSONNEL

Sec. 161.051. COMMISSIONER. (a) The executive commissioner shall appoint a commissioner of the department with the approval of the governor. The commissioner is to be selected according to education, training, experience, and demonstrated ability.

(b) The commissioner serves at the pleasure of the executive commissioner.

1 (c) Subject to the control of the executive commissioner,
2 the commissioner shall act as the department's chief
3 administrative officer and as a liaison between the department
4 and commission.
5 (d) The commissioner shall administer this chapter under
6 operational policies established by the executive commissioner
7 and in accordance with the memorandum of understanding under
8 Section 531.0055(k), Government Code, between the commissioner
9 and the executive commissioner, as adopted by rule.
10 Sec. 161.052. PERSONNEL. (a) The department may employ,
11 compensate, and prescribe the duties of personnel necessary and
12 suitable to administer this chapter.
13 (b) The executive commissioner shall prepare and by rule
14 adopt personnel standards.
15 (c) A personnel position may be filled only by an
16 individual selected and appointed on a nonpartisan merit basis.
17 (d) The commissioner, with the advice of the council, shall
18 develop and the department shall implement policies that clearly
19 define the responsibilities of the staff of the department.
20 Sec. 161.053. INFORMATION ABOUT QUALIFICATIONS AND
21 STANDARDS OF CONDUCT. The commissioner or the commissioner's
22 designee shall provide to department employees, as often as
23 necessary, information regarding the requirements for employment
24 under this chapter or rules adopted by the executive
25 commissioner, including information regarding a person's
26 responsibilities under applicable laws relating to standards of
27 conduct for state employees.
28 Sec. 161.054. MERIT PAY. Subject to rules adopted by the
29 executive commissioner, the commissioner or the commissioner's
30 designee shall develop a system of annual performance
31 evaluations. All merit pay for department employees must be
32 given under the system established under this section or under

rules adopted by the executive commissioner.

Sec. 161.055. CAREER LADDER. The commissioner or the commissioner's designee shall develop an intra-agency career ladder program. The program must require intra-agency postings of all nonentry-level positions concurrently with any public posting.

Sec. 161.056. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) Subject to rules adopted by the executive commissioner, the commissioner or the commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) Unless the following are included in a policy statement adopted by the executive commissioner that is applicable to the department, the policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the department to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the department's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually;

(2) reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) filed with the governor's office.

Sec. 161.057. STATE EMPLOYEE INCENTIVE PROGRAM. The commissioner or the commissioner's designee shall provide to

department employees information and training on the benefits and methods of participation in the state employee incentive program.

[Sections 161.058-161.070 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES OF DEPARTMENT

Sec. 161.071. GENERAL POWERS AND DUTIES OF DEPARTMENT. The department is responsible for administering human services programs for the aging and disabled, including:

(1) administering and coordinating programs to provide community-based care and support services to promote independent living for populations that would otherwise be institutionalized;

(2) providing institutional care services, including services through convalescent and nursing homes and related institutions under Chapter 242, Health and Safety Code;

(3) providing and coordinating programs and services for persons with disabilities, including programs for the treatment, rehabilitation, or benefit of persons with developmental disabilities or mental retardation;

(4) operating state facilities for the housing, treatment, rehabilitation, or benefit of persons with disabilities, including state schools for persons with mental retardation;

(5) serving as the state unit on aging required by the federal Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) and its subsequent amendments, including performing the general functions under Section 101.022 to ensure:

(A) implementation of the federal Older Americans Act of 1965 (42 U.S.C. Section 3001 et seq.) and its subsequent amendments, including implementation of services and volunteer opportunities under that Act for older residents of this state through area agencies on aging;

(B) advocacy for residents of nursing facilities through the office of the state long-term care ombudsman;

(C) fostering of the state and community infrastructure and capacity to serve older residents of this state; and

(D) availability of a comprehensive resource for state government and the public on trends related to and services and programs for an aging population;

(6) performing all licensing and enforcement activities and functions related to long-term care facilities, including licensing and enforcement activities related to convalescent and nursing homes and related institutions under Chapter 242, Health and Safety Code;

(7) performing all licensing and enforcement activities related to assisted living facilities under Chapter 247, Health and Safety Code;

(8) performing all licensing and enforcement activities related to intermediate care facilities for persons with mental retardation under Chapter 252, Health and Safety Code; and

(9) performing all licensing and enforcement activities and functions related to home and community support services agencies under Chapter 142, Health and Safety Code.

Sec. 161.072. INFORMATION REGARDING COMPLAINTS. (a) The department shall maintain a file on each written complaint filed with the department. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the department;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint.

(b) The department shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the executive commissioner's and the department's policies and procedures relating to complaint investigation and resolution.

(c) The department, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 161.073. RULES. The executive commissioner may adopt rules reasonably necessary for the department to administer this chapter, consistent with the memorandum of understanding under Section 531.0055(k), Government Code, between the commissioner and the executive commissioner, as adopted by rule.

SECTION 1.14. APPOINTMENT OF COMMISSIONERS. (a) As soon as possible, the executive commissioner of the Health and Human Services Commission shall appoint the commissioners of:

(1) the Department of State Health Services in accordance with Chapter 1001, Health and Safety Code, as added by this article;

(2) the Department of Family and Protective Services in accordance with Chapter 40, Human Resources Code, as amended by this article;

(3) the Department of Assistive and Rehabilitative Services in accordance with Chapter 117, Human Resources Code, as added by this article; and

(4) the Department of Aging and Disability Services in accordance with Chapter 161, Human Resources Code, as added by

this article.

(b) The executive commissioner of the Health and Human Services Commission shall make the appointments of the commissioners required by this section so that the ethnic diversity of this state is reflected in those appointments.

SECTION 1.15. APPOINTMENTS OF COUNCIL MEMBERS. (a) As soon as possible, the governor shall appoint the members of the State Health Services Council in accordance with Chapter 1001, Health and Safety Code, as added by this article. In making the initial appointments, the governor shall designate three members for terms expiring February 1, 2005, three members for terms expiring February 1, 2007, and three members for terms expiring February 1, 2009.

(b) As soon as possible, the governor shall appoint the members of the Family and Protective Services Council in accordance with Chapter 40, Human Resources Code, as amended by this article. In making the initial appointments, the governor shall designate three members for terms expiring February 1, 2005, three members for terms expiring February 1, 2007, and three members for terms expiring February 1, 2009.

(c) As soon as possible, the governor shall appoint the members of the Assistive and Rehabilitative Services Council in accordance with Chapter 117, Human Resources Code, as added by this article. In making the initial appointments, the governor shall designate three members for terms expiring February 1, 2005, three members for terms expiring February 1, 2007, and three members for terms expiring February 1, 2009.

(d) As soon as possible, the governor shall appoint the members of the Aging and Disability Services Council in accordance with Chapter 161, Human Resources Code, as added by this article. In making the initial appointments, the governor shall designate three members for terms expiring February 1,

2005, three members for terms expiring February 1, 2007, and three members for terms expiring February 1, 2009.

(e) As soon as possible, the governor shall appoint the members of the Health and Human Services Council in accordance with Chapter 531, Government Code, as amended by this article. In making the initial appointments, the governor shall designate three members for terms expiring February 1, 2005, three members for terms expiring February 1, 2007, and three members for terms expiring February 1, 2009.

SECTION 1.16. LIMITATION ON ACTIVITIES. A state agency created under this article may, before the date specified in the transition plan required under Section 1.23 of this article, perform only those powers, duties, functions, programs, and activities that relate to preparing for the transfer of powers, duties, functions, programs, and activities to that agency in accordance with this article. A state agency created under this article may not operate all or any part of a health and human services program before the date specified in the transition plan required under Section 1.23 of this article.

SECTION 1.17. INITIAL COUNCIL MEETINGS. The presiding officers of the councils for each state agency created under this article, the Family and Protective Services Council, the Health and Human Services Council, and the Health and Human Services Transition Legislative Oversight Council shall call the initial meeting of the applicable council as soon as possible after the council members are appointed.

SECTION 1.18. TRANSFERS TO THE HEALTH AND HUMAN SERVICES COMMISSION. (a) On the date specified in the transition plan required under Section 1.23 of this article, the following powers, duties, functions, programs, and activities are transferred to the Health and Human Services Commission:

(1) all powers, duties, functions, programs, and

activities related to administrative support services, such as strategic planning and evaluation, audit, legal, human resources, information resources, accounting, purchasing, financial management, and contract management services, of a state agency or entity abolished by Section 1.26 of this article;

(2) all powers, duties, functions, programs, and activities of the Texas Department of Human Services related to:

(A) determining eligibility for long-term care services and community-based support services;

(B) the financial assistance program under Chapter 31, Human Resources Code;

(C) the nutritional assistance programs under Chapter 33, Human Resources Code;

(D) preventing family violence and providing services to victims of family violence; and

(E) the Texas Department of Human Services office of inspector general;

(3) all powers, duties, functions, programs, and activities related to the following programs administered by a state agency or entity abolished by Section 1.26 of this article:

(A) the state child health plan program under Chapters 62 and 63, Health and Safety Code; and

(B) the medical assistance program under Chapter 32, Human Resources Code; and

(4) all rulemaking and policymaking authority for the provision of health and human services in this state.

(b) On the date specified by Subsection (a) of this section:

(1) all obligations and contracts of a state agency or entity abolished by Section 1.26 of this article that are related to a power, duty, function, program, or activity transferred under Subsection (a) of this section are transferred to the

1 Health and Human Services Commission;

2 (2) all property and records in the custody of a state
3 agency or entity abolished by Section 1.26 of this article that
4 are related to a power, duty, function, program, or activity
5 transferred under Subsection (a) of this section and all funds
6 appropriated by the legislature for the power, duty, function,
7 program, or activity shall be transferred to the Health and Human
8 Services Commission; and

9 (3) all complaints, investigations, or contested cases
10 that are pending before a state agency or entity abolished by
11 Section 1.26 of this article or the governing body of the agency
12 or entity and that are related to a power, duty, function,
13 program, or activity transferred under Subsection (a) of this
14 section are transferred without change in status to the Health
15 and Human Services Commission.

16 (c) A rule or form adopted by a state agency or entity
17 abolished by Section 1.26 of this article that relates to a
18 power, duty, function, program, or activity transferred under
19 Subsection (a) of this section is a rule or form of the Health
20 and Human Services Commission and remains in effect until altered
21 by the commission.

22 (d) A reference in law to a state agency or entity
23 abolished by Section 1.26 of this article, or to the governing
24 body of the agency or entity, that relates to a power, duty,
25 function, program, or activity transferred under Subsection (a)
26 of this section means the Health and Human Services Commission.

27 (e) A license, permit, or certification in effect that was
28 issued by a state agency or entity abolished by Section 1.26 of
29 this article and that relates to a power, duty, function,
30 program, or activity transferred under Subsection (a) of this
31 section is continued in effect as a license, permit, or
32 certification of the Health and Human Services Commission.

(f) All powers, duties, functions, programs, and activities relating to the Texas Department of Human Services office of inspector general transferred to the Health and Human Services Commission under Subsection (a)(2)(D) of this section, shall be assumed by the commission's office of inspector general. Notwithstanding any other provision of law, a reference in law to the Texas Department of Human Services office of inspector general means the commission's office of inspector general.

SECTION 1.19. TRANSFERS TO THE DEPARTMENT OF STATE HEALTH SERVICES. (a) On the date specified in the transition plan required under Section 1.23 of this article, the following powers, duties, functions, programs, and activities, other than those related to rulemaking or policymaking or administrative support services such as strategic planning and evaluation, audit, legal, human resources, information resources, accounting, purchasing, financial management, and contract management services, are transferred to the Department of State Health Services:

(1) except as provided by Section 1.18 of this article, all powers, duties, functions, programs, and activities of the Texas Department of Health;

(2) all powers, duties, functions, programs, and activities of the Texas Department of Mental Health and Mental Retardation relating to providing mental health services;

(3) all powers, duties, functions, programs, and activities of the Texas Commission on Alcohol and Drug Abuse; and

(4) all powers, duties, functions, programs, and activities of the Texas Health Care Information Council.

(b) On the date specified by Subsection (a) of this section:

(1) all obligations and contracts of an entity listed in Subsection (a) of this section that are related to a power,

duty, function, program, or activity transferred under that subsection are transferred to the Department of State Health Services;

(2) all property and records in the custody of an entity listed in Subsection (a) of this section that are related to a power, duty, function, program, or activity transferred under that subsection and all funds appropriated by the legislature for the power, duty, function, program, or activity shall be transferred to the Department of State Health Services; and

(3) all complaints, investigations, or contested cases that are pending before an entity or the governing body of an entity listed in Subsection (a) of this section and that are related to a power, duty, function, program, or activity transferred under that subsection are transferred without change in status to the Department of State Health Services.

(c) A rule or form adopted by an entity listed in Subsection (a) of this section that relates to a power, duty, function, program, or activity transferred under that subsection is a rule or form of the Department of State Health Services and remains in effect until altered by the executive commissioner of the Health and Human Services Commission.

(d) A reference in law to an entity listed in Subsection (a) of this section that relates to a power, duty, function, program, or activity transferred under that subsection means the Department of State Health Services. A reference in law to the governing body of an entity listed in Subsection (a) of this section means the Health and Human Services Commission or the executive commissioner of the Health and Human Services Commission.

(e) A license, permit, or certification in effect that was issued by an entity listed in Subsection (a) of this section and

that relates to a power, duty, function, program, or activity transferred under that subsection is continued in effect as a license, permit, or certification of the Department of State Health Services.

SECTION 1.20. TRANSFERS TO THE DEPARTMENT OF AGING AND DISABILITY SERVICES. (a) On the date specified in the transition plan required under Section 1.23 of this article, the following powers, duties, functions, programs, and activities, other than those related to rulemaking or policymaking or administrative support services such as strategic planning and evaluation, audit, legal, human resources, information resources, accounting, purchasing, financial management, and contract management services, are transferred to the Department of Aging and Disability Services:

(1) all powers, duties, functions, programs, and activities of the Texas Department on Aging;

(2) except as provided by Section 1.18 of this article, from the Texas Department of Human Services, all powers, duties, functions, programs, and activities related to providing long-term care services and community-based support and services, licensing and enforcing regulations applicable to long-term care facilities, and licensing and enforcing regulations applicable to home and community support services agencies; and

(3) all powers, duties, functions, programs, and activities of the Texas Department of Mental Health and Mental Retardation related to providing mental retardation services, including state school administration and services and community residential services.

(b) On the date specified by Subsection (a) of this section:

(1) all obligations and contracts of an entity listed in Subsection (a) of this section that are related to a power,

duty, function, program, or activity transferred under that subsection are transferred to the Department of Aging and Disability Services;

(2) all property and records in the custody of an entity listed in Subsection (a) of this section that are related to a power, duty, function, program, or activity transferred under that subsection and all funds appropriated by the legislature for the power, duty, function, program, or activity shall be transferred to the Department of Aging and Disability Services; and

(3) all complaints, investigations, or contested cases that are pending before an entity or the governing body of an entity listed in Subsection (a) of this section and that are related to a power, duty, function, program, or activity transferred under that subsection are transferred without change in status to the Department of Aging and Disability Services.

(c) A rule or form adopted by an entity listed in Subsection (a) of this section that relates to a power, duty, function, program, or activity transferred under that subsection is a rule or form of the Department of Aging and Disability Services and remains in effect until altered by the executive commissioner of the Health and Human Services Commission.

(d) A reference in law to an entity listed in Subsection (a) of this section that relates to a power, duty, function, program, or activity transferred under that subsection means the Department of Aging and Disability Services. A reference in law to the governing body of an entity listed in Subsection (a) of this section means the Health and Human Services Commission or the executive commissioner of the Health and Human Services Commission.

(e) A license, permit, or certification in effect that was issued by an entity listed in Subsection (a) of this section and

that relates to a power, duty, function, program, or activity transferred under that subsection is continued in effect as a license, permit, or certification of the Department of Aging and Disability Services.

SECTION 1.21. TRANSFERS TO THE DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES. (a) On the date specified in the transition plan required under Section 1.23 of this article, the following powers, duties, functions, programs, and activities, other than those related to rulemaking or policymaking or administrative support services such as strategic planning and evaluation, audit, legal, human resources, information resources, accounting, purchasing, financial management, and contract management services, are transferred to the Department of Assistive and Rehabilitative Services:

(1) all powers, duties, functions, programs, and activities of the Texas Rehabilitation Commission;

(2) all powers, duties, functions, programs, and activities of the Interagency Council on Early Childhood Intervention;

(3) all powers, duties, functions, programs, and activities of the Texas Commission for the Blind; and

(4) all powers, duties, functions, programs, and activities of the Texas Commission for the Deaf and Hard of Hearing.

(b) On the date specified by Subsection (a) of this section:

(1) all obligations and contracts of an entity listed in Subsection (a) of this section that are related to a power, duty, function, program, or activity transferred under that subsection are transferred to the Department of Assistive and Rehabilitative Services;

(2) all property and records in the custody of an

entity listed in Subsection (a) of this section that are related to a power, duty, function, program, or activity transferred under that subsection and all funds appropriated by the legislature for the power, duty, function, program, or activity shall be transferred to the Department of Assistive and Rehabilitative Services; and

(3) all complaints, investigations, or contested cases that are pending before an entity or the governing body of an entity listed in Subsection (a) of this section and that are related to a power, duty, function, program, or activity transferred under that subsection are transferred without change in status to the Department of Assistive and Rehabilitative Services.

(c) A rule or form adopted by an entity listed in Subsection (a) of this section that relates to a power, duty, function, program, or activity transferred under that subsection is a rule or form of the Department of Assistive and Rehabilitative Services and remains in effect until altered by the executive commissioner of the Health and Human Services Commission.

(d) A reference in law to an entity listed in Subsection (a) of this section that relates to a power, duty, function, program, or activity transferred under that subsection means the Department of Assistive and Rehabilitative Services. A reference in law to the governing body of an entity listed in Subsection (a) of this section means the Health and Human Services Commission or the executive commissioner of the Health and Human Services Commission.

(e) A license, permit, or certification in effect that was issued by an entity listed in Subsection (a) of this section and that relates to a power, duty, function, program, or activity transferred under that subsection is continued in effect as a

license, permit, or certification of the Department of Assistive and Rehabilitative Services.

SECTION 1.22. HEALTH AND HUMAN SERVICES TRANSITION LEGISLATIVE OVERSIGHT COMMITTEE. The Health and Human Services Transition Legislative Oversight Committee is created to facilitate the transfer of powers, duties, functions, programs, and activities between the state's health and human services agencies and the Health and Human Services Commission as provided by this article with a minimal negative effect on the delivery of those services in this state.

(b) The committee is composed of 7 members, as follows:

(1) two members of the senate, appointed by the lieutenant governor not later than October 1, 2003;

(2) two members of the house of representatives, appointed by the speaker of the house of representatives not later than October 1, 2003;

(3) three members of the public, appointed by the governor not later than October 1, 2003.

(c) The executive commissioner of the Health and Human Services Commission serves as an ex officio member of the committee.

(d) A member of the committee serves at the pleasure of the appointing official.

(e) The lieutenant governor and the speaker of the house of representatives shall alternate designating a presiding officer from among their respective appointments. The speaker of the house of representatives shall make the first appointment after the effective date of this section.

(f) A member of the committee may not receive compensation for serving on the committee but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the committee as provided by the General

Appropriations Act.

(g) The committee shall:

(1) facilitate the transfer of powers, duties, functions, programs, and activities between the state's health and human services agencies and the Health and Human Services Commission as provided by this article with a minimal negative effect on the delivery of those services in this state;

(2) with assistance from the Health and Human Services Commission and the health and human services agencies, advise the executive commissioner of the Health and Human Services Commission concerning:

(A) the powers, duties, functions, programs, and activities transferred under this article and the funds and obligations that are related to the powers, duties, functions, programs, or activities; and

(B) the transfer of the powers, duties, functions, programs, activities, records, property, funds, obligations, and employees by the entities as required by Sections 1.18, 1.19, 1.20, and 1.21 of this article;

(3) meet at the call of the presiding officer;

(4) research, take public testimony, and issue reports on other appropriate issues or specific issues requested by the lieutenant governor, speaker, or governor; and

(5) review specific recommendations for legislation proposed by the Health and Human Services Commission or the health and human services agencies.

(h) The committee shall monitor the effectiveness and efficiency of the health and human services system of this state.

(i) The committee may request reports and other information from the Health and Human Services Commission, health and human

services agencies, and the attorney general relating to health and human services in this state and other appropriate issues.

(j) The committee shall use existing staff of the senate, the house of representatives, and the Texas Legislative Council to assist the committee in performing its duties under this section.

(k) Chapter 551, Government Code, applies to the committee.

(l) The committee shall report to the governor, lieutenant governor, and speaker of the house of representatives not later than November 15 of each even-numbered year. The report must include:

(1) identification of significant issues within the health and human services delivery system, with recommendations for action;

(2) an analysis of the effectiveness and efficiency of the health and human services delivery system, with recommendations for any necessary research; and

(3) recommendations for legislative action.

SECTION 1.23. TRANSITION PLAN. (a) The transfer of powers, duties, functions, programs, and activities under Sections 1.18, 1.19, 1.20, and 1.21 of this article to the Health and Human Services Commission, the Department of State Health Services, the Department of Aging and Disability Services, and the Department of Assistive and Rehabilitative Services, respectively, must be accomplished in accordance with a schedule included in a transition plan developed by the executive commissioner of the Health and Human Services Commission and submitted to the governor and the Legislative Budget Board not later than December 1, 2003. The executive commissioner shall provide to the governor and the Legislative Budget Board transition plan status reports and updates on at least a quarterly basis following submission of the initial transition

plan. The transition plan must be made available to the public.

(b) Not later than November 1, 2003, the Health and Human Services Commission shall hold a public hearing and accept public comment regarding the transition plan required to be developed by the executive commissioner of the Health and Human Services Commission under Subsection (a) of this section.

(c) In developing the transition plan, the executive commissioner of the Health and Human Services Commission shall hold public hearings in various geographic areas in this state before submitting the plan to the governor and the Legislative Budget Board as required by this section.

SECTION 1.24. APPLICABILITY OF FORMER LAW. An action brought or proceeding commenced before the date of a transfer prescribed by this article in accordance with the transition plan required under Section 1.23 of this article, including a contested case or a remand of an action or proceeding by a reviewing court, is governed by the laws and rules applicable to the action or proceeding before the transfer.

SECTION 1.25. WORK PLAN FOR HEALTH AND HUMAN SERVICES AGENCIES. (a) The Health and Human Services Commission, the Department of Family and Protective Services, and each health and human services agency created under this article shall implement the powers, duties, functions, programs, and activities assigned to the agency under this article in accordance with a work plan designed by the commission to ensure that the transfer and provision of health and human services in this state are accomplished in a careful and deliberative manner.

(b) A work plan designed by the commission under this section must include the following phases:

(1) a planning phase, during which the agency will focus on and stabilize the organization of the agency's powers, duties, functions, programs, and activities, and which must

include:

(A) initiation of recommendations made by the Health and Human Services Transition Legislative Oversight Council;

(B) creation of interagency and intra-agency steering committees;

(C) development of global visions, goals, and organizational strategies; and

(D) development of communications and risk management plans;

(2) an integration phase, during which the agency will identify opportunities and problems and design customized solutions for those problems, and which must include:

(A) identification of key issues for the agency relating to the Texas Integrated Eligibility Redesign System, waivers needed from federal agencies, costs, or legal requirements for other agency activities;

(B) planning for daily operations;

(C) validation of fiscal and program synergies;

(D) definition and building of a program management office; and

(E) development of performance measures, related tracking measures and tools, and risk mitigation initiatives;

(3) an optimization phase, during which the agency will complete and expand on the initial health and human services transitions, and which must include:

(A) optimization of initial implementation initiatives;

(B) use of enterprise teaming operations;

(C) building infrastructures to support and facilitate changes in the delivery of health and human services; and

(D) identification and use of beneficial assets management and facilities approaches; and

(4) a transformation phase, during which the agency will continue implementing initial and additional changes to the delivery of health and human services, and which must include:

(A) implementation of changes in agency management activities;

(B) continuation of risk assessments; and

(C) conducting a transformation review of the changes to the delivery of health and human services.

SECTION 1.26. ABOLITION OF STATE AGENCIES AND ENTITIES. (a) The following state agencies and entities are abolished on the date on which their respective powers, duties, functions, programs, and activities are transferred under this article:

(1) the Interagency Council on Early Childhood Intervention;

(2) the Texas Commission for the Blind;

(3) the Texas Commission for the Deaf and Hard of Hearing;

(4) the Texas Commission on Alcohol and Drug Abuse;

(5) the Texas Department of Health;

(6) the Texas Department of Human Services;

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

(8) the Texas Department on Aging;

(9) the Texas Health Care Information Council; and

(10) the Texas Rehabilitation Commission.

(b) The abolition of a state agency or entity listed in Subsection (a) of this section and the transfer of its powers, duties, functions, programs, activities, obligations, rights, contracts, records, property, funds, and employees as provided by this article do not affect or impair an act done, any obligation,

right, order, permit, certificate, rule, criterion, standard, or requirement existing, or any penalty accrued under former law, and that law remains in effect for any action concerning those matters.

SECTION 1.27. A reference in law to the Department of Protective and Regulatory Services means the Department of Family and Protective Services.

SECTION 1.28. REPEAL. The following are repealed:

(1) Sections 531.0057, 531.034, and 531.0345, Government Code;

(2) Sections 40.0225 and 40.023, Human Resources Code; and

(3) Article 2, Chapter 1505, Acts of the 76th Legislature, Regular Session, 1999.

SECTION 1.29. EFFECTIVE DATE. (a) Except as provided by Subsection (b) of this section, this article takes effect September 1, 2003.

(b) The Department of State Health Services, the Department of Assistive and Rehabilitative Services, and the Department of Aging and Disability Services are created on the date the executive commissioner of the Health and Human Services Commission appoints the commissioner of the respective agency.

ARTICLE 2. ADMINISTRATION, OPERATION, AND FINANCING OF HEALTH AND HUMAN SERVICES PROGRAMS AND PROVISION OF HEALTH AND HUMAN SERVICES

SECTION 2.01. Section 531.001, Government Code, is amended by adding Subdivision (1-a) to read as follows:

<u>(1-a) "Child health plan program" means the child health plan program established under Chapters 62 and 63, Health and Safety Code.</u>

SECTION 2.02. (a) Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.017 to read as follows:

1 Sec. 531.017. PURCHASING DIVISION. (a) The commission
2 shall establish a purchasing division for the management of
3 administrative activities related to the purchasing functions of
4 the commission and the health and human services agencies.
5 (b) The purchasing division shall:
6 (1) seek to achieve targeted cost reductions, increase
7 process efficiencies, improve technological support and customer
8 services, and enhance purchasing support for each health and
9 human services agency; and
10 (2) if cost-effective, contract with private entities
11 to perform purchasing functions for the commission and the health
12 and human services agencies.
13 (b) Not later than January 1, 2004, the Health and Human
14 Services Commission shall develop and implement a plan to
15 consolidate the purchasing functions of the commission and health
16 and human services agencies in a purchasing division under
17 Section 531.017, Government Code, as added by this section.
18 SECTION 2.03. Section 531.021, Government Code, is amended
19 by adding Subsections (c)-(e) to read as follows:
20 (c) The commission in its adoption of reasonable rules and
21 standards under Subsection (b)(2) shall include financial
22 performance standards that, in the event of a proposed rate
23 reduction, provide private ICF-MR facilities and home and
24 community-based services providers with flexibility in
25 determining how to use medical assistance payments to provide
26 services in the most cost-effective manner while continuing to
27 meet the state and federal requirements of the Medicaid program.
28 (d) In adopting rules and standards required by Subsection
29 (b)(2), the commission may provide for payment of fees, charges,
30 and rates in accordance with:
31 (1) formulas, procedures, or methodologies prescribed
32 by the commission's rules;

(2) applicable state or federal law, policies, rules, regulations, or guidelines;

(3) economic conditions that substantially and materially affect provider participation in the Medicaid program, as determined by the commissioner; or

(4) available levels of appropriated state and federal funds.

(e) Notwithstanding any other provision of Chapter 32, Human Resources Code, Chapter 533, or this chapter, the commission may adjust the fees, charges, and rates paid to Medicaid providers as necessary to achieve the objectives of the Medicaid program in a manner consistent with the considerations described by Subsection (d).

SECTION 2.04. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0335 to read as follows:

Sec. 531.0335. PROHIBITION ON PUNITIVE ACTION FOR FAILURE TO IMMUNIZE. (a) In this section:

(1) "Person responsible for a child's care, custody, or welfare" has the meaning assigned by Section 261.001, Family Code.

(2) "Punitive action" includes the initiation of an investigation of a person responsible for a child's care, custody, or welfare for alleged or suspected abuse or neglect of a child.

(b) The commissioner by rule shall prohibit a health and human services agency from taking a punitive action against a person responsible for a child's care, custody, or welfare for failure of the person to ensure that the child receives the immunization series prescribed by Section 161.004, Health and Safety Code.

(c) This section does not affect a law, including Chapter 31, Human Resources Code, that specifically provides a punitive

action for failure to ensure that a child receives the immunization series prescribed by Section 161.004, Health and Safety Code.

SECTION 2.05. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0392 to read as follows:

Sec. 531.0392. RECOVERY OF CERTAIN THIRD-PARTY REIMBURSEMENTS UNDER MEDICAID. (a) In this section, "dually eligible individual" means an individual who is eligible to receive health care benefits under both the Medicaid and Medicare programs.

(b) The commission shall obtain Medicaid reimbursement from each fiscal intermediary who makes a payment to a service provider on behalf of the Medicare program, including a reimbursement for a payment made to a home health services provider or nursing facility for services rendered to a dually eligible individual.

SECTION 2.06. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.063 to read as follows:

Sec. 531.063. CALL CENTERS. (a) The commission, by rule, shall establish at least one but not more than four call centers for purposes of determining and certifying or recertifying a person's eligibility and need for services related to the programs listed under Section 531.008(c), if cost-effective. The commission must conduct a public hearing before establishing the initial call center.

(b) The commission shall contract with at least one but not more than four private entities for the operation of call centers required by this section unless the commission determines that contracting would not be cost-effective.

(c) Each call center required by this section must be located in this state. This subsection does not prohibit a call center located in this state from processing overflow calls

through a center located in another state.

(d) Each call center required by this section shall provide translation services as required by federal law for clients unable to speak, hear, or comprehend the English language.

(e) The commission shall develop consumer service and performance standards for the operation of each call center required by this section. The standards shall address a call center's:

(1) ability to serve its consumers in a timely manner, including consideration of the consumers' ability to access the call center, whether the call center has toll-free telephone access, the average amount of time a consumer spends on hold, the frequency of call transfers, whether a consumer is able to communicate with a live person at the call center, and whether the call center makes mail correspondence available;

(2) staff, including employee courtesy, friendliness, training, and knowledge about the programs listed under Section 531.008(c); and

(3) complaint handling procedures, including the level of difficulty involved in filing a complaint and whether the call center's complaint responses are timely.

(f) The commission shall make available to the public the standards developed under Subsection (e).

(g) The commission shall develop:

(1) mechanisms for measuring consumer service satisfaction; and

(2) performance measures to evaluate whether each call center meets the standards developed under Subsection (e).

(h) The commission may inspect each call center and analyze its consumer service performance through use of a consumer service evaluator who poses as a consumer of the call center.

(i) Notwithstanding Subsection (a), the commissioner shall

develop and implement policies that provide an applicant for services related to the programs listed under Section 531.008(c) with an opportunity to appear in person to establish initial eligibility or to comply with periodic eligibility recertification requirements if the applicant requests a personal interview. In implementing the policies, the commission shall maintain offices to serve applicants who request a personal interview. This subsection does not affect a law or rule that requires an applicant to appear in person to establish initial eligibility or to comply with periodic eligibility recertification requirements.

SECTION 2.07. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.065 to read as follows:

Sec. 531.065. CONSOLIDATION AND COORDINATION OF HEALTH INSURANCE PREMIUM PAYMENT REIMBURSEMENT PROGRAMS. (a) The commission shall develop and implement a plan to consolidate and coordinate the administration of the health insurance premium payment reimbursement programs prescribed by Section 62.059, Health and Safety Code, and Section 32.0422, Human Resources Code.

(b) If cost-effective, the commission may contract with a private entity to assist the commission in developing and implementing a plan required by this section.

(b) Section 62.059(i), Health and Safety Code, and Section 32.0422(m), Human Resources Code, are repealed.

(c) Not later than January 1, 2004, the Health and Human Services Commission shall develop and implement a plan to consolidate and coordinate the administration of health insurance premium payment reimbursement programs as required by Section 531.065, Government Code, as added by this section.

SECTION 2.08. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.067 to read as follows:

1 Sec. 531.067. PUBLIC ASSISTANCE HEALTH BENEFIT REVIEW AND
2 DESIGN COMMITTEE. (a) The commission shall appoint a Public
3 Assistance Health Benefit Review and Design Committee. The
4 committee consists of nine representatives of health care
5 providers participating in the Medicaid program or the child
6 health plan program, or both. The committee membership must
7 include at least three representatives from each program.
8 (b) The commissioner shall designate one member to serve as
9 presiding officer for a term of two years.
10 (c) The committee shall meet at the call of the presiding
11 officer.
12 (d) The committee shall review and provide recommendations
13 to the commission regarding health benefits and coverages
14 provided under the state Medicaid program, the child health plan
15 program, and any other income-based health care program
16 administered by the commission or a health and human services
17 agency. In performing its duties under this subsection, the
18 committee must:
19 (1) review benefits provided under each of the
20 programs; and
21 (2) review procedures for addressing high utilization
22 of benefits by recipients.
23 (e) The commission shall provide administrative support and
24 resources as necessary for the committee to perform its duties
25 under this section.
26 (f) Section 2110.008 does not apply to the committee.
27 (g) In performing the duties under this section, the
28 commission may design and implement a program to improve and
29 monitor clinical and functional outcomes of a recipient of
30 services under the state child health plan or medical assistance
31 program. The program may use financial, clinical, and other
32 criteria based on pharmacy, medical services, and other claims

data related to the child health plan or the state medical assistance program. The commission must report to the committee on the fiscal impact, including any savings associated with the strategies utilized under this section.

SECTION 2.09. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.068 to read as follows:

Sec. 531.068. MEDICAID OR OTHER HEALTH BENEFIT COVERAGE. In adopting rules or standards governing the state Medicaid program or rules or standards for the development or implementation of health benefit coverage for a program administered by the commission or a health and human services agency, the commission and each health and human services agency, as appropriate, may take into consideration any recommendation made with respect to health benefits provided under their respective programs or the state Medicaid program by the Public Assistance Health Benefit Review and Design Committee established under Section 531.067.

SECTION 2.10. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.069 to read as follows:

Sec. 531.069. PERIODIC REVIEW OF VENDOR DRUG PROGRAM. (a) The commission shall periodically review all purchases made under the vendor drug program to determine the cost-effectiveness of including a component for prescription drug benefits in any capitation rate paid by the state under a Medicaid managed care program or the child health plan program.

(b) In making the determination required by Subsection (a), the commission shall consider the value of any prescription drug rebates received by the state.

SECTION 2.11. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.070 to read as follows:

Sec. 531.070. SUPPLEMENTAL REBATES. (a) In this section:

(1) "Labeler" means a person that:

(A) has a labeler code from the United States Food and Drug Administration under 21 C.F.R. Section 207.20; and

(B) receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale.

(2) "Manufacturer" means a manufacturer of prescription drugs as defined by 42 U.S.C. Section 1396r-8(k)(5) and its subsequent amendments, including a subsidiary or affiliate of a manufacturer.

(3) "Wholesaler" means a person licensed under Subchapter I, Chapter 431, Health and Safety Code.

(b) For purposes of this section, the term "supplemental rebates" means cash rebates paid by a manufacturer to the state on the basis of appropriate quarterly health and human services program utilization data relating to the manufacturer's products, pursuant to a state supplemental rebate agreement negotiated with the manufacturer and, if necessary, approved by the federal government under Section 1927 of the federal Social Security Act.

(c) The commission may enter into a written agreement with a manufacturer to accept certain program benefits in lieu of supplemental rebates, as defined by this section, only if:

(1) the program benefit yields savings that are at least equal to the amount the manufacturer would have provided under a state supplemental rebate agreement during the current biennium as determined by the written agreement;

(2) the manufacturer posts a performance bond guaranteeing savings to the state, and agrees that if the savings are not achieved in accordance with the written agreement, the manufacturer will forfeit the bond to the state less any savings that were achieved; and

(3) the program benefit is in addition to other program benefits currently offered by the manufacturer to

1 recipients of medical assistance or related programs.

2 (d) For purposes of this section, a program benefit may

3 mean disease management programs authorized under this title,

4 drug product donation programs, drug utilization control

5 programs, prescriber and beneficiary counseling and education,

6 fraud and abuse initiatives, and other services or administrative

7 investments with guaranteed savings to a program operated by a

8 health and human services agency.

9 (e) Other than as required to satisfy the provisions of

10 this section, the program benefits shall be deemed an alternative

11 to, and not the equivalent of, supplemental rebates and shall be

12 treated in the state's submissions to the federal government

13 (including, as appropriate, waiver requests and quarterly

14 Medicaid claims) so as to maximize the availability of federal

15 matching payments.

16 (f) Agreements by the commission to accept program benefits

17 as defined by this section:

18 (1) may not prohibit the commission from entering into

19 similar agreements related to different drug classes with other

20 entities;

21 (2) shall be limited to a time period expressly

22 determined by the commission; and

23 (3) may only cover products that have received

24 approval by the Federal Drug Administration at the time of the

25 agreement, and new products approved after the agreement may be

26 incorporated only under an amendment to the agreement.

27 (g) For purposes of this section, the commission may

28 consider a monetary contribution or donation to the arrangements

29 described in Subsection (c) for the purpose of offsetting

30 expenditures to other state health care programs, but which

31 funding may not be used to offset expenditures for covered

32 outpatient drugs as defined by 42 U.S.C. Section 1396r-8(k)(2)

under the vendor drug program. An arrangement under this subsection may not yield less than the amount the state would have benefited under a supplemental rebate. The commission may consider an arrangement under this section as satisfying the requirements related to Section 531.072(b).

(h) Subject to Subsection (i), the commission shall negotiate with manufacturers and labelers, including generic manufacturers and labelers, to obtain supplemental rebates for prescription drugs provided under:

(1) the Medicaid vendor drug program in excess of the Medicaid rebates required by 42 U.S.C. Section 1396r-8 and its subsequent amendments;

(2) the child health plan program; and

(3) any other state program administered by the commission or a health and human services agency, including community mental health centers and state mental health hospitals.

(i) The commission may by contract authorize a private entity to negotiate with manufacturers and labelers on behalf of the commission.

(j) A manufacturer or labeler that sells prescription drugs in this state may voluntarily negotiate with the commission and enter into an agreement to provide supplemental rebates for prescription drugs provided under:

(1) the Medicaid vendor drug program in excess of the Medicaid rebates required by 42 U.S.C. Section 1396r-8 and its subsequent amendments;

(2) the child health plan program; and

(3) any other state program administered by the commission or a health and human services agency, including community mental health centers and state mental health hospitals.

(k) In negotiating terms for a supplemental rebate amount, the commission shall consider:

(1) rebates calculated under the Medicaid rebate program in accordance with 42 U.S.C. Section 1396r-8 and its subsequent amendments;

(2) any other available information on prescription drug prices or rebates; and

(3) other program benefits as specified in Subsection (c).

(l) Each year the commission shall provide a written report to the legislature and the governor. The report shall cover:

(1) the cost of administering the preferred drug lists adopted under Section 531.072;

(2) an analysis of the utilization trends for medical services provided by the state and any correlation to the preferred drug lists;

(3) an analysis of the effect on health outcomes and results for recipients; and

(4) statistical information related to the number of approvals granted or denied.

(m) In negotiating terms for a supplemental rebate, the commission shall use the average manufacturer price (AMP), as defined in Section 1396r-8(k)(1) of the Omnibus Budget Reconciliation Act of 1990, as the cost basis for the product.

(b) Not later than January 1, 2004, the Health and Human Services Commission shall implement Section 531.070, Government Code, as added by this section.

SECTION 2.12. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.071 to read as follows:

Sec. 531.071. CONFIDENTIALITY OF INFORMATION REGARDING DRUG REBATES, PRICING, AND NEGOTIATIONS. (a) Notwithstanding any other state law, information obtained or maintained by the

commission regarding prescription drug rebate negotiations or a supplemental medical assistance or other rebate agreement, including trade secrets, rebate amount, rebate percentage, and manufacturer or labeler pricing, is confidential and not subject to disclosure under Chapter 552.

(b) Information that is confidential under Subsection (a) includes information described by Subsection (a) that is obtained or maintained by the commission in connection with the Medicaid vendor drug program, the child health plan program, the kidney health care program, the children with special health care needs program, or another state program administered by the commission or a health and human services agency.

(c) General information about the aggregate costs of different classes of drugs is not confidential under Subsection (a).

SECTION 2.13. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.072 to read as follows:

Sec. 531.072. PREFERRED DRUG LISTS. (a) In a manner that complies with applicable state and federal law, the commission shall adopt preferred drug lists for the Medicaid vendor drug program and for prescription drugs purchased through the child health plan program. The commission may adopt preferred drug lists for community mental health centers, state mental health hospitals, and any other state program administered by the commission or a state health and human services agency.

(b) The preferred drug lists may contain only drugs provided by a manufacturer or labeler that reaches an agreement with the commission on supplemental rebates under Section 531.070.

(c) In making a decision regarding the placement of a drug on each of the preferred drug lists, the commission shall consider:

1 (1) the recommendations of the Pharmaceutical and
2 Therapeutics Committee established under Section 531.074;
3 (2) the clinical efficacy of the drug;
4 (3) the price of competing drugs after deducting any
5 federal and state rebate amounts; and
6 (4) program benefit offerings solely or in conjunction
7 with rebates and other pricing information.
8 (d) The commission shall provide for the distribution of
9 current copies of the preferred drug lists by posting the list on
10 the Internet. In addition, the commission shall mail copies of
11 the lists to any health care provider on request of that
12 provider.
13 (e) In this subsection, "labeler" and "manufacturer" have
14 the meanings assigned by Section 531.070. The commission shall
15 ensure that:
16 (1) a manufacturer or labeler may submit written
17 evidence supporting the inclusion of a drug on the preferred drug
18 lists before a supplemental agreement is reached with the
19 commission; and
20 (2) any drug that has been approved or has had any of
21 its particular uses approved by the United States Food and Drug
22 Administration under a priority review classification will be
23 reviewed by the Pharmaceutical and Therapeutics Committee at the
24 next regularly scheduled meeting of the committee. On receiving
25 notice from a manufacturer or labeler of the availability of a
26 new product, the commission, to the extent possible, shall
27 schedule a review for the product at the next regularly scheduled
28 meeting of the committee.
29 (f) A recipient of drug benefits under the Medicaid vendor
30 drug program may appeal a denial of prior authorization under
31 Section 531.073 of a covered drug or covered dosage through the
32 Medicaid fair hearing process.

(b) Not later than March 1, 2004, the Health and Human Services Commission shall adopt the preferred drug lists as required by Section 531.072, Government Code, as added by this section.

SECTION 2.14. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.073 to read as follows:

Sec. 531.073. PRIOR AUTHORIZATION FOR CERTAIN PRESCRIPTION DRUGS. (a) The commission, in its rules and standards governing the Medicaid vendor drug program and the child health plan program, shall require prior authorization for the reimbursement of a drug that is not included in the appropriate preferred drug list adopted under Section 531.072, except for any drug exempted from prior authorization requirements by federal law. The commission may require prior authorization for the reimbursement of a drug provided through any other state program administered by the commission or a state health and human services agency, including a community mental health center and a state mental health hospital if the commission adopts preferred drug lists under Section 531.072 that apply to those facilities and the drug is not included in the appropriate list. The commission shall require that the prior authorization be obtained by the prescribing physician or prescribing practitioner.

(a-1) Until the commission has completed a study evaluating the impact of a requirement of prior authorization on recipients of certain drugs, the commission shall delay requiring prior authorization for drugs that are used to treat patients with illnesses that:

(1) are life-threatening;

(2) are chronic; and

(3) require complex medical management strategies.

(a-2) Not later than the 30th day before the date on which prior authorization requirements are implemented, the commission

shall post on the Internet for consumers and providers:

(1) a notification of the implementation date; and

(2) a detailed description of the procedures to be used in obtaining prior authorization.

(b) The commission shall establish procedures for the prior authorization requirement under the Medicaid vendor drug program to ensure that the requirements of 42 U.S.C. Section 1396r-8(d)(5) and its subsequent amendments are met. Specifically, the procedures must ensure that:

(1) a prior authorization requirement is not imposed for a drug before the drug has been considered at a meeting of the Pharmaceutical and Therapeutics Committee established under Section 531.074;

(2) there will be a response to a request for prior authorization by telephone or other telecommunications device within 24 hours after receipt of a request for prior authorization; and

(3) a 72-hour supply of the drug prescribed will be provided in an emergency or if the commission does not provide a response within the time required by Subdivision (2).

(c) The commission shall ensure that a prescription drug prescribed before implementation of a prior authorization requirement for that drug for a recipient under the child health plan program, the Medicaid program, or another state program administered by the commission or a health and human services agency or for a person who becomes eligible under the child health plan program, the Medicaid program, or another state program administered by the commission or a health and human services agency is not subject to any requirement for prior authorization under this section unless the recipient has exhausted all the prescription, including any authorized refills, or a period prescribed by the commission has expired, whichever

occurs first.

(d) The commission shall implement procedures to ensure that a recipient under the child health plan program, the Medicaid program, or another state program administered by the commission or a person who becomes eligible under the child health plan program, the Medicaid program, or another state program administered by the commission or a health and human services agency receives continuity of care in relation to certain prescriptions identified by the commission.

(e) The commission may by contract authorize a private entity to administer the prior authorization requirements imposed by this section on behalf of the commission.

(f) The commission shall ensure that the prior authorization requirements are implemented in a manner that minimizes the cost to the state and any administrative burden placed on providers.

SECTION 2.15. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.074 to read as follows:

Sec. 531.074. PHARMACEUTICAL AND THERAPEUTICS COMMITTEE. (a) The Pharmaceutical and Therapeutics Committee is established for the purposes of developing recommendations for preferred drug lists adopted by the commission under Section 531.072.

(b) The committee consists of the following members appointed by the governor:

(1) six physicians licensed under Subtitle B, Title 3, Occupations Code, and participating in the Medicaid program, at least one of whom is a licensed physician who is actively engaged in mental health providing care and treatment to persons with severe mental illness and who has practice experience in the state Medicaid plan; and

(2) five pharmacists licensed under Subtitle J, Title 3, Occupations Code, and participating in the Medicaid vendor

1 drug program.

2 (c) In making appointments to the committee under

3 Subsection (b), the governor shall ensure that the committee

4 includes physicians and pharmacists who:

5 (1) represent different specialties and provide

6 services to all segments of the Medicaid program's diverse

7 population;

8 (2) have experience in either developing or practicing

9 under a preferred drug list; and

10 (3) do not have contractual relationships, ownership

11 interests, or other conflicts of interest with a pharmaceutical

12 manufacturer or labeler or with an entity engaged by the

13 commission to assist in the development of the preferred drug

14 lists or the administration of the prior authorization system.

15 (d) A member of the committee is appointed for a two-year

16 term and may serve more than one term.

17 (e) The governor shall appoint a physician to be the

18 presiding officer of the committee. The presiding officer serves

19 at the pleasure of the governor.

20 (f) The committee shall meet at least monthly during the

21 six-month period following establishment of the committee to

22 enable the committee to develop recommendations for the initial

23 preferred drug lists. After that period, the committee shall

24 meet at least quarterly and at other times at the call of the

25 presiding officer or a majority of the committee members.

26 (g) A member of the committee may not receive compensation

27 for serving on the committee but is entitled to reimbursement for

28 reasonable and necessary travel expenses incurred by the member

29 while conducting the business of the committee, as provided by

30 the General Appropriations Act.

31 (h) In developing its recommendations for the preferred

32 drug lists, the committee shall consider the clinical efficacy,

safety, and cost-effectiveness and any program benefit associated with a product.

(i) The commission shall adopt rules governing the operation of the committee, including rules governing the procedures used by the committee for providing notice of a meeting and rules prohibiting the committee from discussing confidential information described by Section 531.071 in a public meeting. The committee shall comply with the rules adopted under this subsection.

(j) To the extent feasible, the committee shall review all drug classes included in the preferred drug lists adopted under Section 531.072 at least once every 12 months and may recommend inclusions to and exclusions from the lists to ensure that the lists provide for cost-effective medically appropriate drug therapies for Medicaid recipients, children receiving health benefits coverage under the child health plan program, and any other affected individuals.

(k) The commission shall provide administrative support and resources as necessary for the committee to perform its duties.

(l) Chapter 2110 does not apply to the committee.

(b) Not later than November 1, 2003, the governor shall appoint members to the Pharmaceutical and Therapeutics Committee established under Section 531.074, Government Code, as added by this section.

(c) Not later than January 1, 2004, the Pharmaceutical and Therapeutics Committee established under Section 531.074, Government Code, as added by this section, shall submit recommendations for the preferred drug lists the committee is required to develop under that section to the Health and Human Services Commission.

SECTION 2.16. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.075 to read as follows:

Sec. 531.075. PRIOR AUTHORIZATION FOR HIGH-COST MEDICAL SERVICES. The commission may evaluate and implement, as appropriate, procedures, policies, and methodologies to require prior authorization for high-cost medical services and procedures and may contract with qualified service providers or organizations to perform those functions. Any such program shall recognize any prohibitions in state or federal law on limits in the amount, duration, or scope of medically necessary services for children on Medicaid.

SECTION 2.17. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.077 to read as follows:

Sec. 531.077. RECOVERY OF MEDICAL ASSISTANCE. (a) The commissioner shall ensure that the state Medicaid program implements 42 U.S.C. Section 1396p(b)(1).

(b) The Medicaid account is an account in the general revenue fund. Any funds recovered by implementing 42 U.S.C. Section 1396p(b)(1) shall be deposited in the Medicaid account. Money in the account may be appropriated only to fund long-term care, including community-based care and facility-based care.

SECTION 2.18. (a) Section 531.101, Government Code, is amended to read as follows:

Sec. 531.101. AWARD FOR REPORTING MEDICAID FRAUD, ABUSE, OR OVERCHARGES. (a) The commission may grant an award to an individual who reports activity that constitutes fraud or abuse of funds in the state Medicaid program or reports overcharges in the program if the commission determines that the disclosure results in the recovery of an administrative penalty imposed under Section 32.039, Human Resources Code. The commission may not grant an award to an individual in connection with a report if the commission or attorney general had independent knowledge of the activity reported by the individual [~~overcharge or in the termination of the fraudulent activity or abuse of funds~~].

(b) The commission shall determine the amount of an award. The award may not exceed five [~~must be equal to not less than 10~~] percent of the amount of the administrative penalty imposed under Section 32.039, Human Resources Code. [~~savings to this state~~] that resulted [~~result~~] from the individual's disclosure. In determining the amount of the award, the commission shall consider how important the disclosure is in ensuring the fiscal integrity of the program. The commission may also consider whether the individual participated in the fraud, abuse, or overcharge.

(c) [~~An award under this section is subject to appropriation. The award must be paid from money appropriated to or otherwise available to the commission, and additional money may not be appropriated to the commission for the purpose of paying the award.~~

[~~(d) Payment of an award under this section from federal funds is subject to the permissible use under federal law of funds for this purpose.~~

[~~(e)~~] A person who brings an action under Subchapter C, Chapter 36, Human Resources Code, is not eligible for an award under this section.

(b) Section 531.101, Government Code, as amended by this section, applies only to a report that occurs on or after the effective date of this section. A report that occurs before the effective date of this section is governed by the law in effect at the time of the report, and the former law is continued in effect for that purpose.

SECTION 2.19. (a) Section 531.102, Government Code, is amended to read as follows:

Sec. 531.102. [~~INVESTIGATIONS AND ENFORCEMENT~~] OFFICE OF INSPECTOR GENERAL. (a) The commission, through the commission's office of inspector general [~~investigations and enforcement~~], is

responsible for the investigation of fraud and abuse in the provision of health and human services and the enforcement of state law relating to the provision of those services. The commission may obtain any information or technology necessary to enable the office to meet its responsibilities under this subchapter or other law.

(a-1) The governor shall appoint an inspector general to serve as director of the office. The inspector general serves a one-year term that expires on February 1.

(b) The commission, in consultation with the inspector general, shall set clear objectives, priorities, and performance standards for the office that emphasize:

(1) coordinating investigative efforts to aggressively recover money;

(2) allocating resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money; and

(3) maximizing opportunities for referral of cases to the office of the attorney general in accordance with Section 531.103.

(c) The commission shall train office staff to enable the staff to pursue priority Medicaid and other health and human services [~~welfare~~] fraud and abuse cases as necessary.

(d) The commission may require employees of health and human services agencies to provide assistance to the office [~~commission~~] in connection with the office's [~~commission's~~] duties relating to the investigation of fraud and abuse in the provision of health and human services. The office is entitled to access to any information maintained by a health and human services agency, including internal records, relevant to the functions of the office.

(e) The commission, in consultation with the inspector

general, by rule shall set specific claims criteria that, when met, require the office to begin an investigation.

(f)(1) If the commission receives a complaint of Medicaid fraud or abuse from any source, the office must conduct an integrity review to determine whether there is sufficient basis to warrant a full investigation. An integrity review must begin not later than the 30th day after the date the commission receives a complaint or has reason to believe that fraud or abuse has occurred. An integrity review shall be completed not later than the 90th day after it began.

(2) If the findings of an integrity review give the office reason to believe that an incident of fraud or abuse involving possible criminal conduct has occurred in the Medicaid program, the office must take the following action, as appropriate, not later than the 30th day after the completion of the integrity review:

(A) if a provider is suspected of fraud or abuse involving criminal conduct, the office must refer the case to the state's Medicaid fraud control unit, provided that the criminal referral does not preclude the office from continuing its investigation of the provider, which investigation may lead to the imposition of appropriate administrative or civil sanctions; or

(B) if there is reason to believe that a recipient has defrauded the Medicaid program, the office may conduct a full investigation of the suspected fraud.

(g)(1) Whenever the office learns or has reason to suspect that a provider's records are being withheld, concealed, destroyed, fabricated, or in any way falsified, the office shall immediately refer the case to the state's Medicaid fraud control unit. However, such criminal referral does not preclude the office from continuing its investigation of the provider, which

1 investigation may lead to the imposition of appropriate
2 administrative or civil sanctions.
3 (2) In addition to other instances authorized under
4 state or federal law, the office shall impose without prior
5 notice a hold on payment of claims for reimbursement submitted by
6 a provider to compel production of records or when requested by
7 the state's Medicaid fraud control unit, as applicable. The
8 office must notify the provider of the hold on payment not later
9 than the fifth working day after the date the payment hold is
10 imposed.
11 (3) On timely written request by a provider subject to
12 a hold on payment under Subdivision (2), other than a hold
13 requested by the state's Medicaid fraud control unit, the office
14 shall file a request with the State Office of Administrative
15 Hearings for an expedited administrative hearing regarding the
16 hold. The provider must request an expedited hearing under this
17 subdivision not later than the 10th day after the date the
18 provider receives notice from the office under Subdivision (2).
19 (4) The commission shall adopt rules that allow a
20 provider subject to a hold on payment under Subdivision (2),
21 other than a hold requested by the state's Medicaid fraud control
22 unit, to seek an informal resolution of the issues identified by
23 the office in the notice provided under that subdivision. A
24 provider must seek an informal resolution under this subdivision
25 not later than the deadline prescribed by Subdivision (3). A
26 provider's decision to seek an informal resolution under this
27 subdivision does not extend the time by which the provider must
28 request an expedited administrative hearing under Subdivision
29 (3). However, a hearing initiated under Subdivision (3) shall be
30 stayed at the office's request until the informal resolution
31 process is completed.
32 (5) The office shall, in consultation with the state's

1 Medicaid fraud control unit, establish guidelines under which
2 holds on payment or program exclusions:
3 (A) may permissively be imposed on a provider; or
4 (B) shall automatically be imposed on a provider.
5 (h) In addition to performing functions and duties
6 otherwise provided by law, the office may:
7 (1) assess administrative penalties otherwise
8 authorized by law on behalf of the commission or a health and
9 human services agency;
10 (2) request that the attorney general obtain an
11 injunction to prevent a person from disposing of an asset
12 identified by the office as potentially subject to recovery by
13 the office due to the person's fraud or abuse;
14 (3) provide for coordination between the office and
15 special investigative units formed by managed care organizations
16 under Section 531.113 or entities with which managed care
17 organizations contract under that section;
18 (4) audit the use and effectiveness of state or
19 federal funds, including contract and grant funds, administered
20 by a person or state agency receiving the funds from a health and
21 human services agency;
22 (5) conduct investigations relating to the funds
23 described by Subdivision (4); and
24 (6) recommend policies promoting economical and
25 efficient administration of the funds described by Subdivision
26 (4) and the prevention and detection of fraud and abuse in
27 administration of those funds.
28 (i) Notwithstanding any other provision of law, a reference
29 in law or rule to the commission's office of investigations and
30 enforcement means the office of inspector general established
31 under this section.
32 (b) As soon as possible after the effective date of this

section, the governor shall appoint a person to serve as inspector general in accordance with Section 531.102, Government Code, as amended by this section. The initial term of the person appointed in accordance with this subsection expires February 1, 2005.

SECTION 2.20. Subchapter C, Chapter 531, Government Code, is amended by adding Section 531.1021 to read as follows:

Sec. 531.1021. SUBPOENAS. (a) The office of inspector general may request that the commissioner or the commissioner's designee approve the issuance by the office of a subpoena in connection with an investigation conducted by the office. If the request is approved, the office may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the office, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state.

(d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.

(e) The office shall pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the office may charge for copies of its records.

(f) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103.

(g) All information and materials subpoenaed or compiled by the office in connection with an investigation are confidential

and not subject to disclosure under Chapter 552, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the office or its employees or agents involved in the investigation conducted by the office, except that this information may be disclosed to the office of the attorney general and law enforcement agencies.

SECTION 2.21. (a) Section 531.103, Government Code, is amended to read as follows:

Sec. 531.103. INTERAGENCY COORDINATION. (a) The commission, acting through the commission's office of inspector general, and the office of the attorney general shall enter into a memorandum of understanding to develop and implement joint written procedures for processing cases of suspected fraud, waste, or abuse, as those terms are defined by state or federal law, or other violations of state or federal law under the state Medicaid program or other program administered by the commission or a health and human services agency, including the financial assistance program under Chapter 31, Human Resources Code, a nutritional assistance program under Chapter 33, Human Resources Code, and the child health plan program. The memorandum of understanding shall require:

(1) the office of inspector general [~~commission~~] and the office of the attorney general to set priorities and guidelines for referring cases to appropriate state agencies for investigation, prosecution, or other disposition to enhance deterrence of fraud, waste, [~~or~~] abuse, or other violations of state or federal law, including a violation of Chapter 102, Occupations Code, in the programs [~~program~~] and maximize the imposition of penalties, the recovery of money, and the successful prosecution of cases;

(1-a) the office of inspector general to refer each case of suspected provider fraud, waste, or abuse to the office

of the attorney general not later than the 20th business day after the date the office of inspector general determines that the existence of fraud, waste, or abuse is reasonably indicated;

(1-b) the office of the attorney general to take appropriate action in response to each case referred to the attorney general, which action may include direct initiation of prosecution, with the consent of the appropriate local district or county attorney, direct initiation of civil litigation, referral to an appropriate United States attorney, a district attorney, or a county attorney, or referral to a collections agency for initiation of civil litigation or other appropriate action;

(2) the office of inspector general [~~commission~~] to keep detailed records for cases processed by that office [~~the commission~~] or the office of the attorney general, including information on the total number of cases processed and, for each case:

(A) the agency and division to which the case is referred for investigation;

(B) the date on which the case is referred; and

(C) the nature of the suspected fraud, waste, or abuse;

(3) the office of inspector general [~~commission~~] to notify each appropriate division of the office of the attorney general of each case referred by the office of inspector general [~~commission~~];

(4) the office of the attorney general to ensure that information relating to each case investigated by that office is available to each division of the office with responsibility for investigating suspected fraud, waste, or abuse;

(5) the office of the attorney general to notify the office of inspector general [~~commission~~] of each case the

attorney general declines to prosecute or prosecutes unsuccessfully;

(6) representatives of the office of inspector general [~~commission~~] and of the office of the attorney general to meet not less than quarterly to share case information and determine the appropriate agency and division to investigate each case; and

(7) the office of inspector general [~~commission~~] and the office of the attorney general to submit information requested by the comptroller about each resolved case for the comptroller's use in improving fraud detection.

(b) An exchange of information under this section between the office of the attorney general and the commission, the office of inspector general, or a health and human services agency does not affect whether the information is subject to disclosure under Chapter 552.

(c) The commission and the office of the attorney general shall jointly prepare and submit a semiannual report to the governor, lieutenant governor, [~~and~~] speaker of the house of representatives, and comptroller concerning the activities of those agencies in detecting and preventing fraud, waste, and abuse under the state Medicaid program or other program administered by the commission or a health and human services agency. The report may be consolidated with any other report relating to the same subject matter the commission or office of the attorney general is required to submit under other law.

(d) The commission and the office of the attorney general may not assess or collect investigation and attorney's fees on behalf of any state agency unless the office of the attorney general or other state agency collects a penalty, restitution, or other reimbursement payment to the state.

(e) In addition to the provisions required by Subsection (a), the memorandum of understanding required by this section

must also ensure that no barriers to direct fraud referrals to the office of the attorney general's Medicaid fraud control unit or unreasonable impediments to communication between Medicaid agency employees and the Medicaid fraud control unit are imposed, and must include procedures to facilitate the referral of cases directly to the office of the attorney general. [~~The commission shall refer a case of suspected fraud, waste, or abuse under the state Medicaid program to the appropriate district attorney, county attorney, city attorney, or private collection agency if the attorney general fails to act within 30 days of referral of the case to the office of the attorney general. A failure by the attorney general to act within 30 days constitutes approval by the attorney general under Section 2107.003.~~]

(f) A [~~The~~] district attorney, county attorney, city attorney, or private collection agency may collect and retain costs associated with a [~~the~~] case referred to the attorney or agency in accordance with procedures adopted under this section and 20 percent of the amount of the penalty, restitution, or other reimbursement payment collected.

(b) Not later than December 1, 2003, the office of the attorney general and the Health and Human Services Commission shall amend the memorandum of understanding required by Section 531.103, Government Code, as necessary to comply with that section, as amended by this section.

SECTION 2.22. Section 531.104(b), Government Code, is amended to read as follows:

(b) The memorandum of understanding must specify the type, scope, and format of the investigative support provided to the attorney general under this section [~~provide that the commission is not required to provide investigative support in more than 100 open investigations in a fiscal year~~].

SECTION 2.23. (a) Subchapter C, Chapter 531, Government

Code, is amended by adding Section 531.1063 to read as follows:

Sec. 531.1063. MEDICAID FRAUD PILOT PROGRAM. (a) The commission, with cooperation from the Texas Department of Human Services, shall develop and implement a front-end Medicaid fraud reduction pilot program in one or more counties in this state to address provider fraud and appropriate cases of third-party and recipient fraud.

(b) The program must be designed to reduce:

(1) the number of fraud cases arising from authentication fraud and abuse;

(2) the total amount of Medicaid expenditures; and

(3) the number of fraudulent participants.

(c) The program must include:

(1) participant smart cards and biometric readers that reside at the point of contact with Medicaid providers, recipients, participating pharmacies, hospitals, and appropriate third-party participants;

(2) a secure finger-imaging system that is compliant with the Health Insurance Portability and Accountability Act (HIPAA) and the use of any existing state database of fingerprint images developed in connection with the financial assistance program under Chapter 31, Human Resources Code; fingerprint images collected as part of the program shall only be placed on the smart card; and

(3) a monitoring system.

(d) In implementing the program, the commission may:

(1) exempt recipients who are children or who are elderly or disabled; and

(2) obtain a fingerprint image from a parent or caretaker of a recipient who is a child, regardless of whether the parent or caretaker is a recipient.

(e) The commission must ensure that the procedures for

obtaining fingerprint images of participating recipients and parents and caretakers who are not recipients are designed in a flexible manner that gives consideration to transportation barriers and work schedules of those individuals.

(f) To ensure reliability, the program and all associated hardware and software must easily integrate into participant settings and must be initially tested in a physician environment in this state and determined to be successful in authenticating recipients, providers, and provider staff members before the program is implemented throughout the program area.

(g) The commission may extend the program to additional counties if the commission determines that expansion would be cost-effective.

(b) Not later than January 1, 2004, the Health and Human Services Commission shall begin implementation of the program required by Section 531.1063, Government Code, as added by this section.

(c) Not later than February 1, 2005, the Health and Human Services Commission shall report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the program required by Section 531.1063, Government Code, as added by this section. The report must include:

(1) an identification and evaluation of the benefits of the program; and

(2) recommendations regarding expanding the program statewide.

SECTION 2.24. Section 531.107(b), Government Code, is amended to read as follows:

(b) The task force is composed of a representative of the:

(1) attorney general's office, appointed by the attorney general;

(2) comptroller's office, appointed by the

comptroller;

(3) Department of Public Safety, appointed by the public safety director;

(4) state auditor's office, appointed by the state auditor;

(5) commission, appointed by the commissioner of health and human services;

(6) Texas Department of Human Services, appointed by the commissioner of human services; [~~and~~]

(7) Texas Department of Insurance, appointed by the commissioner of insurance; and

(8) Texas Department of Health, appointed by the commissioner of public health.

SECTION 2.25. (a) Subchapter C, Chapter 531, Government Code, is amended by adding Section 531.113 to read as follows:

Sec. 531.113. MANAGED CARE ORGANIZATIONS: SPECIAL INVESTIGATIVE UNITS OR CONTRACTS. (a) Each managed care organization that provides or arranges for the provision of health care services to an individual under a government-funded program, including the Medicaid program and the child health plan program, shall:

(1) establish and maintain a special investigative unit within the managed care organization to investigate fraudulent claims and other types of program abuse by recipients and service providers; or

(2) contract with another entity for the investigation of fraudulent claims and other types of program abuse by recipients and service providers.

(b) Each managed care organization subject to this section shall adopt a plan to prevent and reduce fraud and abuse and annually file that plan with the commission's office of inspector general for approval. The plan must include:

(1) a description of the managed care organization's procedures for detecting and investigating possible acts of fraud or abuse;

(2) a description of the managed care organization's procedures for the mandatory reporting of possible acts of fraud or abuse to the commission's office of inspector general;

(3) a description of the managed care organization's procedures for educating and training personnel to prevent fraud and abuse;

(4) the name, address, telephone number, and fax number of the individual responsible for carrying out the plan;

(5) a description or chart outlining the organizational arrangement of the managed care organization's personnel responsible for investigating and reporting possible acts of fraud or abuse;

(6) a detailed description of the results of investigations of fraud and abuse conducted by the managed care organization's special investigative unit or the entity with which the managed care organization contracts under Subsection (a)(2); and

(7) provisions for maintaining the confidentiality of any patient information relevant to an investigation of fraud or abuse.

(c) If a managed care organization contracts for the investigation of fraudulent claims and other types of program abuse by recipients and service providers under Subsection (a)(2), the managed care organization shall file with the commission's office of inspector general:

(1) a copy of the written contract;

(2) the names, addresses, telephone numbers, and fax numbers of the principals of the entity with which the managed care organization has contracted; and

(3) a description of the qualifications of the principals of the entity with which the managed care organization has contracted.

(d) The commission's office of inspector general may review the records of a managed care organization to determine compliance with this section.

(e) The commissioner shall adopt rules as necessary to accomplish the purposes of this section.

(b) A managed care organization subject to Section 531.113, Government Code, as added by this section, shall comply with the requirements of that section not later than September 1, 2004.

SECTION 2.26. (a) Subchapter C, Chapter 531, Government Code, is amended by adding Section 531.114 to read as follows:

Sec. 531.114. FINANCIAL ASSISTANCE FRAUD. (a) For purposes of establishing or maintaining the eligibility of a person and the person's family for financial assistance under Chapter 31, Human Resources Code, or for purposes of increasing or preventing a reduction in the amount of that assistance, a person may not intentionally:

(1) make a statement that the person knows is false or misleading;

(2) misrepresent, conceal, or withhold a fact; or

(3) knowingly misrepresent a statement as being true.

(b) If after an investigation the commission determines that a person violated Subsection (a), the commission shall:

(1) notify the person of the alleged violation not later than the 30th day after the date the commission completes the investigation and provide the person with an opportunity for a hearing on the matter; or

(2) refer the matter to the appropriate prosecuting attorney for prosecution.

(c) If a person waives the right to a hearing or if a

hearing officer at an administrative hearing held under this section determines that a person violated Subsection (a), the person is ineligible to receive financial assistance as provided by Subsection (d). A person who a hearing officer determines violated Subsection (a) may appeal that determination by filing a petition in the district court in the county in which the violation occurred not later than the 30th day after the date the hearing officer made the determination.

(d) A person determined under Subsection (c) to have violated Subsection (a) is not eligible for financial assistance:

(1) before the first anniversary of the date of that determination, if the person has no previous violations; and

(2) permanently, if the person was previously determined to have committed a violation.

(e) If a person is convicted of a state or federal offense for conduct described by Subsection (a), or if the person is granted deferred adjudication or placed on community supervision for that conduct, the person is permanently disqualified from receiving financial assistance.

(f) This section does not affect the eligibility for financial assistance of any other member of the household of a person ineligible as a result of Subsection (d) or (e).

(g) The commission shall adopt rules as necessary to implement this section.

(b) Section 531.114, Government Code, as added by this section, applies only to conduct occurring on or after the effective date of this section. Conduct occurring before the effective date of this section is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 2.27. Subchapter C, Chapter 531, Government Code, is amended by adding Section 531.115 to read as follows:

Sec. 531.115. FEDERAL FELONY MATCH. The commission shall develop and implement a system to cross-reference data collected for the programs listed under Section 531.008(c) with the list of fugitive felons maintained by the federal government.

SECTION 2.28. Subchapter C, Chapter 531, Government Code, is amended by adding Section 531.116 to read as follows:

Sec. 531.116. COMPLIANCE WITH LAW PROHIBITING SOLICITATION. A provider who furnishes services under the Medicaid program or child health plan program is subject to Chapter 102, Occupations Code, and the provider's compliance with that chapter is a condition of the provider's eligibility to participate as a provider under those programs.

SECTION 2.29. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0025 to read as follows:

Sec. 533.0025. DELIVERY OF SERVICES. (a) In this section, "medical assistance" has the meaning assigned by Section 32.003, Human Resources Code.

(b) Except as otherwise provided by this section and notwithstanding any other law, the commission shall provide medical assistance for acute care through the most cost-effective model of Medicaid managed care as determined by the commission. If the commission determines that it is more cost-effective, the commission may provide medical assistance for acute care in a certain part of this state or to a certain population of recipients using:

(1) a health maintenance organization model, including the acute care portion of Medicaid Star + Plus pilot programs;

(2) a primary care case management model;

(3) a prepaid health plan model;

(4) an exclusive provider organization model; or

(5) another Medicaid managed care model or arrangement.

(c) In determining whether a model or arrangement described by Subsection (b) is more cost-effective, the commissioner must consider:

(1) the scope, duration, and types of health benefits or services to be provided in a certain part of this state or to a certain population of recipients;

(2) administrative costs necessary to meet federal and state statutory and regulatory requirements;

(3) the anticipated effect of market competition associated with the configuration of Medicaid service delivery models determined by the commission; and

(4) the gain or loss to this state of a tax collected under Article 4.11, Insurance Code.

(d) If the commission determines that it is not more cost-effective to use a Medicaid managed care model to provide certain types of medical assistance for acute care in a certain area or to certain medical assistance recipients as prescribed by this section, the commission shall provide medical assistance for acute care through a traditional fee-for-service arrangement.

(e) Notwithstanding Subsection (b)(1), the commission may not provide medical assistance using a health maintenance organization in Cameron County, Hidalgo County, or Maverick County.

SECTION 2.30. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0132 to read as follows:

Sec. 533.0132. STATE TAXES. The commission shall ensure that any experience rebate or profit sharing for managed care organizations is calculated by treating premium, maintenance, and other taxes under the Insurance Code and any other taxes payable to this state as allowable expenses for purposes of determining the amount of the experience rebate or profit sharing.

SECTION 2.31. Sections 403.105(a) and (c), Government Code,

are amended to read as follows:

(a) The permanent fund for health and tobacco education and enforcement is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the available earnings of the fund determined in accordance with Section 403.1068.

(c) The available earnings of the fund may be appropriated to the Texas Department of Health for:

(1) programs to reduce the use of cigarettes and tobacco products in this state, including:

(A) [~~(1)~~] smoking cessation programs;

(B) [~~(2)~~] enforcement of Subchapters H, K, and N, Chapter 161, Health and Safety Code, or other laws relating to distribution of cigarettes or tobacco products to minors or use of cigarettes or tobacco products by minors;

(C) [~~(3)~~] public awareness programs relating to use of cigarettes and tobacco products, including general educational programs and programs directed toward youth; and

(D) [~~(4)~~] specific programs for communities traditionally targeted, by advertising and other means, by companies that sell cigarettes or tobacco products; and

(2) the provision of preventive medical and dental services to children in the medical assistance program under Chapter 32, Human Resources Code.

SECTION 2.32. The heading to Section 403.105, Government Code, is amended to read as follows:

Sec. 403.105. PERMANENT FUND FOR HEALTH AND TOBACCO EDUCATION AND ENFORCEMENT.

SECTION 2.33. Section 403.1055(c), Government Code, is

amended to read as follows:

(c) The available earnings of the fund may be appropriated to:

(1) the Texas Department of Health for the purpose of:

(A) developing and demonstrating cost-effective prevention and intervention strategies for improving health outcomes for children and the public;

(B) [~~and for~~] providing grants to local communities to address specific public health priorities, including sickle cell anemia, diabetes, high blood pressure, cancer, heart attack, stroke, keloid tissue and scarring, and respiratory disease; [~~, and~~]

(C) [~~for~~] providing grants to local communities for essential public health services as defined in the Health and Safety Code; and

(D) providing grants to schools of public health located in Texas; and

(2) the Interagency Council on Early Childhood Intervention to provide intervention services for children with developmental delay or who have a high probability of developing developmental delay and the families of those children.

SECTION 2.34. Section 466.408(b), Government Code, is amended to read as follows:

(b) If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be used in the following order of priority:

(1) subject to legislative appropriation, not more than $20 million in prize money each year may be deposited to or appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund;

(2) not more than $5 million in prize money each year

may be appropriated to the Health and Human Services Commission and shall be used to support the provision of inpatient hospital services in hospitals located in the 15 counties that comprise the Texas-Mexico border area, with payment for those services to be not less than the amount established under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) cost reimbursement methodology for the hospital providing the services; and

(3) all prize money subject to this section and not appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account or not appropriated to the Health and Human Services Commission for the purpose specified in Subdivision (2) shall be deposited in the general revenue fund and may be appropriated for any purpose as determined by the legislature, including the provision of indigent health care services as specified in Chapter 61, Health and Safety Code [~~shall be deposited to the credit of the Texas Department of Health state-owned multicategorical teaching hospital account or the tertiary care facility account as follows:~~

[~~(1) not more than $40 million in prize money each biennium may be deposited to or appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund; and~~

[~~(2) all prize money subject to this section in excess of $40 million each biennium shall be deposited in the tertiary care facility account. Money deposited in the tertiary care facility account may only be appropriated to the department for purposes specified in Chapter 46 or 61, Health and Safety Code~~].

SECTION 2.35. Section 533.005, Government Code, is amended to read as follows:

Sec. 533.005. REQUIRED CONTRACT PROVISIONS. (a) A

1 contract between a managed care organization and the commission
2 for the organization to provide health care services to
3 recipients must contain:
4 (1) procedures to ensure accountability to the state
5 for the provision of health care services, including procedures
6 for financial reporting, quality assurance, utilization review,
7 and assurance of contract and subcontract compliance;
8 (2) capitation and provider payment rates that ensure
9 the cost-effective provision of quality health care;
10 (3) a requirement that the managed care organization
11 provide ready access to a person who assists recipients in
12 resolving issues relating to enrollment, plan administration,
13 education and training, access to services, and grievance
14 procedures;
15 (4) a requirement that the managed care organization
16 provide ready access to a person who assists providers in
17 resolving issues relating to payment, plan administration,
18 education and training, and grievance procedures;
19 (5) a requirement that the managed care organization
20 provide information and referral about the availability of
21 educational, social, and other community services that could
22 benefit a recipient;
23 (6) procedures for recipient outreach and education;
24 (7) a requirement that the managed care organization
25 make payment to a physician or provider for health care services
26 rendered to a recipient under a managed care plan not later than
27 the 45th day after the date a claim for payment is received with
28 documentation reasonably necessary for the managed care
29 organization to process the claim, or within a period, not to
30 exceed 60 days, specified by a written agreement between the
31 physician or provider and the managed care organization;
32 (8) a requirement that the commission, on the date of

a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid certification date;

(9) a requirement that the managed care organization comply with Section 533.006 as a condition of contract retention and renewal; [~~and~~]

(10) a requirement that the managed care organization provide the information required by Section 533.012 and otherwise comply and cooperate with the commission's office of investigations and enforcement;

(11) a requirement that the managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits for those usages relating to total inpatient admissions, total outpatient services, and emergency room admissions determined by the commission; and

(12) if the commission finds that a managed care organization has violated Subdivision (11), a requirement that the managed care organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services, as determined under Sections 32.028 and 32.0281, Human Resources Code.

(b) In accordance with Subsection (a)(12), all post-stabilization services provided by an out-of-network provider must be reimbursed by the managed care organization at the allowable rate for those services until the managed care organization arranges for the timely transfer of the recipient, as determined by the recipient's attending physician, to a provider in the network. A managed care organization may not refuse to reimburse an out-of-network provider for emergency or post-stabilization services provided as a result of the managed care organization's failure to arrange for and authorize a timely

transfer of a recipient.

SECTION 2.36. Section 533.012(a), Government Code, is amended to read as follows:

(a) Each managed care organization contracting with the commission under this chapter shall submit to the commission:

(1) a description of any financial or other business relationship between the organization and any subcontractor providing health care services under the contract;

(2) a copy of each type of contract between the organization and a subcontractor relating to the delivery of or payment for health care services; [~~and~~]

(3) a description of the fraud control program used by any subcontractor that delivers health care services; and

(4) a description and breakdown of all funds paid to the managed care organization, including a health maintenance organization, primary care case management, and an exclusive provider organization, necessary for the commission to determine the actual cost of administering the managed care plan.

SECTION 2.37. The heading to Subchapter C, Chapter 531, Government Code, is amended to read as follows:

SUBCHAPTER C. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES [~~WELFARE~~] FRAUD, ABUSE, OR OVERCHARGES

SECTION 2.37A. Subchapter C, Chapter 531, Government Code, is amended by adding Section 531.1011 to read as follows:

Sec. 531.1011. DEFINITIONS. For purposes of this subchapter:

(1) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to that person or some other person, including any act that constitutes fraud under applicable federal or state law.

(2) "Hold on payment" means the temporary denial of

reimbursement under the Medicaid program for items or services furnished by a specified provider.

(3) "Practitioner" means a physician or other individual licensed under state law to practice the individual's profession.

(4) "Program exclusion" means the suspension of a provider from being authorized under the Medicaid program to request reimbursement for items or services furnished by that specific provider.

(5) "Provider" means a person, firm, partnership, corporation, agency, association, institution, or other entity that was or is approved by the commission to:

(A) provide medical assistance under contract or provider agreement with the commission; or

(B) provide third-party billing vendor services under a contract or provider agreement with the commission.

SECTION 2.38. Section 2177.0001(3), Government Code, is amended to read as follows:

(3) "State agency" has the meaning assigned by Section 2054.003, except that the term does not include a university system or institution of higher education or an agency identified in Section 531.001(4).

SECTION 2.39. Section 2177.101(a), Government Code, is amended to read as follows:

(a) This subchapter does not apply to procurements conducted by an agency identified in Section 531.001(4) or to procurements for major construction projects, as defined by the commission in consultation with the department, such as procurements made under Chapter 223, Transportation Code. In defining a major construction project, the commission shall base its decision on whether the nature of the project, any related contract or specifications, or other considerations are of a type

that would make electronic procurement inappropriate.

SECTION 2.40. Section 2055.001(4), Government Code, is amended to read as follows:

(4) "State agency" has the meaning assigned by Section 2054.003, except that the term does not include a university system or institution of higher education <u>or an agency identified in Section 531.001(4)</u>.

SECTION 2.41. Section 2055.002, Government Code, is amended to read as follows:

Sec. 2055.002. APPLICABILITY TO INSTITUTIONS OF HIGHER EDUCATION <u>OR HEALTH AND HUMAN SERVICES AGENCIES</u>. (a) Except as provided by Subsection (b), the requirements of this chapter regarding electronic government projects do not apply to institutions of higher education <u>or a health and human services agency identified in Section 531.001(4), Government Code</u>.

(b) Subject to approval by the office, an institution of higher education <u>or a health and human services agency</u> may elect to participate regarding an electronic government project of that institution <u>or agency</u> in the same manner as a state agency under this chapter. If the institution <u>or health and human services agency</u> makes this election and the office approves the election, the institution <u>or health and human services agency</u>:

(1) shall comply with this chapter regarding that electronic government project in the same manner as a state agency; and

(2) may not withdraw the project from management by the office unless the office approves the withdrawal.

SECTION 2.42. (a) Subchapter B, Chapter 12, Health and Safety Code, is amended by adding Sections 12.0111 and 12.0112 to read as follows:

<u>Sec. 12.0111. LICENSING FEES. (a) This section applies in relation to each licensing program administered by the department</u>

or administered by a regulatory board or other agency that is under the jurisdiction of the department or administratively attached to the department. In this section and Section 12.0112, "license" includes a permit, certificate, or registration.

(b) Notwithstanding other law, the department shall charge a fee for issuing or renewing a license that is in an amount designed to allow the department to recover from its license holders all of the department's direct and indirect costs in administering and enforcing the applicable licensing program.

(c) Notwithstanding other law, each regulatory board or other agency that is under the jurisdiction of the department or administratively attached to the department and that issues licenses shall charge a fee for issuing or renewing a license that is in an amount designed to allow the department and the regulatory board or agency to recover from the license holders all of the direct and indirect costs to the department and to the regulatory board or agency in administering and enforcing the applicable licensing program.

(d) This section does not apply to a person regulated under Chapter 773.

Sec. 12.0112. TERM OF LICENSE. (a) Notwithstanding other law and except as provided by Subsection (b), the term of each license issued by the department, or by a regulatory board or other agency that is under the jurisdiction of the department or administratively attached to the department, is two years. The department, regulatory board, or agency may provide for staggering the issuance and renewal of licenses.

(b) This section does not apply to a license issued for a youth camp under Chapter 141.

(b) Section 12.0111, Health and Safety Code, as added by this section, applies only to a license, permit, certificate, or registration issued or renewed by the Texas Department of Health,

or by a regulatory board or other agency that is under the jurisdiction of the department or administratively attached to the department, on or after January 1, 2004.

(c) Section 12.0112, Health and Safety Code, as added by this section, applies only to a license, permit, certificate, or registration that is issued or renewed on or after January 1, 2005.

SECTION 2.43. Sections 62.055(a), (d), and (e), Health and Safety Code, are amended to read as follows:

(a) It is the intent of the legislature that the commission maximize the use of private resources in administering the child health plan created under this chapter. In administering the child health plan, the commission may contract with[~~:~~

[~~(1)~~] a third party administrator to provide enrollment and related services under the state child health plan[~~; or~~

[~~(2) another entity, including the Texas Healthy Kids Corporation under Subchapter F, Chapter 109, to obtain health benefit plan coverage for children who are eligible for coverage under the state child health plan~~].

(d) A third party administrator [~~or other entity~~] may perform tasks under the contract that would otherwise be performed by the Texas Department of Health or Texas Department of Human Services under this chapter.

(e) The commission shall:

(1) retain all policymaking authority over the state child health plan;

(2) procure all contracts with a third party administrator [~~or other entity~~] through a competitive procurement process in compliance with all applicable federal and state laws or regulations; and

(3) ensure that all contracts with child health plan

providers under Section 62.155 are procured through a competitive procurement process in compliance with all applicable federal and state laws or regulations.

SECTION 2.44. (a) Subchapter B, Chapter 62, Health and Safety Code, is amended by adding Section 62.0582 to read as follows:

Sec. 62.0582. THIRD-PARTY BILLING VENDORS. (a) A third-party billing vendor may not submit a claim with the commission for payment on behalf of a health plan provider under the program unless the vendor has entered into a contract with the commission authorizing that activity.

(b) To the extent practical, the contract shall contain provisions comparable to the provisions contained in contracts between the commission and health plan providers, with an emphasis on provisions designed to prevent fraud or abuse under the program. At a minimum, the contract must require the third-party billing vendor to:

(1) provide documentation of the vendor's authority to bill on behalf of each provider for whom the vendor submits claims;

(2) submit a claim in a manner that permits the commission to identify and verify the vendor, any computer or telephone line used in submitting the claim, any relevant user password used in submitting the claim, and any provider number referenced in the claim; and

(3) subject to any confidentiality requirements imposed by federal law, provide the commission, the office of the attorney general, or authorized representatives with:

(A) access to any records maintained by the vendor, including original records and records maintained by the vendor on behalf of a provider, relevant to an audit or investigation of the vendor's services or another function of the

commission or office of attorney general relating to the vendor; and

(B) if requested, copies of any records described by Paragraph (A) at no charge to the commission, the office of the attorney general, or authorized representatives.

(c) On receipt of a claim submitted by a third-party billing vendor, the commission shall send a remittance notice directly to the provider referenced in the claim. The notice must include detailed information regarding the claim submitted on behalf of the provider.

(d) The commission shall take all action necessary, including any modifications of the commission's claims processing system, to enable the commission to identify and verify a third-party billing vendor submitting a claim for payment under the program, including identification and verification of any computer or telephone line used in submitting the claim, any relevant user password used in submitting the claim, and any provider number referenced in the claim.

(e) The commission shall audit each third-party billing vendor subject to this section at least annually to prevent fraud and abuse under the program.

(b) Section 62.0582, Health and Safety Code, as added by this section, takes effect January 1, 2006.

SECTION 2.45. Section 62.002(4), Health and Safety Code, is amended to read as follows:

(4) "Gross [~~Net~~] family income" means the total amount of income established without consideration of any reduction for offsets that may be available to the family under any other [~~for a family after reduction for offsets for expenses such as child care and work related expenses, in accordance with standards applicable under the Medicaid~~] program.

SECTION 2.46. Section 62.101(b), Health and Safety

Code, is amended to read as follows:

(b) The commission shall establish income eligibility levels consistent with Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, and any other applicable law or regulations, and subject to the availability of appropriated money, so that a child who is younger than 19 years of age and whose gross [~~net~~] family income is at or below 200 percent of the federal poverty level is eligible for health benefits coverage under the program. In addition, the commission may establish eligibility standards regarding the amount and types of allowable assets for a family whose gross family income is above 150 percent of the federal poverty level.

SECTION 2.47. Section 62.1015(b), Health and Safety Code, is amended to read as follows:

(b) A child of an employee of a charter school, school district, other educational district whose employees are members of the Teacher Retirement System of Texas, or regional education service center may be enrolled in health benefits coverage under the child health plan. A child enrolled in the child health plan under this section:

(1) participates in the same manner as any other child enrolled in the child health plan; and

(2) is subject to the same requirements and restrictions relating to income eligibility, continuous coverage, and enrollment, including applicable waiting periods, as any other child enrolled in the child health plan.

SECTION 2.48. Section 62.102, Health and Safety Code, is amended to read as follows:

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

(1) the end of a period, not to exceed 180 days [12 months], following the date of the eligibility determination;

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

SECTION 2.49. Section 62.151, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (e) and (f) to read as follows:

(b) In developing the covered benefits, the commission shall consider the health care needs of healthy children and children with special health care needs. [~~At the time the child health plan program is first implemented, the child health plan must provide a benefits package that is actuarially equivalent, as determined in accordance with 42 U.S.C. Section 1397cc, to the basic plan for active state employees offered through health maintenance organizations under the Texas Employees Uniform Group~~

~~Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as determined by the commission. The child health plan must provide at least the covered benefits described by the recommended benefits package described for a state-designed child health plan by the Texas House of Representatives Committee on Public Health "CHIP" Interim Report to the Seventy-Sixth Texas Legislature dated December, 1990, and the Senate Interim Committee on Children's Health Insurance Report to the Seventy-Sixth Texas Legislature dated December 1, 1990.~~]

(e) In developing the covered benefits, the commission shall seek input from the Public Assistance Health Benefit Review and Design Committee established under Section 531.067, Government Code.

(f) The commission, if it determines the policy to be cost-effective, may ensure that an enrolled child does not, unless authorized by the commission in consultation with the child's attending physician or advanced practice nurse, receive under the child health plan:

(1) more than four different outpatient brand-name prescription drugs during a month; or

(2) more than a 34-day supply of a brand-name prescription drug at any one time.

SECTION 2.50. Section 62.153, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) Subject to Subsection (d), cost-sharing [~~Cost-sharing~~] provisions adopted under this section shall ensure that families with higher levels of income are required to pay progressively higher percentages of the cost of the plan.

(d) Cost-sharing provisions adopted under this section may be determined based on the maximum level authorized under federal law and applied to income levels in a manner that minimizes

administrative costs.

SECTION 2.51. (a) The heading to Section 62.154, Health and Safety Code, is amended to read as follows:

Sec. 62.154. WAITING PERIOD; CROWD OUT.

(b) Sections 62.154(a), (b), and (d), Health and Safety Code, are amended to read as follows:

(a) To the extent permitted under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, and any other applicable law or regulations, the child health plan must include a waiting period. The child health plan [~~and~~] may include copayments and other provisions intended to discourage:

(1) employers and other persons from electing to discontinue offering coverage for children under employee or other group health benefit plans; and

(2) individuals with access to adequate health benefit plan coverage, other than coverage under the child health plan, from electing not to obtain or to discontinue that coverage for a child.

(b) A child is not subject to a waiting period adopted under Subsection (a) if:

(1) the family lost coverage for the child as a result of:

(A) termination of employment because of a layoff or business closing;

(B) termination of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272);

(C) change in marital status of a parent of the child;

(D) termination of the child's Medicaid eligibility because:

(i) the child's family's earnings or

resources increased; or

(ii) the child reached an age at which Medicaid coverage is not available; or

(E) a similar circumstance resulting in the involuntary loss of coverage;

(2) the family terminated health benefits plan coverage for the child because the cost to the child's family for the coverage exceeded 10 percent of the family's net income; [~~or~~]

(3) the child has access to group-based health benefits plan coverage and is required to participate in the health insurance premium payment reimbursement program administered by the commission; or

(4) the commission has determined that other grounds exist for a good cause exception.

(d) The waiting period required by Subsection (a) must[~~:~~

[~~(1)~~] extend for a period of 90 days after:

(1) the first day of the month in [~~last date on~~] which the applicant is enrolled under the child health plan, if the date of enrollment is on or before the 15th day of the month; or

(2) the first day of the month after which the applicant is enrolled under the child health plan, if the date of enrollment is after the 15th day of the month [~~was covered under a health benefits plan; and~~

[~~(2) apply to a child who was covered by a health benefits plan at any time during the 90 days before the date of application for coverage under the child health plan, other than a child who was covered under a health benefits plan provided under Chapter 109~~].

SECTION 2.52. Sections 62.155(c) and (d), Health and Safety Code, are amended to read as follows:

(c) In selecting a health plan provider, the commission:

(1) may give preference to a person who provides

similar coverage under the Medicaid program [~~or through the Texas Healthy Kids Corporation~~]; and

(2) shall provide for a choice of at least two health plan providers in each service [~~metropolitan~~] area.

(d) The commissioner may authorize an exception to Subsection (c)(2) if there is only one acceptable applicant to become a health plan provider in the service [~~metropolitan~~] area.

SECTION 2.53. Subchapter D, Chapter 62, Health and Safety Code, is amended by adding Section 62.158 to read as follows:

Sec. 62.158. STATE TAXES. The commission shall ensure that any experience rebate or profit-sharing for health plan providers under the child health plan is calculated by treating premium, maintenance, and other taxes under the Insurance Code and any other taxes payable to this state as allowable expenses for purposes of determining the amount of the experience rebate or profit-sharing.

SECTION 2.54. (a) Subtitle E, Title 2, Health and Safety Code, is amended by adding Chapter 112 to read as follows:

CHAPTER 112. BORDER HEALTH FOUNDATION

Sec. 112.001. DEFINITIONS. In this chapter:

(1) "Board of directors" means the board of directors of the Border Health Foundation.

(2) "Foundation" means the Border Health Foundation.

Sec. 112.002. CREATION OF FOUNDATION. (a) The department shall establish the Border Health Foundation as a nonprofit corporation that complies with the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), except as otherwise provided by this chapter, and qualifies as an organization exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended.

(b) The department shall ensure that the foundation operates independently of any state agency or political

subdivision of this state.

Sec. 112.003. POWERS AND DUTIES. (a) The foundation shall raise money from other foundations, governmental entities, and other sources to finance health programs in this state in areas adjacent to the border with the United Mexican States.

(b) The foundation shall:

(1) identify and seek potential partners in the private sector that will afford this state the opportunity to maintain or increase the existing levels of financing of health programs and activities;

(2) engage in outreach efforts to make the existence of the office known to potential partners throughout this state; and

(3) perform any other function necessary to carry out the purposes of this section.

(c) The department shall review programs from all agencies under its control to determine which projects should be available to receive money under Subsection (a).

(d) The foundation has the powers necessary and convenient to carry out its duties.

Sec. 112.004. ADMINISTRATION. (a) The foundation is governed by a board of five directors appointed by the Texas Board of Health from individuals recommended by the commissioner.

(b) Members of the board of directors serve for staggered terms of six years, with as near as possible to one-third of the members' terms expiring every two years.

(c) Appointments to the board of directors shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(d) The board of directors shall ensure that the foundation remains eligible for an exemption from federal income tax under Section 501(a), Internal Revenue Code of 1986, as amended, by

being listed as an exempt organization under Section 501(c)(3) of that code, as amended.

Sec. 112.005. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

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

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

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

(c) A person may not be a member of the board of directors or act as the general counsel to the board of directors or the foundation if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the foundation.

Sec. 112.006. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board of directors that a member:

(1) is ineligible for membership under Section 112.005;

(2) cannot, because of illness or disability,

discharge the member's duties for a substantial part of the member's term; or

(3) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board of directors.

(b) The validity of an action of the board of directors is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) The foundation in its articles or bylaws shall establish the manner in which a board member may be removed under this section and may establish other grounds for removal of a member.

Sec. 112.007. VACANCY. A vacancy on the board of directors shall be filled for the remainder of the unexpired term in the same manner as provided in Section 112.004(a).

Sec. 112.008. OFFICERS. The board of directors shall elect from among its members a presiding officer, an assistant presiding officer, and other necessary officers. The presiding officer and assistant presiding officer serve for a period of one year and may be reelected.

Sec. 112.009. MEETINGS. The board of directors may meet as often as necessary, but shall meet at least twice a year.

Sec. 112.010. TAX EXEMPTION. All income, property, and other assets of the foundation are exempt from taxation by this state and political subdivisions of this state.

Sec. 112.011. MEMORANDUM OF UNDERSTANDING. The foundation and the department shall enter into a memorandum of understanding that:

(1) requires the board of directors and staff of the foundation to report to the commissioner and department;

(2) allows the department to provide staff functions

to the foundation; and

(3) outlines the financial contributions to be made to the foundation from funds obtained from grants and other sources.

Sec. 112.012. FUNDING. (a) The department, another agency of this state, including an institution of higher education as defined by Section 61.003, Education Code, or a political subdivision of this state may contract with the foundation to finance, on behalf of the department, agency, or political subdivision, health programs described by Section 112.003.

(b) The foundation may apply for and accept funds from the federal government or any other public or private entity. The foundation or any member of the foundation may also solicit and accept pledges, gifts, and endowments from private sources on the foundation's behalf. The foundation may only accept a pledge, gift, or endowment solicited under this section that is consistent with the purposes of the foundation.

(c) The board of directors of the foundation shall manage and approve disbursements of funds, pledges, gifts, and endowments that are the property of the foundation.

(d) The board of directors of the foundation shall manage any capital improvements constructed, owned, or leased by the foundation and any real property acquired by the foundation.

Sec. 112.013. RECORDS. (a) The foundation shall maintain financial records and reports independently from those of the department.

(b) The foundation shall comply with all filing requirements of the secretary of state and the Internal Revenue Service.

Sec. 112.014. REPORT TO DEPARTMENT. Not later than the 60th day after the last day of the fiscal year, the foundation shall submit to the department a report itemizing all income and expenditures and describing all activities of the foundation

during the preceding fiscal year.

(b) The Border Health Foundation shall be created as required by this section not later than June 1, 2004.

SECTION 2.55. Section 142.003(a), Health and Safety Code, is amended to read as follows:

(a) The following persons need not be licensed under this chapter:

(1) a physician, dentist, registered nurse, occupational therapist, or physical therapist licensed under the laws of this state who provides home health services to a client only as a part of and incidental to that person's private office practice;

(2) a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, speech therapist, medical social worker, or any other health care professional as determined by the department who provides home health services as a sole practitioner;

(3) a registry that operates solely as a clearinghouse to put consumers in contact with persons who provide home health, hospice, or personal assistance services and that does not maintain official client records, direct client services, or compensate the person who is providing the service;

(4) an individual whose permanent residence is in the client's residence;

(5) an employee of a person licensed under this chapter who provides home health, hospice, or personal assistance services only as an employee of the license holder and who receives no benefit for providing the services, other than wages from the license holder;

(6) a home, nursing home, convalescent home, assisted living facility, special care facility, or other institution for individuals who are elderly or who have disabilities that

provides home health or personal assistance services only to residents of the home or institution;

(7) a person who provides one health service through a contract with a person licensed under this chapter;

(8) a durable medical equipment supply company;

(9) a pharmacy or wholesale medical supply company that does not furnish services, other than supplies, to a person at the person's house;

(10) a hospital or other licensed health care facility that provides home health or personal assistance services only to inpatient residents of the hospital or facility;

(11) a person providing home health or personal assistance services to an injured employee under Title 5, Labor Code;

(12) a visiting nurse service that:

(A) is conducted by and for the adherents of a well-recognized church or religious denomination; and

(B) provides nursing services by a person exempt from licensing by Section 301.004, Occupations Code, because the person furnishes nursing care in which treatment is only by prayer or spiritual means;

(13) an individual hired and paid directly by the client or the client's family or legal guardian to provide home health or personal assistance services;

(14) a business, school, camp, or other organization that provides home health or personal assistance services, incidental to the organization's primary purpose, to individuals employed by or participating in programs offered by the business, school, or camp that enable the individual to participate fully in the business's, school's, or camp's programs;

(15) a person or organization providing sitter-companion services or chore or household services that do

not involve personal care, health, or health-related services;

(16) a licensed health care facility that provides hospice services under a contract with a hospice;

(17) a person delivering residential acquired immune deficiency syndrome hospice care who is licensed and designated as a residential AIDS hospice under Chapter 248; [~~or~~]

(18) the Texas Department of Criminal Justice;

(19) a person that provides home health, hospice, or personal assistance services only to persons enrolled in a program funded wholly or partly by the Texas Department of Mental Health and Mental Retardation and monitored by the Texas Department of Mental Health and Mental Retardation or its designated local authority in accordance with standards set by the Texas Department of Mental Health and Mental Retardation; or

(20) an individual who provides home health or personal assistance services as the employee of a consumer or an entity or employee of an entity acting as a consumer's fiscal agent under Section 531.051, Government Code.

SECTION 2.56. Section 142.009(j), Health and Safety Code, is amended to read as follows:

(j) Except as provided by Subsections (h)[~~, (i),~~] and (l), an on-site survey must be conducted within 18 months after a survey for an initial license. After that time, an on-site survey must be conducted at least every 36 months.

SECTION 2.57. (a) Section 242.047, Health and Safety Code, is amended to read as follows:

Sec. 242.047. ACCREDITATION REVIEW TO SATISFY [~~INSTEAD OF~~] INSPECTION OR CERTIFICATION REQUIREMENTS. (a) The department shall accept an annual accreditation review from the Joint Commission on Accreditation of Health Organizations for a nursing home instead of an inspection for renewal of a license under Section 242.033 and in satisfaction of the requirements for

certification by the department for participation in the medical assistance program under Chapter 32, Human Resources Code, and the federal Medicare program, but only if:

(1) the nursing home is accredited by the commission under the commission's long-term care standards;

(2) the commission maintains an annual inspection or review program that, for each nursing home, meets the department's applicable minimum standards as confirmed by the board;

(3) the commission conducts an annual on-site inspection or review of the home; [~~and~~]

(4) the nursing home submits to the department a copy of its annual accreditation review from the commission in addition to the application, fee, and any report required for renewal of a license or for certification, as applicable; and

(5) the department has:

(A) determined whether a waiver or authorization from a federal agency is necessary under federal law, including for federal funding purposes, before the department accepts an annual accreditation review from the joint commission:

(i) instead of an inspection for license renewal purposes;

(ii) as satisfying the requirements for certification by the department for participation in the medical assistance program; or

(iii) as satisfying the requirements for certification by the department for participation in the federal Medicare program; and

(B) obtained any necessary federal waivers or authorizations.

(b) The department shall coordinate its licensing and certification activities with the commission.

(c) The department and the commission shall sign a memorandum of agreement to implement this section. The memorandum must provide that if all parties to the memorandum do not agree in the development, interpretation, and implementation of the memorandum, any area of dispute is to be resolved by the board.

(d) Except as specifically provided by this section, this [~~This~~] section does not limit the department in performing any duties and inspections authorized by this chapter or under any contract relating to the medical assistance program under Chapter 32, Human Resources Code, and Titles XVIII and XIX of the Social Security Act (42 U.S.C. Sections 1395 et seq. and 1396 et seq.), including authority to take appropriate action relating to an institution, such as closing the institution.

(e) This section does not require a nursing home to obtain accreditation from the commission.

(b) Not later than October 1, 2003, the Texas Department of Human Services shall:

(1) determine whether a waiver or authorization from a federal agency is necessary under federal law, including for federal funding purposes, before the department may accept an annual accreditation review from the Joint Commission on Accreditation of Health Organizations for a nursing home:

(A) instead of an inspection for purposes of renewing a nursing home license under Chapter 242, Health and Safety Code;

(B) as satisfying the requirements for certification by the department for participation in the medical assistance program under Chapter 32, Human Resources Code; and

(C) as satisfying the requirements for certification by the department for participation in the federal Medicare program; and

(2) if the department determines that a waiver or authorization is necessary, request any required waivers or authorizations that the department may possibly obtain under federal law.

(c) Not later than December 1, 2003, the Texas Department of Human Services shall report its progress under Subsection (b) of this section to the governor and to the presiding officer of each house of the legislature.

SECTION 2.58. (a) Section 242.063(d), Health and Safety Code, is amended to read as follows:

(d) A [~~Notwithstanding Chapter 15, Civil Practice and Remedies Code, or Section 65.023, Civil Practice and Remedies Code, a~~] suit for a temporary restraining order or other injunctive relief must [~~may~~] be brought in [~~Travis County or in~~] the county in which the alleged violation occurs.

(b) Section 242.063(e), Health and Safety Code, is repealed.

(c) The changes in law made by this section to Section 242.063(d), Health and Safety Code, apply only to a suit filed on or after the effective date of this section. A suit filed before the effective date of this section is covered by the law in effect when the suit was filed, and that law is continued in effect for that purpose.

SECTION 2.59. Section 242.065(b), Health and Safety Code, is amended to read as follows:

(b) In determining the amount of a penalty to be awarded under this section, the trier of fact shall consider:

(1) the seriousness of the violation[~~, including the nature, circumstances, extent, and gravity of the violation and the hazard or potential hazard created by the violation to the health or safety of a resident~~];

(2) the history of violations committed by the person

or the person's affiliate, employee, or controlling person;

(3) the amount necessary to deter future violations;

(4) the efforts made to correct the violation;

(5) any misrepresentation made to the department or to another person regarding:

(A) the quality of services rendered or to be rendered to residents;

(B) the compliance history of the institution or any institutions owned or controlled by an owner or controlling person of the institution; or

(C) the identity of an owner or controlling person of the institution;

(6) the culpability of the individual who committed the violation; and

(7) any other matter that should, as a matter of justice or equity, be considered.

SECTION 2.60. (a) Section 242.070, Health and Safety Code, is amended to read as follows:

Sec. 242.070. APPLICATION OF OTHER LAW. The department may not assess more than one monetary penalty under this chapter <u>and Chapter 32, Human Resources Code,</u> for a violation arising out of the same act or failure to act, except as provided by Section 242.0665(c). <u>The</u> [~~This section does not prohibit the~~] department <u>may assess the greater of</u> [~~from assessing~~] a monetary penalty under this chapter <u>or</u> [~~and~~] a monetary penalty under Chapter 32, Human Resources Code, for the same act or failure to act.

(b) The change in law made by this section to Section 242.070, Health and Safety Code, applies only to a penalty assessed on or after the effective date of this section.

SECTION 2.61. Section 242.601(a), Health and Safety Code, is amended to read as follows:

(a) An institution must establish medication administration

procedures [~~to ensure that:~~

[~~(1) medications to be administered are checked against the order of a physician, advanced practice nurse, or physician assistant pursuant to protocols jointly developed with a physician;~~

[~~(2) the resident is identified before the administration of a medication;~~

[~~(3) each resident's clinical record includes an individual medication record in which the dose of medication administered is properly recorded by the person who administered the medication;~~

[~~(4) medications and biologicals are prepared and administered to a resident by the same individual, except under unit-of-use package distribution systems; and~~

[~~(5) a medication prescribed for one resident is not administered to any other person~~].

SECTION 2.62. Section 242.603(a), Health and Safety Code, is amended to read as follows:

(a) An institution shall store medications under appropriate conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security. [~~Poisons, medications used externally, and medications taken internally shall be stored on separate shelves or in separate cabinets. Medication stored in a refrigerator containing other items shall be kept in a separate compartment with appropriate security. The institution shall store a medication in a locked area that must remain locked unless an individual authorized to distribute the medication is present.~~]

SECTION 2.63. (a) Section 245.004(a), Health and Safety Code, is amended to read as follows:

(a) The following facilities need not be licensed under this chapter:

(1) a hospital licensed under Chapter 241 (Texas Hospital Licensing Law); or

(2) the office of a physician licensed under Subtitle B, Title 3, Occupations Code, unless the office is used for the purpose of performing more than 50 [~~300~~] abortions in any 12-month period.

(b) An office of a physician required by Section 245.004(a), Health and Safety Code, as amended by this section, to be licensed under Chapter 245, Health and Safety Code, must obtain that license not later than January 1, 2004.

SECTION 2.64. Section 252.202(a), Health and Safety Code, is amended to read as follows:

(a) A quality assurance fee is imposed on each facility for which a license fee must be paid under Section 252.034, [~~and~~] on each facility owned by a community mental health and mental retardation center, as described by Subchapter A, Chapter 534, and on each facility owned by the Texas Department of Mental Health and Mental Retardation. The fee:

(1) is an amount established under Subsection (b) multiplied by the number of patient days as determined in accordance with Section 252.203;

(2) is payable monthly; and

(3) is in addition to other fees imposed under this chapter.

SECTION 2.65. Section 252.203, Health and Safety Code, is amended to read as follows:

Sec. 252.203. PATIENT DAYS. For each calendar day, a facility shall determine the number of patient days by adding the following:

(1) the number of patients occupying a facility bed immediately before midnight of that day; and

(2) [~~the number of beds that are on hold on that day~~

~~and that have been placed on hold for a period not to exceed three consecutive calendar days during which a patient is in a hospital; and~~

[~~(3)~~] the number of beds that are on hold on that day and that have been placed on hold for a period not to exceed three consecutive calendar days during which a patient is on therapeutic [~~home~~] leave.

SECTION 2.66. Section 252.204(b), Health and Safety Code, is amended to read as follows:

(b) Each facility shall:

(1) not later than the 20th [~~10th~~] day after the last day of a month file a report with the Health and Human Services Commission or the department, as appropriate, stating the total patient days for the month; and

(2) not later than the 30th day after the last day of the month pay the quality assurance fee.

SECTION 2.67. Sections 252.207(a) and (c), Health and Safety Code, are amended to read as follows:

(a) Subject to legislative appropriation and state and federal law, the [~~The~~] Health and Human Services Commission may [~~shall~~] use money in the quality assurance fund, together with any federal money available to match that money[~~, to~~]:

(1) to offset [~~allowable~~] expenses incurred to administer the quality assurance fee under this chapter [~~under the Medicaid program~~]; [~~or~~]

(2) to increase reimbursement rates paid under the Medicaid program to facilities or waiver programs for persons with mental retardation operated in accordance with 42 U.S.C. Section 1396n(c) and its subsequent amendments; or

(3) for any other health and human services purpose approved by the governor and Legislative Budget Board[~~, subject to Section 252.206(d)~~].

(c) If money in the quality assurance fund is used to increase a reimbursement rate in the Medicaid program, the [~~The~~] Health and Human Services Commission shall ensure that the reimbursement methodology used to set that rate describes how the money in the fund will be used to increase the rate and [~~formula devised under Subsection (b)~~] provides incentives to increase direct care staffing and direct care wages and benefits.

SECTION 2.68. Section 253.008, Health and Safety Code, is amended to read as follows:

Sec. 253.008. VERIFICATION OF EMPLOYABILITY. (a) Before a facility, [~~or~~] an agency licensed under Chapter 142, or a person exempt from licensing under Section 142.003(a)(19) may hire an employee, the facility, [~~or~~] agency, or person shall search the employee misconduct registry under this chapter and the nurse aide registry maintained under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) to determine whether the applicant for employment [~~person~~] is designated in either registry as having abused, neglected, or exploited a resident or consumer of a facility or an individual receiving services from an agency licensed under Chapter 142 or from a person exempt from licensing under Section 142.003(a)(19).

(b) A facility, [~~or~~] agency licensed under Chapter 142, or a person exempt from licensing under Section 142.003(a)(19) may not employ a person who is listed in either registry as having abused, neglected, or exploited a resident or consumer of a facility or an individual receiving services from an agency licensed under Chapter 142 or from a person exempt from licensing under Section 142.003(a)(19).

SECTION 2.69. Section 253.009(a), Health and Safety Code, is amended to read as follows:

(a) Each facility, [~~or~~] each agency licensed under Chapter 142, and each person exempt from licensing under Section

142.003(a)(19) shall notify its employees in a manner prescribed by the department:

(1) about the employee misconduct registry; and

(2) that an employee may not be employed if the employee is listed in the registry.

SECTION 2.70. (a) Chapter 285, Health and Safety Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. PROVISION OF SERVICES

Sec. 285.201. PROVISION OF MEDICAL AND HOSPITAL CARE. As authorized by 8 U.S.C. Section 1621(d), this chapter affirmatively establishes eligibility for a person who would otherwise be ineligible under 8 U.S.C. Section 1621(a), provided that only local funds are utilized for the provision of nonemergency public health benefits. A person is not considered a resident of a governmental entity or hospital district if the person attempted to establish residence solely to obtain health care assistance.

(b) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2003.

SECTION 2.71. Section 431.021, Health and Safety Code, is amended to read as follows:

Sec. 431.021. PROHIBITED ACTS. The following acts and the causing of the following acts within this state are unlawful and prohibited:

(a) the introduction or delivery for introduction into commerce of any food, drug, device, or cosmetic that is adulterated or misbranded;

(b) the adulteration or misbranding of any food, drug,

1 device, or cosmetic in commerce;

2 (c) the receipt in commerce of any food, drug, device, or

3 cosmetic that is adulterated or misbranded, and the delivery or

4 proffered delivery thereof for pay or otherwise;

5 (d) the distribution in commerce of a consumer commodity,

6 if such commodity is contained in a package, or if there is

7 affixed to that commodity a label that does not conform to the

8 provisions of this chapter and of rules adopted under the

9 authority of this chapter; provided, however, that this

10 prohibition shall not apply to persons engaged in business as

11 wholesale or retail distributors of consumer commodities except

12 to the extent that such persons:

13 (1) are engaged in the packaging or labeling of such

14 commodities; or

15 (2) prescribe or specify by any means the manner in

16 which such commodities are packaged or labeled;

17 (e) the introduction or delivery for introduction into

18 commerce of any article in violation of Section 431.084, 431.114,

19 or 431.115;

20 (f) the dissemination of any false advertisement;

21 (g) the refusal to permit entry or inspection, or to permit

22 the taking of a sample or to permit access to or copying of any

23 record as authorized by Sections 431.042-431.044; or the failure

24 to establish or maintain any record or make any report required

25 under Section 512(j), (l), or (m) of the federal Act, or the

26 refusal to permit access to or verification or copying of any

27 such required record;

28 (h) the manufacture within this state of any food, drug,

29 device, or cosmetic that is adulterated or misbranded;

30 (i) the giving of a guaranty or undertaking referred to in

31 Section 431.059, which guaranty or undertaking is false, except

32 by a person who relied on a guaranty or undertaking to the same

1 effect signed by, and containing the name and address of the
2 person residing in this state from whom the person received in
3 good faith the food, drug, device, or cosmetic; or the giving of
4 a guaranty or undertaking referred to in Section 431.059, which
5 guaranty or undertaking is false;
6 (j) the use, removal, or disposal of a detained or
7 embargoed article in violation of Section 431.048;
8 (k) the alteration, mutilation, destruction, obliteration,
9 or removal of the whole or any part of the labeling of, or the
10 doing of any other act with respect to a food, drug, device, or
11 cosmetic, if such act is done while such article is held for sale
12 after shipment in commerce and results in such article being
13 adulterated or misbranded;
14 (l)(1) forging, counterfeiting, simulating, or falsely
15 representing, or without proper authority using any mark, stamp,
16 tag, label, or other identification device authorized or required
17 by rules adopted under this chapter or the regulations
18 promulgated under the provisions of the federal Act;
19 (2) making, selling, disposing of, or keeping in
20 possession, control, or custody, or concealing any punch, die,
21 plate, stone, or other thing designed to print, imprint, or
22 reproduce the trademark, trade name, or other identifying mark,
23 imprint, or device of another or any likeness of any of the
24 foregoing on any drug or container or labeling thereof so as to
25 render such drug a counterfeit drug;
26 (3) the doing of any act that causes a drug to be a
27 counterfeit drug, or the sale or dispensing, or the holding for
28 sale or dispensing, of a counterfeit drug;
29 (m) the using by any person to the person's own advantage,
30 or revealing, other than to the commissioner, an authorized
31 agent, a health authority or to the courts when relevant in any
32 judicial proceeding under this chapter, of any information

1 acquired under the authority of this chapter concerning any
2 method or process that as a trade secret is entitled to
3 protection;
4 (n) the using, on the labeling of any drug or device or in
5 any advertising relating to such drug or device, of any
6 representation or suggestion that approval of an application with
7 respect to such drug or device is in effect under Section 431.114
8 or Section 505, 515, or 520(g) of the federal Act, as the case
9 may be, or that such drug or device complies with the provisions
10 of such sections;
11 (o) the using, in labeling, advertising or other sales
12 promotion of any reference to any report or analysis furnished in
13 compliance with Sections 431.042-431.044 or Section 704 of the
14 federal Act;
15 (p) in the case of a prescription drug distributed or
16 offered for sale in this state, the failure of the manufacturer,
17 packer, or distributor of the drug to maintain for transmittal,
18 or to transmit, to any practitioner licensed by applicable law to
19 administer such drug who makes written request for information as
20 to such drug, true and correct copies of all printed matter that
21 is required to be included in any package in which that drug is
22 distributed or sold, or such other printed matter as is approved
23 under the federal Act. Nothing in this subsection shall be
24 construed to exempt any person from any labeling requirement
25 imposed by or under other provisions of this chapter;
26 (q)(1) placing or causing to be placed on any drug or
27 device or container of any drug or device, with intent to
28 defraud, the trade name or other identifying mark, or imprint of
29 another or any likeness of any of the foregoing;
30 (2) selling, dispensing, disposing of or causing to be
31 sold, dispensed, or disposed of, or concealing or keeping in
32 possession, control, or custody, with intent to sell, dispense,

1 or dispose of, any drug, device, or any container of any drug or
2 device, with knowledge that the trade name or other identifying
3 mark or imprint of another or any likeness of any of the
4 foregoing has been placed thereon in a manner prohibited by
5 Subdivision (1) of this subsection; or
6 (3) making, selling, disposing of, causing to be made,
7 sold, or disposed of, keeping in possession, control, or custody,
8 or concealing with intent to defraud any punch, die, plate,
9 stone, or other thing designed to print, imprint, or reproduce
10 the trademark, trade name, or other identifying mark, imprint, or
11 device of another or any likeness of any of the foregoing on any
12 drug or container or labeling of any drug or container so as to
13 render such drug a counterfeit drug;
14 (r) dispensing or causing to be dispensed a different drug
15 in place of the drug ordered or prescribed without the express
16 permission in each case of the person ordering or prescribing;
17 (s) the failure to register in accordance with Section 510
18 of the federal Act, the failure to provide any information
19 required by Section 510(j) or (k) of the federal Act, or the
20 failure to provide a notice required by Section 510(j)(2) of the
21 federal Act;
22 (t)(1) the failure or refusal to:
23 (A) comply with any requirement prescribed under
24 Section 518 or 520(g) of the federal Act; or
25 (B) furnish any notification or other material or
26 information required by or under Section 519 or 520(g) of the
27 federal Act;
28 (2) with respect to any device, the submission of any
29 report that is required by or under this chapter that is false or
30 misleading in any material respect;
31 (u) the movement of a device in violation of an order under
32 Section 304(g) of the federal Act or the removal or alteration of

any mark or label required by the order to identify the device as detained;

(v) the failure to provide the notice required by Section 412(b) or 412(c), the failure to make the reports required by Section 412(d)(1)(B), or the failure to meet the requirements prescribed under Section 412(d)(2) of the federal Act;

(w) except as provided under Subchapter M of this chapter and Section 562.1085, Occupations Code, the acceptance by a person of an unused prescription or drug, in whole or in part, for the purpose of resale, after the prescription or drug has been originally dispensed, or sold;

(x) engaging in the wholesale distribution of drugs or operating as a distributor or manufacturer of devices in this state without filing a licensing statement with the commissioner as required by Section 431.202 or having a license as required by Section 431.272, as applicable;

(y) engaging in the manufacture of food in this state or operating as a food wholesaler in this state without having a license as required by Section 431.222; or

(z) unless approved by the United States Food and Drug Administration pursuant to the federal Act, the sale, delivery, holding, or offering for sale of a self-testing kit designed to indicate whether a person has a human immunodeficiency virus infection, acquired immune deficiency syndrome, or a related disorder or condition.

SECTION 2.72. (a) Section 461.018(b), Health and Safety Code, is amended to read as follows:

(b) The commission's program under Subsection (a) must include:

(1) establishing and maintaining a list of webpages and toll-free "800" telephone numbers of nonprofit entities that [~~number to~~] provide crisis counseling and referral services to

families experiencing difficulty as a result of problem or compulsive gambling;

(2) promoting public awareness regarding the recognition and prevention of problem or compulsive gambling;

(3) facilitating, through in-service training and other means, the availability of effective assistance programs for problem or compulsive gamblers; and

(4) conducting studies to identify adults and juveniles in this state who are, or who are at risk of becoming, problem or compulsive gamblers.

(b) Section 466.251(b), Government Code, and Section 2001.417(b), Occupations Code, are repealed.

SECTION 2.73. Section 533.034, Health and Safety Code, is amended to read as follows:

Sec. 533.034. AUTHORITY TO CONTRACT FOR COMMUNITY-BASED SERVICES. (a) The department may cooperate, negotiate, and contract with local agencies, hospitals, private organizations and foundations, community centers, physicians, and other persons to plan, develop, and provide community-based mental health and mental retardation services.

(b) The department may adopt a schedule of initial and annual renewal compliance fees for persons that provide services under a home and community-based services waiver program for persons with mental retardation adopted in accordance with Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n), as amended, and that is funded wholly or partly by the department and monitored by the department or by a designated local authority in accordance with standards adopted by the department. This subsection expires September 1, 2005.

SECTION 2.74. Section 533.035, Health and Safety Code, is amended by amending Subsection (c) and by adding Subsections (e), (f), and (g) to read as follows:

(c) A local mental health and mental retardation authority, with the department's approval, shall use the funds received under Subsection (b) to ensure mental health, mental retardation, and chemical dependency services are provided in the local service area. The local authority shall consider public input, ultimate cost-benefit, and client care issues to ensure consumer choice and the best use of public money in:

(1) assembling a network of service providers; and

(2) [~~determining whether to become a provider of a service or to contract that service to another organization; and~~

[~~(3)~~] making recommendations relating to the most appropriate and available treatment alternatives for individuals in need of mental health or mental retardation services.

(e) In assembling a network of service providers, a local mental health and mental retardation authority may serve as a provider of services only as a provider of last resort and only if the authority demonstrates to the department that:

(1) the authority has made every reasonable attempt to solicit the development of an available and appropriate provider base that is sufficient to meet the needs of consumers in its service area; and

(2) there is not a willing provider of the relevant services in the authority's service area or in the county where the provision of the services is needed.

(f) The department shall review the appropriateness of a local mental health and mental retardation authority's status as a service provider at least biennially.

(g) The department, together with local mental health and mental retardation authorities and other interested persons, shall develop and implement a plan to privatize all services by intermediate facilities for persons with mental retardation and all related waiver services programs operated by an authority.

The transfer of services to private providers may not occur before August 31, 2006. The plan must provide criteria that:

(1) promote the transition of services to private providers in a manner that causes the least disruption practicable to the consumers of those services;

(2) ensure the continuation of services at the same level of service provided before the transfer;

(3) provide for consumer choice as appropriate and as required by rule; and

(4) require local mental health and mental retardation authorities to implement the privatization of services in a fiscally responsible manner.

SECTION 2.75. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.0354 to read as follows:

Sec. 533.0354. DISEASE MANAGEMENT PRACTICES AND JAIL DIVERSION MEASURES OF LOCAL MENTAL HEALTH AUTHORITIES. (a) A local mental health authority shall ensure the provision of assessment services, crisis services, and intensive and comprehensive services using disease management practices for adults with bipolar disorder, schizophrenia, or clinically severe depression and for children with serious emotional illnesses. The local mental health authority shall ensure that individuals are engaged with treatment services that are:

(1) ongoing and matched to the needs of the individual in type, duration, and intensity;

(2) focused on a process of recovery designed to allow the individual to progress through levels of service;

(3) guided by evidence-based protocols and a strength-based paradigm of service; and

(4) monitored by a system that holds the local authority accountable for specific outcomes, while allowing flexibility to maximize local resources.

(b) The department shall require each local mental health authority to incorporate jail diversion strategies into the authority's disease management practices for managing adults with schizophrenia and bipolar disorder to reduce the involvement of those client populations with the criminal justice system.

(c) The department shall enter into performance contracts between the department and each local mental health authority for the fiscal years ending August 31, 2004, and August 31, 2005, that specify measurable outcomes related to their success in using disease management practices to meet the needs of the target populations.

(d) The department shall study the implementation of disease management practices, including the jail diversion measures, and shall submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report on the progress in implementing disease management practices and jail diversion measures by local mental health authorities. The report must be delivered not later than December 31, 2004, and must include specific information on:

(1) the implementation of jail diversion measures undertaken; and

(2) the effect of disparities in per capita funding levels among local mental health authorities on the implementation and effectiveness of disease management practices and jail diversion measures.

(e) The department may use the fiscal year ending August 31, 2004, as a transition period for implementing the requirements of Subsections (a)-(c).

SECTION 2.76. Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.0355 to read as follows:

Sec. 533.0355. ALLOCATION OF DUTIES UNDER CERTAIN MEDICAID WAIVER PROGRAMS. (a) In this section, "waiver program" means

the local mental retardation authority waiver program established under the state Medicaid program.

(b) A provider of services under the waiver program shall:

(1) develop a person-directed plan and an individual program plan for each person who receives services from the provider under the waiver program;

(2) perform justification and implementation functions for the plans described by Subdivision (1);

(3) conduct case management under the waiver program, other than case management under Subsection (c)(4), in accordance with applicable state and federal laws; and

(4) plan, coordinate, and review the provision of services to all persons who receive services from the service provider under the waiver program.

(c) A local mental retardation authority shall:

(1) manage any waiting lists for services under the waiver program;

(2) perform functions relating to consumer choice and enrollment for persons who receive services under the waiver program; and

(3) conduct case management under the waiver program relating to funding disputes between a service provider and the local mental retardation authority.

(d) The department shall perform all administrative functions under the waiver program that are not assigned to a service provider under Subsection (b) or to a local mental retardation authority under Subsection (c). Administrative functions performed by the department include:

(1) any surveying, certification, and utilization review functions required under the waiver program; and

(2) managing an appeals process relating to decisions that affect a person receiving services under the waiver program.

(e) The department shall review:

(1) screening and assessment of levels of care;

(2) case management fees paid under the waiver program to a community center; and

(3) administrative fees paid under the waiver program to a service provider.

(f) The department shall perform any function relating to inventory for persons who receive services under the waiver program and agency planning assessments.

(g) The review required under Subsection (e) must include a comparison of fees paid before the implementation of this section with fees paid after the implementation of this section. The department may adjust fees paid based on that review.

(h) The department shall allocate the portion of the gross reimbursement funds paid to a local authority and a service provider for client services for the case management function in accordance with this section and to the extent allowed by law.

(i) The department may adopt rules governing the functions of a local mental retardation authority or service provider under this section.

SECTION 2.77. (a) Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.049 to read as follows:

Sec. 533.049. PRIVATIZATION OF STATE SCHOOL. (a) After August 31, 2004, and before September 1, 2005, the department may contract with a private service provider to operate a state school only if:

(1) the Health and Human Services Commission determines that the private service provider will operate the state school at a cost that is at least 25 percent less than the cost to the department to operate the state school;

(2) the Health and Human Services Commission approves

the contract;

(3) the private service provider is required under the contract to operate the school at a quality level at least equal to the quality level achieved by the department when the department operated the school, as measured by the school's most recent applicable ICF-MR survey; and

(4) the state school, when operated under the contract, treats a population with the same characteristics and need levels as the population treated by the state school when operated by the department.

(b) On or before April 1, 2004, the department shall report to the commissioner of health and human services whether the department has received a proposal by a private service provider to operate a state school. The report must include an evaluation of the private service provider's qualifications, experience, and financial strength, a determination of whether the provider can operate the state school under the same standard of care as the department, and an analysis of the projected savings under a proposed contract with the provider. The savings analysis must include all department costs to operate the state school, including costs, such as employee benefits, that are not appropriated to the department.

(c) If the department contracts with a private service provider to operate a state school, the department, the Governor's Office of Budget and Planning, and the Legislative Budget Board shall identify sources of funding that must be transferred to the department to fund the contract.

(d) The department may renew a contract under this section. The conditions listed in Subsections (a)(1)-(3) apply to the renewal of the contract.

(b) Section 533.049, Health and Safety Code, as added by this section, takes effect September 1, 2004.

SECTION 2.78. (a) Subchapter B, Chapter 533, Health and Safety Code, is amended by adding Section 533.050 to read as follows:

Sec. 533.050. PRIVATIZATION OF STATE MENTAL HOSPITAL. (a) After August 31, 2004, and before September 1, 2005, the department may contract with a private service provider to operate a state mental hospital owned by the department only if:

(1) the Health and Human Services Commission determines that the private service provider will operate the hospital at a cost that is at least 25 percent less than the cost to the department to operate the hospital;

(2) the Health and Human Services Commission approves the contract;

(3) the hospital, when operated under the contract, treats a population with the same characteristics and acuity levels as the population treated at the hospital when operated by the department; and

(4) the private service provider is required under the contract to operate the hospital at a quality level at least equal to the quality level achieved by the department when the department operated the hospital, as measured by the hospital's most recent applicable accreditation determination from the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

(b) On or before April 1, 2004, the department shall report to the commissioner of health and human services whether the department has received a proposal by a private service provider to operate a state mental hospital. The report must include an evaluation of the private service provider's qualifications, experience, and financial strength, a determination of whether the provider can operate the hospital under the same standard of care as the department, and an analysis of the projected savings under a proposed contract with the provider. The savings

analysis must include all department costs to operate the hospital, including costs, such as employee benefits, that are not appropriated to the department.

(c) If the department contracts with a private service provider to operate a state mental hospital, the department, the Governor's Office of Budget and Planning, and the Legislative Budget Board shall identify sources of funding that must be transferred to the department to fund the contract.

(d) The department may renew a contract under this section. The conditions listed in Subsections (a)(1)-(3) apply to the renewal of the contract.

(b) Section 533.050, Health and Safety Code, as added by this section, takes effect September 1, 2004.

SECTION 2.79. Section 533.084, Health and Safety Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) Notwithstanding Subsection (b) or any other law, the proceeds from the disposal of any surplus real property by the department that occurs before September 1, 2005:

(1) are not required to be deposited to the credit of the department in the Texas capital trust fund established under Chapter 2201, Government Code; and

(2) may be appropriated for any general governmental purpose.

(b-2) Subsection (b-1) and this subsection expire September 1, 2005.

SECTION 2.80. Subchapter D, Chapter 533, Health and Safety Code, is amended by adding Section 533.0844 to read as follows:

Sec. 533.0844. MENTAL HEALTH COMMUNITY SERVICES ACCOUNT. (a) The mental health community services account is an account in the general revenue fund that may be appropriated only for the provision of mental health services by or under contract with the department.

(b) The department shall deposit to the credit of the mental health community services account any money donated to the state for inclusion in the account, including life insurance proceeds designated for deposit to the account.

(c) Interest earned on the mental health community services account shall be credited to the account. The account is exempt from the application of Section 403.095, Government Code.

SECTION 2.81. Subchapter D, Chapter 533, Health and Safety Code, is amended by adding Section 533.0846 to read as follows:

Sec. 533.0846. MENTAL RETARDATION COMMUNITY SERVICES ACCOUNT. (a) The mental retardation community services account is an account in the general revenue fund that may be appropriated only for the provision of mental retardation services by or under contract with the department.

(b) The department shall deposit to the credit of the mental retardation community services account any money donated to the state for inclusion in the account, including life insurance proceeds designated for deposit to the account.

(c) Interest earned on the mental retardation community services account shall be credited to the account. The account is exempt from the application of Section 403.095, Government Code.

SECTION 2.82. Effective September 1, 2006, Section 534.001(b), Health and Safety Code, is amended to read as follows:

(b) In accordance with this subtitle, a [A] community center may be:

(1) a community mental health center that provides mental health services;

(2) a community mental retardation center that provides mental retardation services; or

(3) a community mental health and mental retardation

center that provides mental health and mental retardation services.

SECTION 2.82A. Effective September 1, 2006, Section 535.002(b), Health and Safety Code, is amended to read as follows:

(b) If feasible and economical, the department may use local mental health and mental retardation authorities to implement this chapter. However, the department may not designate a [~~those~~] local mental health or [~~and~~] mental retardation authority [~~authorities~~] as a provider [~~the sole providers~~] of services if other providers are available.

SECTION 2.83. Section 572.0025(f), Health and Safety Code, is amended to read as follows:

(f) A prospective voluntary patient may not be formally accepted for treatment in a facility unless:

(1) the facility has a physician's order admitting the prospective patient, which order may be issued orally, electronically, or in writing, signed by the physician, provided that, in the case of an oral order or an electronically transmitted unsigned order, a signed original is presented to the mental health facility within 24 hours of the initial order; the order must be from:

(A) an admitting physician who has, either in person or through the use of audiovisual or other telecommunications technology, conducted a [~~an in-person~~] physical and psychiatric examination within 72 hours of the admission; or

(B) an admitting physician who has consulted with a physician who has, either in person or through the use of audiovisual or other telecommunications technology, conducted an [~~in-person~~] examination within 72 hours of the admission; and

(2) the facility administrator or a person designated

by the administrator has agreed to accept the prospective patient and has signed a statement to that effect.

SECTION 2.84. (a) Section 773.050(c), Health and Safety Code, is amended to read as follows:

(c) The board shall consider the education, training, and experience of allied health professionals in adopting the minimum standards for emergency medical services personnel certification and may establish criteria for interstate reciprocity of emergency medical services personnel. Each out-of-state application for certification must be accompanied by a nonrefundable fee of not more than $120 [~~$100~~]. The board may also establish criteria for out-of-country emergency medical services personnel certification. Each out-of-country application for certification must be accompanied by a nonrefundable fee of not more than $180 [~~$150~~].

(b) Section 773.052(a), Health and Safety Code, is amended to read as follows:

(a) An emergency medical services provider with a specific hardship may apply to the bureau chief for a variance from a rule adopted under this chapter. The board may adopt a fee of not more than $30 [~~$25~~] for filing an application for a variance.

(c) Sections 773.054(c) and (d), Health and Safety Code, are amended to read as follows:

(c) Each application under Subsection (a)(3) must be accompanied by a nonrefundable fee of not more than $30 [~~$25~~] for a program instructor or examiner or $60 [~~$50~~] for a course coordinator. The department may not require a fee for a certification from an instructor, examiner, or coordinator who does not receive compensation for providing services.

(d) Each application under Subsection (a)(2) must be accompanied by a nonrefundable fee of not more than $30 [~~$25~~] for a basic course or training program or $60 [~~$50~~] for an advanced

course or training program. The department may not require a fee for approval of a course or training program if the course coordinator or sponsoring agency does not receive compensation for providing the course or training program.

(d) Sections 773.055(a), (d), and (e), Health and Safety Code, are amended to read as follows:

(a) A nonrefundable fee must accompany each application for emergency medical services personnel certification. The fee may not exceed:

(1) $90 [~~$75~~] for an emergency medical technician-paramedic or emergency medical technician-intermediate;

(2) $60 [~~$50~~] for an emergency medical technician or emergency care attendant;

(3) $90 [~~$75~~] for recertification of an emergency medical technician-paramedic or emergency medical technician-intermediate;

(4) $60 [~~$50~~] for recertification of an emergency medical technician or emergency care attendant; or

(5) $120 [~~$100~~] for certification or recertification of a licensed paramedic.

(d) The department shall furnish a person who fails an examination for certification with an analysis of the person's performance on the examination if requested in writing by that person. The board may adopt rules to allow a person who fails the examination to retake all or part of the examination. A fee of not more than $30 [~~$25~~] must accompany each application for reexamination.

(e) The department shall issue certificates to emergency medical services personnel who meet the minimum standards for personnel certification adopted under Section 773.050. A certificate is valid for four years from the date of issuance.

The department shall charge a fee of not more than $10 [~~$5~~] to replace a lost certificate.

(e) Section 773.056(b), Health and Safety Code, is amended to read as follows:

(b) The department shall issue a certificate to each program instructor, examiner, or course coordinator who meets the minimum standards adopted under Section 773.050. The certificate is valid for two years. The department shall charge a fee of not more than $10 [~~$5~~] to replace a lost or stolen certificate.

(f) Section 773.057(b), Health and Safety Code, is amended to read as follows:

(b) A nonrefundable application and vehicle fee determined by the board must accompany each application. The application fee may not exceed $500 [~~$150~~] for each application and the vehicle fee may not exceed $180 for each emergency medical services vehicle operated by the provider.

(g) Section 773.0572, Health and Safety Code, is amended to read as follows:

Sec. 773.0572. PROVISIONAL LICENSES. The board by rule shall establish conditions under which an emergency medical services provider who fails to meet the minimum standards prescribed by this chapter may be issued a provisional license. The department may issue a provisional license to an emergency medical services provider under this chapter if the department finds that issuing the license would serve the public interest and that the provider meets the requirements of the rules adopted under this section. A nonrefundable fee of not more than $30 [~~$25~~] must accompany each application for a provisional license.

(h) Section 773.0611(c), Health and Safety Code, is amended to read as follows:

(c) The board shall adopt rules for unannounced inspections authorized under this section. The department or its

representative shall perform unannounced inspections in accordance with those rules. An emergency medical services provider shall pay to the department a nonrefundable fee of not more than $30 [~~$25~~] if reinspection is necessary to determine compliance with this chapter and the rules adopted under this chapter.

(i) Section 773.065(c), Health and Safety Code, is amended to read as follows:

(c) The penalty may not exceed $7,500 [~~$1,000~~] for each violation. The board by rule shall establish gradations of penalties in accordance with the relative seriousness of the violation.

(j) Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Section 773.071 to read as follows:

Sec. 773.071. FEES. (a) To the extent feasible, the board by rule shall set the fees under this subchapter in amounts necessary for the department to recover the cost of administering this subchapter.

(b) Subsection (a) does not apply to fees for which Section 773.059 prescribes the method for determining the amount of the fees.

(k) Sections 773.116(b) and (d), Health and Safety Code, are amended to read as follows:

(b) The board by rule shall set the amount of the fee schedule for initial or continuing designation as a trauma facility according to the number of beds in the health care facility. The amount of the fee may not exceed:

(1) $5,000 for a Level I or II facility;

(2) $2,500 for a Level III facility; or

(3) $1,000 for a Level IV facility.

(d) To the extent feasible, the board by rule shall set the fee in an amount necessary for the department to recover [~~A fee~~

~~under Subsection (c) may not exceed~~] the cost directly related to designating trauma facilities under this subchapter.

(l) Section 773.116(c), Health and Safety Code, is repealed.

(m) The changes in law made by this section relating to administrative penalties apply only to a violation that occurs on or after the effective date of this section. For the purposes of this subsection, an offense is committed before the effective date of this section if any element of the offense occurs before that date. A violation that occurred before the effective date of this section is covered by the law in effect when the violation occurred, and the former law is continued in effect for that purpose.

(n) The changes in law made by this section relating to fees imposed under Chapter 773, Health and Safety Code, apply only to fees for an application filed or an inspection conducted on or after the effective date of this section. A fee for an application filed or an inspection conducted before the effective date of this section is covered by the law in effect when the application was filed or the inspection was conducted, and the former law is continued in effect for that purpose.

SECTION 2.85. Chapter 22, Human Resources Code, is amended by adding Section 22.040 to read as follows:

Sec. 22.040. THIRD-PARTY INFORMATION. Notwithstanding any other provision of this code, the department may use information obtained from a third party to verify the assets and resources of a person for purposes of determining the person's eligibility and need for medical assistance, financial assistance, or nutritional assistance. Third-party information includes information obtained from:

(1) a consumer reporting agency, as defined by Section 20.01, Business & Commerce Code;

(2) an appraisal district; or

(3) the Texas Department of Transportation's vehicle registration record database.

SECTION 2.86. (a) Section 31.0031, Human Resources Code, is amended by amending Subsection (g) and adding Subsection (h) to read as follows:

(g) In this section:

(1) "Caretaker [~~, "caretaker~~] relative" means a person who is listed as a relative eligible to receive assistance under 42 U.S.C. Section 602(a).

(2) "Payee" means a person who resides in a household with a dependent child and who is within the degree of relationship with the child that is required of a caretaker, but whose needs are not included in determining the amount of financial assistance provided for the person's household.

(h) The department shall require each payee to sign a bill of responsibilities that defines the responsibilities of the state and of the payee. The responsibility agreement must require that a payee comply with the requirements of Subsections (d)(1), (2), (5), (6), and (7).

(b) Not later than January 1, 2004, the Texas Department of Human Services shall require each payee of financial assistance under Chapter 31, Human Resources Code, who received that assistance on behalf of a dependent child before September 1, 2003, and each recipient of financial assistance under Chapter 31, Human Resources Code, who received that assistance before September 1, 2003, to enter into a responsibility agreement that complies with the requirements of Section 31.0031, Human Resources Code, as amended by this section, to continue receiving that assistance. The department may not enforce the terms of the new agreement until the payee or recipient has an opportunity to enter into the agreement.

SECTION 2.87. Section 31.0031(c), Human Resources Code, is amended to read as follows:

(c) The department shall adopt rules governing sanctions and penalties under this section to or for:

(1) a person who fails to cooperate [~~comply~~] with each applicable requirement of the responsibility agreement prescribed by this section; and

(2) the family of a person who fails to cooperate with each applicable requirement of the responsibility agreement.

SECTION 2.88. (a) Sections 31.0032, 31.0033, and 31.0034, Human Resources Code, are amended to read as follows:

Sec. 31.0032. PAYMENT OF ASSISTANCE FOR PERFORMANCE [~~PENALTIES AND SANCTIONS~~]. (a) Except as provided by Section 231.115, Family Code, [~~as added by Chapter 911, Acts of the 75th Legislature, Regular Session, 1997,~~] if after an investigation the department or the Title IV-D agency determines that a person is not cooperating [~~complying~~] with a requirement of the responsibility agreement required under Section 31.0031, the department [~~immediately~~] shall immediately apply a sanction terminating the total amount of financial assistance provided under this chapter to or for the person and the person's family [~~apply appropriate sanctions or penalties regarding the assistance provided to or for that person under this chapter~~].

(a-1) The department shall apply a sanction or penalty imposed under Subsection (a) for a period ending when the person demonstrates cooperation with the requirement of the responsibility agreement for which the sanction was imposed or for a one-month period, whichever is longer.

(b) The department shall immediately notify the caretaker relative, second parent, or payee receiving the financial assistance if the department will not make the financial assistance payment for the period prescribed by Subsection (a-1)

because of a person's failure to cooperate with the requirements of the responsibility agreement during a month [~~whether sanctions will be applied under this section~~].

(c) To the extent allowed by federal law, the Health and Human Services Commission or any health and human services agency, as defined by Section 531.001, Government Code, may deny medical assistance for a person who is eligible for financial assistance but to whom that assistance is not paid because of the person's failure to cooperate. Medical assistance to the person's family may not be denied for the person's failure to cooperate. Medical assistance may not be denied to a person receiving assistance under this chapter who is under the age of 19, a pregnant adult, or any other person who may not be denied medical assistance under federal law.

(d) This section does not prohibit the Texas Workforce Commission, the Health and Human Services Commission, or any health and human services agency, as defined by Section 531.001, Government Code, [~~department~~] from providing [~~medical assistance,~~] child care[~~,~~] or any other related social or support services for an individual who is eligible for financial assistance but to whom that assistance is not paid because of the individual's failure to cooperate [~~subject to sanctions or penalties under this chapter~~].

(e) The department by rule shall establish procedures to determine whether a person has cooperated with the requirements of the responsibility agreement.

Sec. 31.0033. GOOD CAUSE [~~NONCOMPLIANCE~~] HEARING FOR FAILURE TO COOPERATE. (a) If the department or Title IV-D agency determines that a person has failed to cooperate with the requirements of the responsibility agreement under Section 31.0031 [~~penalties and sanctions should be applied under Section 31.0032~~], the person determined to have failed to cooperate [~~not~~

~~complied~~] or, if different, the person receiving the financial assistance may request a hearing to show good cause for failure to cooperate [~~noncompliance~~] not later than the 13th day after the date the [~~on which~~] notice is sent [~~received~~] under Section 31.0032. If the person determined to have failed to cooperate or, if different, the person receiving the financial assistance requests a hearing to show good cause not later than the 13th day after the date on which the notice is sent under Section 31.0032, the department may not withhold or reduce the payment of financial assistance until the department determines whether the person had good cause for the person's failure to cooperate. On a showing of good cause for failure to cooperate [~~noncompliance~~], the person may receive a financial assistance payment for the period in which the person failed to cooperate, but had good cause for that failure to cooperate [~~sanctions may not be imposed~~].

(b) The department shall promptly conduct a hearing if a timely request is made under Subsection (a).

(c) If the department finds that good cause for the person's failure to cooperate [~~noncompliance~~] was not shown at a hearing, the department may not make a financial assistance payment in any amount to the person for the person or the person's family for the period prescribed by Section 31.0032(a-1) [~~shall apply appropriate sanctions or penalties to or for that person until the department, or the Title IV-D agency in a Title IV-D case, determines that the person is in compliance with the terms of the responsibility agreement~~].

(d) The department by rule shall establish criteria for good cause failure to cooperate [~~noncompliance~~] and guidelines for what constitutes a good faith effort on behalf of a recipient under this section.

(e) Except as provided by a waiver or modification granted

under Section 31.0322, a person has good cause for failing or refusing to cooperate with the requirement of the responsibility agreement under Section 31.0031(d)(1) only if:

(1) the person's cooperation would be harmful to the physical, mental, or emotional health of the person or the person's dependent child; or

(2) the person's noncooperation resulted from other circumstances the person could not control.

Sec. 31.0034. ANNUAL REPORT. The department shall prepare and submit an annual report to the legislature that contains statistical information regarding persons who are applying for or receiving financial assistance or services under this chapter, including the number of persons receiving assistance, the type of assistance those persons are receiving, and the length of time those persons have been receiving the assistance. The report also must contain information on:

(1) the number of persons to whom [~~sanctions and~~] time limits apply;

(2) the number of persons under each time limit category;

(3) the number of persons who are exempt from participation under Section 31.012(c);

(4) the number of persons who were receiving financial assistance under this chapter but are no longer eligible to receive that assistance because they failed to cooperate [~~comply~~] with the requirements prescribed by Section 31.0031;

(5) the number of persons who are no longer eligible to receive financial assistance or transitional benefits under this chapter because:

(A) the person's household income has increased due to employment; or

(B) the person has exhausted the person's

benefits under this chapter; [~~and~~]

(6) the number of persons receiving child care, job training, or other support services designed to assist the transition to self-sufficiency; and

(7) the number of persons who were eligible to receive financial assistance under this chapter for each one-month period but to whom that financial assistance was not paid because the person failed to cooperate with the requirements of the responsibility agreement under Section 31.0031.

(b) Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.00331 to read as follows:

Sec. 31.00331. ADDITIONAL PENALTY FOR CONTINUOUS FAILURE TO COOPERATE. A person who fails to cooperate with the responsibility agreement for two consecutive months becomes ineligible for financial assistance for the person or the person's family. The person may reapply for financial assistance, but must cooperate with the requirements of the responsibility agreement for a one-month period before receiving an assistance payment for that month.

(c) The changes in law made by this section apply to a person receiving financial assistance under Chapter 31, Human Resources Code, on or after the effective date of this section, regardless of the date on which eligibility for financial assistance was determined.

SECTION 2.89. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.0038 to read as follows:

Sec. 31.0038. TEMPORARY EXCLUSION OF NEW SPOUSE'S INCOME. (a) Subject to the limitations prescribed by Subsection (b), income earned by an individual who marries an individual receiving financial assistance at the time of the marriage may not be considered by the department during the six-month period following the date of the marriage for purposes of determining:

(1) the amount of financial assistance granted to an individual under this chapter for the support of dependent children; or

(2) whether the family meets household income and resource requirements for financial assistance under this chapter.

(b) To be eligible for the income disregard provided by Subsection (a), the combined income of the individual receiving financial assistance and the new spouse cannot exceed 200 percent of the federal poverty level for their family size.

SECTION 2.90. Sections 31.012(b) and (c), Human Resources Code, are amended to read as follows:

(b) The department by rule shall establish criteria for good cause failure to cooperate [~~noncompliance~~] and for notification procedures regarding participation in work or employment activities under this section.

(c) A person who is the caretaker of a physically or mentally disabled child who requires the caretaker's presence is not required to participate in a program under this section. A [~~Effective January 1, 2000, a single person who is the caretaker of a child is not required to participate in a program under this section until the caretaker's youngest child at the time the caretaker first became eligible for assistance reaches the age of three. Effective September 1, 2000, a single person who is the caretaker of a child is exempt until the caretaker's youngest child at the time the caretaker first became eligible for assistance reaches the age of two. Effective September 1, 2001, a~~] single person who is the caretaker of a child is exempt until the caretaker's youngest child at the time the caretaker first became eligible for assistance reaches the age of one. Notwithstanding Sections 31.0035(b) and 32.0255(b), the department shall provide to a person who is exempt under this

subsection and who voluntarily participates in a program under Subsection (a)(2) six months of transitional benefits in addition to the applicable limit prescribed by Section 31.0065.

SECTION 2.91. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.015 to read as follows:

Sec. 31.015. HEALTHY MARRIAGE DEVELOPMENT PROGRAM. (a) Subject to available federal funding, the department shall develop and implement a healthy marriage development program for recipients of financial assistance under this chapter.

(b) The healthy marriage development program shall promote and provide three instructional courses on the following topics:

(1) premarital counseling for engaged couples and marriage counseling for married couples that includes skill development for:

(A) anger resolution;

(B) family violence prevention;

(C) communication;

(D) honoring your spouse; and

(E) managing a budget;

(2) physical fitness and active lifestyles and nutrition and cooking, including:

(A) abstinence for all unmarried persons, including abstinence for persons who have previously been married; and

(B) nutrition on a budget; and

(3) parenting skills, including parenting skills for character development, academic success, and stepchildren.

(c) The department shall provide to a recipient of financial assistance under this chapter additional financial assistance of not more than $20 for the recipient's participation in a course offered through the healthy marriage development program up to a maximum payment of $60 a month.

(d) The department may provide the courses or may contract with any person, including a community or faith-based organization, for the provision of the courses. The department must provide all participants with an option of attending courses in a non-faith-based organization.

(e) The department shall develop rules as necessary for the administration of the healthy marriage development program.

(f) The department must ensure that the courses provided by the department and courses provided through contracts with other organizations will be sensitive to the needs of individuals from different religions, races, and genders.

SECTION 2.92. (a) Section 32.021, Human Resources Code, is amended by adding Subsections (q), (r), and (s) to read as follows:

(q) The department shall include in its contracts for the delivery of medical assistance by nursing facilities clearly defined minimum standards that relate directly to the quality of care for residents of those facilities. The department shall consider the recommendations made by the nursing facility quality assurance team under Section 32.060 in establishing the standards. The department shall include in each contract:

(1) specific performance measures by which the department may evaluate the extent to which the nursing facility is meeting the standards; and

(2) provisions that allow the department to terminate the contract if the nursing facility is not meeting the standards.

(r) The department may not award a contract for the delivery of medical assistance to a nursing facility that does not meet the minimum standards that would be included in the contract as required by Subsection (q). The department shall terminate a contract for the delivery of medical assistance by a

nursing facility that does not meet or maintain the minimum standards included in the contract in a manner consistent with the terms of the contract.

(s) Not later than November 15 of each even-numbered year, the department shall submit a report to the legislature regarding nursing facilities that contract with the department to provide medical assistance under this chapter and other nursing facilities with which the department was prohibited to contract as provided by Subsection (r). The department may include the report required under this section with the report made by the long-term care legislative oversight committee as required by Section 242.654, Health and Safety Code. The report must include:

(1) recommendations for improving the quality of information provided to consumers about the facilities;

(2) the minimum standards and performance measures included in the department's contracts with those facilities;

(3) the performance of the facilities with regard to the minimum standards;

(4) the number of facilities with which the department has terminated a contract or to which the department will not award a contract because the facilities do not meet the minimum standards; and

(5) the overall impact of the minimum standards on the quality of care provided by the facilities, consumers' access to facilities, and cost of care.

(b) Section 32.021(q), Human Resources Code, as added by this section, applies only to a contract for the delivery of medical assistance by a nursing facility that is entered into or renewed on or after May 1, 2004. A contract for the delivery of medical assistance by a nursing facility entered into before that date is governed by the law in effect on the date the contract

was entered into, and the former law is continued in effect for that purpose.

SECTION 2.93. (a) Subchapter A, Chapter 302, Labor Code, is amended by adding Sections 302.0025, 302.0026, 302.0036, 302.0037, and 302.0038 to read as follows:

Sec. 302.0025. EMPLOYMENT PLAN AND POSTEMPLOYMENT STRATEGIES. (a) The commission shall ensure that an individual employment plan developed for a recipient of financial assistance participating in an employment program under Chapter 31, Human Resources Code, includes specific postemployment strategies to assist the recipient in making a transition to stable employment at a wage that enables the recipient and the recipient's family to maintain self-sufficiency.

(b) The individual employment plan must:

(1) consider a recipient's individual circumstances and needs in determining the recipient's initial job placement;

(2) identify a target wage that enables the recipient and the recipient's family to maintain self-sufficiency;

(3) provide specific postemployment goals and include methods and time frames by which the recipient is to achieve those goals; and

(4) refer the recipient to additional educational and training opportunities.

Sec. 302.0026. EMPLOYMENT SERVICES REFERRAL PROGRAM. (a) The commission and local workforce development boards shall develop an employment services referral program for recipients of financial assistance who participate in employment programs under Chapter 31, Human Resources Code, and have, in comparison to other recipients, higher levels of barriers to employment. The referral program must be designed to provide to a recipient referrals to preemployment and postemployment services offered by community-based organizations.

(b) In developing the referral program, the commission and local workforce development boards shall, subject to the availability of funds, coordinate partnerships and contract with community-based organizations that provide employment services specifically for persons with high levels of barriers to employment.

Sec. 302.0036. TRANSPORTATION ASSISTANCE. (a) To the extent funds are available, the commission and local workforce development boards shall provide transportation assistance to recipients of financial assistance participating in employment programs under Chapter 31, Human Resources Code, that enables the recipients to maintain a stable work history and attain financial stability and self-sufficiency.

(b) The commission and local workforce development boards may provide the assistance described by Subsection (a) by implementing new initiatives or expanding existing initiatives that provide transportation assistance to recipients of financial assistance for whom transportation is a barrier to employment.

Sec. 302.0037. MAXIMIZING FEDERAL FUNDS FOR TRANSPORTATION ASSISTANCE. (a) The commission and local workforce development boards shall maximize the state's receipt of federal funds available to provide transportation assistance to recipients of financial assistance participating in employment programs under Chapter 31, Human Resources Code.

(b) The commission and local workforce development boards may, within any applicable appropriation limits, take any action required by federal law to receive federal funds to provide transportation assistance.

Sec. 302.0038. HOUSING RESOURCES FOR CERTAIN RECIPIENTS OF FINANCIAL ASSISTANCE. (a) The commission, in cooperation with local workforce development boards, shall, for a recipient of financial assistance participating in an employment program under

Chapter 31, Human Resources Code:

(1) identify unmet housing needs and assess whether those needs are barriers to the recipient's full participation in the workforce and attainment of financial stability and self-sufficiency; and

(2) develop a service plan that takes into consideration the recipient's unmet housing needs.

(b) The commission by rule shall develop and implement a program through which a recipient identified under Subsection (a) as having unmet housing needs is referred by the commission or local workforce development board to agencies and organizations providing housing programs and services and connected to other housing resources. To provide those referrals and connections, the commission shall establish collaborative partnerships between:

(1) the commission;

(2) local workforce development boards;

(3) municipal, county, and regional housing authorities; and

(4) sponsors of local housing programs and services.

(c) The commission shall ensure that commission and local workforce development board staff members receive training regarding the programs and services offered by agencies and organizations with which the commission establishes partnerships under Subsection (b) and other available housing resources.

(b) Not later than December 1, 2003, the Texas Workforce Commission and local workforce development boards shall develop the employment services referral program required by Section 302.0026, Labor Code, as added by this section.

(c) Not later than December 1, 2003, the Texas Workforce Commission shall develop and implement the program required by Section 302.0038(b), Labor Code, as added by this section.

SECTION 2.94. Section 302.011, Labor Code, is amended to read as follows:

Sec. 302.011. POSTEMPLOYMENT CASE MANAGEMENT AND MENTORING. The commission shall encourage local workforce development boards to provide postemployment case management services for and use mentoring techniques to assist recipients of financial assistance who participate in employment programs under Chapter 31, Human Resources Code, and have, in comparison to other recipients, higher levels of barriers to employment. The case management services and mentoring techniques must be designed to increase the recipient's potential for wage growth and development of a stable employment history.

SECTION 2.95. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0212 to read as follows:

Sec. 32.0212. DELIVERY OF MEDICAL ASSISTANCE. Notwithstanding any other law and subject to Section 533.0025, Government Code, the department shall provide medical assistance for acute care through the Medicaid managed care system implemented under Chapter 533, Government Code.

SECTION 2.96. Section 32.024(i), Human Resources Code, is amended to read as follows:

(i) The department in its adoption of rules may [~~shall~~] establish a medically needy program that serves pregnant women, children, and caretakers who have high medical expenses, subject to availability of appropriated funds.

SECTION 2.97. (a) Section 32.024, Human Resources Code, is amended by adding Subsections (t-1), (z), and (z-1) to read as follows:

(t-1) The department, in its rules governing the medical transportation program, may not prohibit a recipient of medical assistance from receiving transportation services through the program to obtain renal dialysis treatment on the basis that the

1 recipient resides in a nursing facility.

2 (z) In its rules and standards governing the vendor drug
3 program, the department, to the extent allowed by federal law and
4 if the department determines the policy to be cost-effective, may
5 ensure that a recipient of prescription drug benefits under the
6 medical assistance program does not, unless authorized by the
7 department in consultation with the recipient's attending
8 physician or advanced practice nurse, receive under the medical
9 assistance program:

10 (1) more than four different outpatient brand-name
11 prescription drugs during a month; or

12 (2) more than a 34-day supply of a brand-name
13 prescription drug at any one time.

14 (z-1) Subsection (z) does not affect any other limit on
15 prescription medications otherwise prescribed by department rule.

16 (b) Section 32.024(z), Human Resources Code, as added by
17 this section, applies to a person receiving medical assistance on
18 or after the effective date of this section regardless of the
19 date on which the person began receiving that medical assistance.

SECTION 2.99. (a) Section 32.026(e), Human Resources Code, is amended to read as follows:

(e) The department shall permit a recertification review of the eligibility and need for medical assistance of a child under 19 years of age to be conducted by telephone or mail instead of through a personal appearance at a department office, unless the department determines that the information needed to verify eligibility cannot be obtained in that manner. The department by rule may develop procedures to determine whether there is a need for a recertification review of a child described by this subsection to be conducted through a personal interview with a department representative. Procedures developed under this subsection shall be based on objective, risk-based factors and conditions and shall focus on a targeted group of recertification reviews for which there is a high probability that eligibility will not be recertified. (b) Contingent upon enactment of Senate Bill 1522, Senate Bill 1522 prevails regarding this section notwithstanding Section 2.157

SECTION 2.100. (a) Section 32.0315(a), Human Resources Code, is amended to read as follows:

(a) Subject to appropriated state funds, the [~~The~~] department shall establish procedures and formulas for the allocation of federal medical assistance funds that are directed to be used to support graduate medical education in connection with the medical assistance program.

(b) Sections 32.0315(d)-(h), Human Resources Code, are repealed.

SECTION 2.101. Section 10(c), Chapter 584, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as

follows:

(c) The Health and Human Services Commission or the appropriate state agency operating part of the medical assistance program under Chapter 32, Human Resources Code, shall adopt rules required by Section 32.0261, Human Resources Code, as added by this Act, so that the rules take effect in accordance with that section not earlier than September 1, 2002, or later than September 1, 2005 [~~June 1, 2003~~]. The rules must provide for a 12-month period of continuous eligibility in accordance with that section for a child whose initial or continued eligibility is determined on or after the effective date of the rules.

SECTION 2.102. (a) Section 32.028, Human Resources Code, is amended by amending Subsection (g) and adding Subsections (i), (j), (k), (l), and (m) to read as follows:

(g) Subject to Subsection (i), the [~~The~~] Health and Human Services Commission shall ensure that the rules governing the determination of rates paid for nursing home services improve the quality of care by:

(1) providing a program offering incentives for increasing direct care staff and direct care wages and benefits, but only to the extent that appropriated funds are available after money is allocated to base rate reimbursements as determined by the Health and Human Services Commission's nursing facility rate setting methodologies; and

(2) if appropriated funds are available after money is allocated for payment of incentive-based rates under Subdivision (1), providing incentives that incorporate the use of a quality of care index, a customer satisfaction index, and a resolved complaints index developed by the commission.

(i) The Health and Human Services Commission shall ensure that rules governing the incentives program described by Subsection (g)(1):

(1) provide that participation in the program by a nursing home is voluntary;

(2) do not impose on a nursing home not participating in the program a minimum spending requirement for direct care staff wages and benefits;

(3) do not set a base rate for a nursing home participating in the program that is more than the base rate for a nursing home not participating in the program; and

(4) establish a funding process to provide incentives for increasing direct care staff and direct care wages and benefits in accordance with appropriations provided.

(j) The Health and Human Services Commission shall adopt rules governing the determination of the amount of reimbursement or credit for restocking drugs under Section 562.1085, Occupations Code, that recognize the costs of processing the drugs, including the cost of:

(1) reporting the drug's prescription number and date of original issue;

(2) verifying whether the drug's expiration date or the drug's recommended shelf life exceeds 120 days;

(3) determining the source of payment; and

(4) preparing credit records.

(k) The commission shall provide an electronic system for the issuance of credit for returned drugs that complies with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended. To ensure a cost-effective system, only drugs for which the credit exceeds the cost of the restocking fee by at least 100 percent are eligible for credit.

(l) The commission shall establish a task force to develop the rules necessary to implement Subsections (j) and (k). The task force must include representatives of nursing facilities and pharmacists.

(m) The commission may not fund an incentive program under Subsection (g)(1) using money appropriated for base rate reimbursements for nursing facilities.

(b) The Health and Human Services Commission shall adopt the rules required by Sections 32.028(j) and (k), Human Resources Code, as added by this section, not later than December 1, 2003.

SECTION 2.103. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0291 to read as follows:

Sec. 32.0291. PREPAYMENT REVIEWS AND POSTPAYMENT HOLDS. (a) Notwithstanding any other law, the department may:

(1) perform a prepayment review of a claim for reimbursement under the medical assistance program to determine whether the claim involves fraud or abuse; and

(2) as necessary to perform that review, withhold payment of the claim for not more than five working days without notice to the person submitting the claim.

(b) Notwithstanding any other law, the department may impose a postpayment hold on payment of future claims submitted by a provider if the department has reliable evidence that the provider has committed fraud or wilful misrepresentation regarding a claim for reimbursement under the medical assistance program. The department must notify the provider of the postpayment hold not later than the fifth working day after the date the hold is imposed.

(c) On timely written request by a provider subject to a postpayment hold under Subsection (b), the department shall file a request with the State Office of Administrative Hearings for an expedited administrative hearing regarding the hold. The provider must request an expedited hearing under this subsection not later than the 10th day after the date the provider receives notice from the department under Subsection (b). The department shall discontinue the hold unless the department makes a prima

facie showing at the hearing that the evidence relied on by the department in imposing the hold is relevant, credible, and material to the issue of fraud or wilful misrepresentation.

(d) The department shall adopt rules that allow a provider subject to a postpayment hold under Subsection (b) to seek an informal resolution of the issues identified by the department in the notice provided under that subsection. A provider must seek an informal resolution under this subsection not later than the deadline prescribed by Subsection (c). A provider's decision to seek an informal resolution under this subsection does not extend the time by which the provider must request an expedited administrative hearing under Subsection (c). However, a hearing initiated under Subsection (c) shall be stayed at the department's request until the informal resolution process is completed.

SECTION 2.104. Section 32.032, Human Resources Code, is amended to read as follows:

Sec. 32.032. PREVENTION AND DETECTION OF FRAUD AND ABUSE. The department shall adopt reasonable rules for minimizing the opportunity for fraud and abuse, for establishing and maintaining methods for detecting and identifying situations in which a question of fraud or abuse in the program may exist, and for referring cases where fraud or abuse appears to exist to the appropriate law enforcement agencies for prosecution.

SECTION 2.105. Section 32.0321, Human Resources Code, is amended to read as follows:

Sec. 32.0321. SURETY BOND. (a) The department by rule may require each provider of medical assistance in a provider type that has demonstrated significant potential for fraud or abuse to file with the department a surety bond in a reasonable amount. The department by rule shall require a provider of medical assistance to file with the department a surety bond in a

reasonable amount if the department identifies a pattern of suspected fraud or abuse involving criminal conduct relating to the provider's services under the medical assistance program that indicates the need for protection against potential future acts of fraud or abuse.

(b) The bond under Subsection (a) must be payable to the department to compensate the department for damages resulting from or penalties or fines imposed in connection with an act of fraud or abuse committed by the provider under the medical assistance program.

(c) Subject to Subsection (d) or (e), the department by rule may require each provider of medical assistance that establishes a resident's trust fund account to post a surety bond to secure the account. The bond must be payable to the department to compensate residents of the bonded provider for trust funds that are lost, stolen, or otherwise unaccounted for if the provider does not repay any deficiency in a resident's trust fund account to the person legally entitled to receive the funds.

(d) The department may not require the amount of a surety bond posted for a single facility provider under Subsection (c) to exceed the average of the total average monthly balance of all the provider's resident trust fund accounts for the 12-month period preceding the bond issuance or renewal date.

(e) If an employee of a provider of medical assistance is responsible for the loss of funds in a resident's trust fund account, the resident, the resident's family, and the resident's legal representative are not obligated to make any payments to the provider that would have been made out of the trust fund had the loss not occurred.

SECTION 2.106. (a) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0423 to read as

follows:

Sec. 32.0423. RECOVERY OF REIMBURSEMENTS FROM HEALTH COVERAGE PROVIDERS. To the extent allowed by federal law, a health care service provider must seek reimbursement from available third-party health coverage or insurance that the provider knows about or should know about before billing the medical assistance program.

(b) Section 32.0423, Human Resources Code, as added by this section, applies to a person receiving medical assistance on or after the effective date of this section regardless of the date on which the person began receiving that medical assistance.

SECTION 2.107. (a) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0462 to read as follows:

Sec. 32.0462. MEDICATIONS AND MEDICAL SUPPLIES. The department may adopt rules establishing procedures for the purchase and distribution of medically necessary, over-the-counter medications and medical supplies under the medical assistance program that were previously being provided by prescription if the department determines it is more cost-effective than obtaining those medications and medical supplies through a prescription.

(b) Not later than January 1, 2004, the Health and Human Services Commission shall submit a report to the clerks of the standing committees of the senate and house of representatives with jurisdiction over the state Medicaid program describing the status of any cost savings generated by purchasing over-the-counter medications and medical supplies as provided by Section 32.0462, Human Resources Code, as added by this section. The report must be updated not later than January 1, 2005.

SECTION 2.108. Section 32.050, Human Resources Code, is amended by adding Subsections (d), (e), and (f) to read as

follows:

(d) Except as provided by Subsection (e), a nursing facility, a home health services provider, or any other similar long-term care services provider that is Medicare-certified and provides care to individuals who are eligible for Medicare must:

(1) seek reimbursement from Medicare before billing the medical assistance program for services provided to an individual identified under Subsection (a); and

(2) as directed by the department, appeal Medicare claim denials for payment services provided to an individual identified under Subsection (a).

(e) A home health services provider is not required to seek reimbursement from Medicare before billing the medical assistance program for services provided to a person who is eligible for Medicare and who:

(1) has been determined as not being homebound; or

(2) meets other criteria determined by the department.

(f) If the Medicare reimbursement rate for a service provided to an individual identified under Subsection (a) exceeds the medical assistance reimbursement rate for a comparable service, the medical assistance program may not pay a Medicare coinsurance or deductible amount for that service.

SECTION 2.109. (a) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.060 to read as follows:

Sec. 32.060. NURSING FACILITY QUALITY ASSURANCE TEAM. (a) The nursing facility quality assurance team is established to make recommendations to the department designed to promote high-quality care for residents of nursing facilities.

(b) The team is composed of nine members appointed by the governor as follows:

(1) two physicians with expertise in providing

long-term care;

(2) one registered nurse with expertise in providing long-term care;

(3) three nursing facility advocates not affiliated with the nursing facility industry; and

(4) three representatives of the nursing facility industry.

(c) The governor shall designate a member of the team to serve as presiding officer. The members of the team shall elect any other necessary officers.

(d) The team shall meet at the call of the presiding officer.

(e) A member of the team serves at the will of the governor.

(f) A member of the team may not receive compensation for serving on the team but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the team as provided by the General Appropriations Act.

(g) The team shall:

(1) develop and recommend clearly defined minimum standards to be considered for inclusion in contracts between the department and nursing facilities for the delivery of medical assistance under this chapter that are designed to:

(A) ensure that the care provided by nursing facilities to residents who are recipients of medical assistance meets or exceeds the minimum acceptable standard of care; and

(B) encourage nursing facilities to provide the highest quality of care to those residents; and

(2) develop and recommend improvements to consumers' access to information regarding the quality of care provided by nursing facilities that contract with the department to provide medical assistance, including improvements in:

(A) the types and amounts of information to which consumers have access, such as expanding the types and amounts of information available through the department's Internet website; and

(B) the department's data systems that compile nursing facilities' inspection or survey data and other data relating to quality of care in nursing facilities.

(h) In developing minimum standards for contracts as required by Subsection (g)(1), the team shall:

(1) study the risk factors identified by the Texas Department of Insurance as contributing to lawsuits against nursing facilities;

(2) consider for inclusion in the minimum standards:

(A) the practices the Texas Department of Insurance recommends nursing facilities adopt to reduce the likelihood of those lawsuits; and

(B) other standards designed to improve the quality of care;

(3) focus on a minimum number of critical standards necessary to identify nursing facilities with poor quality services that should not be awarded contracts for the delivery of medical assistance; and

(4) with the assistance of the department, assess the potential cost impacts on providers necessary to meet the minimum standards, and the commensurate fiscal impact on the department's appropriations requirement.

(i) The department shall ensure the accuracy of information provided to the team for use by the team in performing the team's duties under this section. The Health and Human Services Commission shall provide administrative support and resources to the team and request additional administrative support and resources from health and human services agencies as necessary.

(b) The governor shall appoint the members of the nursing facility quality assurance team established under Section 32.060, Human Resources Code, as added by this section, not later than January 1, 2004.

(c) The nursing facility quality assurance team shall develop and make the recommendations required by Section 32.060, Human Resources Code, as added by this section, not later than May 1, 2004.

(d) The nursing facility quality assurance team shall report on its work and recommendations to the governor and the Legislative Budget Board no later than October 1, 2004, for consideration by the 79th Legislature.

SECTION 2.110. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.061 to read as follows:

Sec. 32.061. COMMUNITY ATTENDANT SERVICES PROGRAM. Any home and community-based services that the department provides under Section 1929, Social Security Act (42 U.S.C. Section 1396t) and its subsequent amendments to functionally disabled individuals who have income that exceeds the limit established by federal law for Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.) and its subsequent amendments shall be provided through the community attendant services program.

SECTION 2.111. (a) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.063 to read as follows:

Sec. 32.063. THIRD-PARTY BILLING VENDORS. (a) A third-party billing vendor may not submit a claim with the department for reimbursement on behalf of a provider of medical services under the medical assistance program unless the vendor has entered into a contract with the department authorizing that activity.

(b) To the extent practical, the contract shall contain

1 provisions comparable to the provisions contained in contracts
2 between the department and providers of medical services, with an
3 emphasis on provisions designed to prevent fraud or abuse under
4 the medical assistance program. At a minimum, the contract must
5 require the third-party billing vendor to:
6 (1) provide documentation of the vendor's authority to
7 bill on behalf of each provider for whom the vendor submits
8 claims;
9 (2) submit a claim in a manner that permits the
10 department to identify and verify the vendor, any computer or
11 telephone line used in submitting the claim, any relevant user
12 password used in submitting the claim, and any provider number
13 referenced in the claim; and
14 (3) subject to any confidentiality requirements
15 imposed by federal law, provide the department, the office of the
16 attorney general, or authorized representatives with:
17 (A) access to any records maintained by the
18 vendor, including original records and records maintained by the
19 vendor on behalf of a provider, relevant to an audit or
20 investigation of the vendor's services or another function of the
21 department or office of the attorney general relating to the
22 vendor; and
23 (B) if requested, copies of any records described
24 by Paragraph (A) at no charge to the department, the office of
25 the attorney general, or authorized representatives.
26 (c) On receipt of a claim submitted by a third-party
27 billing vendor, the department shall send a remittance notice
28 directly to the provider referenced in the claim. The notice
29 must:
30 (1) include detailed information regarding the claim
31 submitted on behalf of the provider; and
32 (2) require the provider to review the claim for

accuracy and notify the department promptly regarding any errors.

(d) The department shall take all action necessary, including any modifications of the department's claims processing system, to enable the department to identify and verify a third-party billing vendor submitting a claim for reimbursement under the medical assistance program, including identification and verification of any computer or telephone line used in submitting the claim, any relevant user password used in submitting the claim, and any provider number referenced in the claim.

(e) The department shall audit each third-party billing vendor subject to this section at least annually to prevent fraud and abuse under the medical assistance program.

(b) Section 32.063, Human Resources Code, as added by this section, takes effect January 1, 2004.

SECTION 2.112. (a) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.064 to read as follows:

Sec. 32.064. COST SHARING. (a) To the extent permitted under Title XIX, Social Security Act (42 U.S.C. Section 1396 et seq.), as amended, and any other applicable law or regulations, the Health and Human Services Commission shall adopt provisions requiring recipients of medical assistance to share the cost of medical assistance, including provisions requiring recipients to pay:

(1) an enrollment fee;

(2) a deductible; or

(3) coinsurance or a portion of the plan premium, if the recipients receive medical assistance under the Medicaid managed care program under Chapter 533, Government Code, or a Medicaid managed care demonstration project under Section 32.041.

(b) Subject to Subsection (d), cost-sharing provisions

adopted under this section shall ensure that families with higher levels of income are required to pay progressively higher percentages of the cost of the medical assistance.

(c) If cost-sharing provisions imposed under Subsection (a) include requirements that recipients pay a portion of the plan premium, the commission shall specify the manner in which the premium is paid. The commission may require that the premium be paid to the commission, an agency operating part of the medical assistance program, or the Medicaid managed care plan.

(d) Cost-sharing provisions adopted under this section may be determined based on the maximum level authorized under federal law and applied to income levels in a manner that minimizes administrative costs.

(b) The changes in law made by Section 32.064, Human Resources Code, as added by this section, apply to a person receiving medical assistance on or after the effective date of this section, regardless of the date on which eligibility for that assistance was determined.

SECTION 2.113. Section 48.401(1), Human Resources Code, is amended to read as follows:

(1) "Agency" means:

(A) an entity licensed under Chapter 142, Health and Safety Code; or

(B) a person exempt from licensing under Section 142.003(a)(19), Health and Safety Code.

SECTION 2.114. Section 73.0051, Human Resources Code, is amended by adding Subsection (l) to read as follows:

(l) The council by rule may establish a system of payments by families of children receiving services under this chapter, including a schedule of sliding fees, in a manner consistent with 34 C.F.R. Sections 303.12(a)(3)(iv), 303.520, and 303.521.

SECTION 2.115. (a) Sections 91.027(a) and (b), Human

Resources Code, are amended to read as follows:

(a) To the extent that funds are available under Sections 521.421(f), as added by Chapter 510, Acts of the 75th Legislature, Regular Session, 1997, and 521.422(b), Transportation Code, the [~~The~~] commission shall operate [~~develop~~] a Blindness Education, Screening, and Treatment Program to provide:

(1) blindness prevention education and [~~to provide~~] screening and treatment to prevent blindness for residents who are not covered under an adequate health benefit plan; and

(2) transition services to blind disabled individuals eligible for vocational rehabilitation services under Section 91.052.

(b) [~~The commission shall implement the program only to the extent that funds are available under Section 521.421(f), Transportation Code.~~] The program shall include:

(1) public education about blindness and other eye conditions;

(2) screenings and eye examinations to identify conditions that may cause blindness; [~~and~~]

(3) treatment procedures necessary to prevent blindness; and

(4) transition services.

(b) The Texas Commission for the Blind shall establish the consolidated program under Section 91.027, Human Resources Code, as amended by this section, not later than the 90th day after the effective date of this section.

SECTION 2.116. (a) Section 111.052, Human Resources Code, is amended to read as follows:

Sec. 111.052. GENERAL FUNCTIONS. (a) The commission shall, to the extent of resources available and priorities established by the board, provide rehabilitation services

1 directly or through public or private resources to individuals
2 determined by the commission to be eligible for the services
3 under a vocational rehabilitation program[~~, an extended~~
4 ~~rehabilitation services program,~~] or other program established to
5 provide rehabilitative services.
6 (b) In carrying out the purposes of this chapter, the
7 commission may:
8 (1) cooperate with other departments, agencies,
9 political subdivisions, and institutions, both public and
10 private, in providing the services authorized by this chapter to
11 eligible individuals, in studying the problems involved, and in
12 planning, establishing, developing, and providing necessary or
13 desirable programs, facilities, and services, including those
14 jointly administered with state agencies;
15 (2) enter into reciprocal agreements with other
16 states;
17 (3) establish or construct rehabilitation facilities
18 and workshops, contract with or provide grants to agencies,
19 organizations, or individuals as necessary to implement this
20 chapter, make contracts or other arrangements with public and
21 other nonprofit agencies, organizations, or institutions for the
22 establishment of workshops and rehabilitation facilities, and
23 operate facilities for carrying out the purposes of this chapter;
24 (4) conduct research and compile statistics relating
25 to the provision of services to or the need for services by
26 disabled individuals;
27 (5) provide for the establishment, supervision,
28 management, and control of small business enterprises to be
29 operated by individuals with significant disabilities where their
30 operation will be improved through the management and supervision
31 of the commission;
32 (6) contract with schools, hospitals, private

industrial firms, and other agencies and with doctors, nurses, technicians, and other persons for training, physical restoration, transportation, and other rehabilitation services; and

(7) assess the statewide need for services necessary to prepare students with disabilities for a successful transition to employment, establish collaborative relationships with each school district with education service centers to the maximum extent possible within available resources, and develop strategies to assist vocational rehabilitation counselors in identifying and reaching students in need of transition planning [~~contract with a public or private agency to provide and pay for rehabilitative services under the extended rehabilitation services program, including alternative sheltered employment or community integrated employment for a person participating in the program~~].

(b) Sections 111.002(7), 111.0525(a), and 111.073, Human Resources Code, are repealed.

SECTION 2.117. Section 111.060, Human Resources Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding any other provision of this section, any money in the comprehensive rehabilitation fund may be used for general governmental purposes if:

(1) the comptroller certifies that appropriations from general revenue made by the preceding legislature for the current biennium exceed available general revenues and cash balances for the remainder of that biennium;

(2) an estimate of anticipated revenues for a succeeding biennium prepared by the comptroller in accordance with Section 49a, Article III, Texas Constitution, is less than the revenues that are estimated at the same time by the comptroller to be available for the current biennium; or

(3) the Legislative Budget Board otherwise determines that a state fiscal emergency exists that requires use of any money in the fund for general governmental purposes.

SECTION 2.118. (a) Subchapter I, Chapter 264, Family Code, is transferred to Chapter 33, Education Code, is redesignated as Subchapter E, Chapter 33, Education Code, and is amended to read as follows:

SUBCHAPTER E [~~I~~]. COMMUNITIES IN SCHOOLS PROGRAM

Sec. 33.151 [~~264.751~~]. DEFINITIONS. In this subchapter:

(1) "Department" [~~"Agency"~~] means the Department of Protective and Regulatory Services [~~Texas Education Agency~~].

(2) "Communities In Schools program" means an exemplary youth dropout prevention program.

(3) "Delinquent conduct" has the meaning assigned by Section 51.03, Family Code.

(4) "Student at risk of dropping out of school" means:

(A) a student at risk of dropping out of school as defined [~~has the meaning assigned~~] by Section 29.081;

(B) [~~, Education Code, or means~~] a student who is eligible for a free or reduced lunch; or

(C) a student who is in family conflict or crisis.

Sec. 33.152 [~~264.752~~]. STATEWIDE OPERATION OF PROGRAM. It is the intent of the legislature that the Communities In Schools program operate throughout this state. It is also the intent of the legislature that programs established under Chapter 305, Labor Code, as that chapter existed on August 31, 1999, and its predecessor statute, the Texas Unemployment Compensation Act (Article 5221b-9d, Vernon's Texas Civil Statutes), and programs established under this subchapter shall remain eligible to participate in the Communities In Schools program if funds are available and if their performance meets the criteria established

by the agency [~~department~~] for renewal of their contracts.

Sec. 33.153 [~~264.753~~]. STATE DIRECTOR. The commissioner [~~executive director of the department~~] shall designate a state director for the Communities In Schools program.

Sec. 33.154 [~~264.754~~]. DUTIES OF STATE DIRECTOR. The state director shall:

(1) coordinate the efforts of the Communities In Schools program with other social service organizations and agencies and with public school personnel to provide services to students who are at risk of dropping out of school or engaging in delinquent conduct, including students who are in family conflict or emotional crisis;

(2) set standards for the Communities In Schools program and establish state performance goals, objectives, and measures for the program;

(3) obtain information to determine accomplishment of state performance goals, objectives, and measures;

(4) promote and market the program in communities in which the program is not established;

(5) help communities that want to participate in the program establish a local funding base; and

(6) provide training and technical assistance for participating communities and programs.

Sec. 33.155 [~~264.755~~]. DEPARTMENT [~~AGENCY~~] COOPERATION; MEMORANDUM OF UNDERSTANDING. (a) The agency, the department, and Communities In Schools, Inc. shall work together to maximize the effectiveness of the Communities In Schools program.

(b) The agency and the department shall develop and [~~mutually~~] agree to a memorandum of understanding to clearly define the responsibilities of the agency and of the department under this subchapter. The memorandum must address:

(1) the roles [~~role~~] of the agency and department in

encouraging local business to participate in local Communities In Schools programs;

(2) the role of the agency in obtaining information from participating school districts;

(3) the use of federal or state funds available to the agency or the department for programs of this nature; and

(4) other areas identified by the agency and the department that require clarification.

(c) The agency and the department shall adopt rules to implement the memorandum and shall update the memorandum and rules annually.

Sec. 33.156 [~~264.756~~]. FUNDING; EXPANSION OF PARTICIPATION. (a) The agency [~~department~~] shall develop and implement an equitable formula for the funding of local Communities In Schools programs. The formula may provide for the reduction of funds annually contributed by the state to a local program by an amount not more than 50 percent of the amount contributed by the state for the first year of the program. The formula must consider the financial resources of individual communities and school districts. Savings accomplished through the implementation of the formula may be used to extend services to counties and municipalities currently not served by a local program or to extend services to counties and municipalities currently served by an existing local program.

(b) Each local Communities In Schools program shall develop a funding plan which ensures that the level of services is maintained if state funding is reduced.

(c) A local Communities In Schools program may accept federal funds, state funds, private contributions, grants, and public and school district funds to support a campus participating in the program.

Sec. 33.157 [~~264.757~~]. PARTICIPATION IN PROGRAM. An

elementary or secondary school receiving funding [~~designated~~] under Section 33.156 [~~264.756~~] shall participate in a local Communities In Schools program if the number of students enrolled in the school who are at risk of dropping out of school is equal to at least 10 percent of the number of students in average daily attendance at the school, as determined by the agency.

Sec. 33.158 [~~264.750~~]. DONATIONS TO PROGRAM. (a) The agency [~~department~~] may accept a donation of services or money or other property that the agency [~~department~~] determines furthers the lawful objectives of the agency [~~department~~] in connection with the Communities In Schools program.

(b) Each donation, with the name of the donor and the purpose of the donation, must be reported in the public records of the agency [~~department~~].

(b) Section 302.062(g), Labor Code, is amended to read as follows:

(g) Block grant funding under this section does not apply to:

(1) the work and family policies program under Chapter 81;

(2) a program under the skills development fund created under Chapter 303;

(3) the job counseling program for displaced homemakers under Chapter 304;

(4) the Communities In Schools program under Subchapter E [~~F~~], Chapter 33 [~~264~~], Education [~~Family~~] Code, to the extent that funds are available to the commission for that program;

(5) the reintegration of offenders program under Chapter 306;

(6) apprenticeship programs under Chapter 133, Education Code;

(7) the continuity of care program under Section 501.095, Government Code;

(8) employment programs under Chapter 31, Human Resources Code;

(9) the senior citizens employment program under Chapter 101, Human Resources Code;

(10) the programs described by Section 302.021(b)(3);

(11) the community service program under the National and Community Service Act of 1990 (42 U.S.C. Section 12501 et seq.);

(12) the trade adjustment assistance program under Part 2, Subchapter II, Trade Act of 1974 (19 U.S.C. Section 2271 et seq.);

(13) the programs to enhance the employment opportunities of veterans; and

(14) the functions of the State Occupational Information Coordinating Committee.

(c) On September 1, 2003:

(1) all powers, duties, functions, and activities relating to the Communities In Schools program assigned to or performed by the Department of Protective and Regulatory Services immediately before September 1, 2003, are transferred to the Texas Education Agency;

(2) all funds, rights, obligations, and contracts of the Department of Protective and Regulatory Services related to the Communities In Schools program are transferred to the Texas Education Agency for the Communities In Schools program;

(3) all property and records in the custody of the Department of Protective and Regulatory Services related to the Communities In Schools program and all funds appropriated by the legislature for the Communities In Schools program are transferred to the Texas Education Agency for the Communities In

Schools program; and

(4) all employees of the Department of Protective and Regulatory Services who primarily perform duties related to the Communities In Schools program become employees of the Texas Education Agency, to be assigned duties related to the Communities In Schools program.

(d) For the 2003 and 2004 state fiscal years, all full-time equivalent positions (FTEs) authorized by the General Appropriations Act for the Communities In Schools program are transferred to the Texas Education Agency and are not included in determining the agency's compliance with any limitation on the number of full-time equivalent positions (FTEs) imposed by the General Appropriations Act.

(e) A reference in law or administrative rule to the Department of Protective and Regulatory Services that relates to the Communities In Schools program means the Texas Education Agency. A reference in law or administrative rule to the executive director of the Department of Protective and Regulatory Services that relates to the Communities In Schools program means the commissioner of education.

(f) A rule of the Department of Protective and Regulatory Services relating to the Communities In Schools program continues in effect as a rule of the commissioner of education until superseded by rule of the commissioner of education. The secretary of state is authorized to adopt rules as necessary to expedite the implementation of this subsection.

(g) The transfer of the Communities In Schools program and associated powers, duties, functions, and activities under this section does not affect or impair any act done, any obligation, right, order, license, permit, rule, criterion, standard, or requirement existing, any investigation begun, or any penalty accrued under former law, and that law remains in effect for any

action concerning those matters.

(h) An action brought or proceeding commenced before September 1, 2003, including a contested case or a remand of any action or proceeding by a reviewing court, is governed by the law and rules applicable to the action or proceeding immediately before September 1, 2003.

SECTION 2.119. (a) Sections 2(a) and (c), Article 4.11, Insurance Code, are amended to read as follows:

(a) "Carrier" means any insurer, managed care organization, or group hospital service plan transacting any such insurance business in this state including companies operating under the provisions of Chapters 841, 842, 843, 861, 881, 882, 883, 884, 941, 942, and 982, [~~3, 8, 11, 13, 15, 18, 19, 20, 20A, and 22 of the~~] Insurance Code, Chapter 533, Government Code, or Title XIX of the federal Social Security Act. The term does not include [~~but excluding~~] local mutual aid associations, fraternal benefit societies or associations, and societies that limit their membership to one occupation. For purposes of computing the premium tax under this article, a managed care organization shall be treated in the same manner as a health maintenance organization.

(c) "Gross premiums" are the total gross amount of all premiums, membership fees, assessments, dues, and any other considerations for such insurance received during the taxable year on each and every kind of such insurance policy or contract covering persons located in the State of Texas and arising from the types of insurance specified in Section 1 of this article, but deducting returned premiums, any dividends applied to purchase paid-up additions to insurance or to shorten the endowment or premium payment period, and excluding those premiums received from insurance carriers for reinsurance and there shall be no deduction for premiums paid for reinsurance. For purposes

of this article, a stop-loss or excess loss insurance policy issued to a health maintenance organization, as defined under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), shall be considered reinsurance. Such gross premiums shall not include premiums received from the [~~Treasury of the State of Texas or from the~~] Treasury of the United States for [~~insurance contracted for by the state or federal government for the purpose of providing welfare benefits to designated welfare recipients or for~~] insurance contracted for by the [~~state or~~] federal government in accordance with or in furtherance of the provisions of Title XVIII of [~~2, Human Resources Code, or~~] the Federal Social Security Act (42 U.S.C. Section 1395c et seq.) and its subsequent amendments. The gross premiums receipts so reported shall not include the amount of premiums paid on group health, accident, and life policies in which the group covered by the policy consists of a single nonprofit trust established to provide coverage primarily for employees of:

(1) a municipality, county, or hospital district in this state; or

(2) a county or municipal hospital, without regard to whether the employees are employees of the county or municipality or another entity operating the hospital on behalf of the county or municipality.

(b) The change in law made by this section applies only to a tax report originally due on or after January 1, 2004.

SECTION 2.120. (a) Article 4.17(a), Insurance Code, is amended to read as follows:

(a) The commissioner shall annually determine the rate of assessment of a maintenance tax to be paid on an annual, semiannual, or other periodic basis, as determined by the comptroller. The rate of assessment may not exceed .04 percent

of the correctly reported gross premiums of life, health, and accident insurance coverages and the gross considerations for annuity and endowment contracts collected by all authorized insurers writing life, health, and accident insurance, annuity, or endowment contracts in this state. The comptroller shall collect the maintenance tax. For purposes of this article, the gross premiums on which an assessment is based may not include premiums received from [~~this state or~~] the United States for insurance contracted for by [~~this state or~~] the United States [~~for the purpose of providing welfare benefits to designated welfare recipients or for insurance contracted for by this state or the United States~~] in accordance with or in furtherance of Title XVIII of [~~2, Human Resources Code, or~~] the federal Social Security Act (42 U.S.C. Section 1395c et seq.) and its subsequent amendments [~~(42 U.S.C. Section 301 et seq.)~~].

(b) The change in law made by this section applies only to a tax report originally due on or after January 1, 2004.

SECTION 2.121. (a) Section 33(d), Texas Health Maintenance Organization Act (Article 20A.33, Vernon's Texas Insurance Code), is amended to read as follows:

(d) The commissioner shall annually determine the rate of assessment of a per capita maintenance tax to be paid on an annual or semiannual basis, on the correctly reported gross revenues for the issuance of health maintenance certificates or contracts collected by all authorized health maintenance organizations issuing such coverages in this state. The rate of assessment may not exceed $2 for each enrollee. The rate of assessment may differ between basic health care plans, limited health care service plans, and single health care service plans and shall equitably reflect any differences in regulatory resources attributable to each type of plan. The comptroller shall collect the maintenance tax. For purposes of this section,

the amount of maintenance tax assessed may not be computed on enrollees who as individual certificate holders or their dependents are covered by a master group policy paid for by revenues received from [~~this state or~~] the United States for insurance contracted for by [~~this state or~~] the United States [~~for the purpose of providing welfare benefits to designated welfare recipients or for insurance contracted for by this state or the United States~~] in accordance with or in furtherance of Title XVIII of [~~2, Human Resources Code, or~~] the federal Social Security Act (42 U.S.C. Section 1395c et seq.) and its subsequent amendments [~~(42 U.S.C. Section 301 et seq.)~~].

(b) The change in law made by this section applies only to a tax report originally due on or after January 1, 2004.

SECTION 2.122. Section 2, Article 21.52K, Insurance Code, is amended by amending Subsections (c) and (d) and adding Subsection (g) to read as follows:

(c) If an individual described by Subsection (a), [~~or~~] (b), or (g) of this section is not eligible to enroll in the plan unless a family member of the individual is also enrolled in the plan, the issuer, on receipt of the written notice or request under Subsection (a), [~~or~~] (b), or (g) of this section, shall enroll both the individual and the family member in the plan.

(d) Unless enrollment occurs during an established enrollment period, enrollment under this article takes effect on the first day of the calendar month that begins at least 30 days after the date written notice or request is received by the issuer under Subsection (a), [~~or~~] (b), or (g) of this section.

(g) The issuer of a group health benefit plan shall permit an individual who is otherwise eligible for enrollment in the plan to enroll in the plan without regard to any enrollment period restriction if the individual:

(1) becomes ineligible for medical assistance under

the state Medicaid program or enrollment in the state child health plan under Chapter 62, Health and Safety Code, after initially establishing eligibility; and

(2) provides a written request for enrollment in the group health benefit plan not later than the 30th day after the date the individual's eligibility for the state Medicaid program or the state child health plan terminated.

SECTION 2.123. (a) Article 21.53F, Insurance Code, as added by Chapter 683, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 9 to read as follows:

Sec. 9. OFFER OF COVERAGE REQUIRED; CERTAIN THERAPIES FOR CHILDREN WITH DEVELOPMENTAL DELAYS. (a) For purposes of this section, rehabilitative and habilitative therapies include:

(1) occupational therapy evaluations and services;

(2) physical therapy evaluations and services;

(3) speech therapy evaluations and services; and

(4) dietary or nutritional evaluations.

(b) The issuer of a health benefit plan must offer coverage that complies with this section. The individual or group policy or contract holder may reject coverage required to be offered under this subsection.

(c) A health benefit plan that provides coverage for rehabilitative and habilitative therapies under this section may not prohibit or restrict payment for covered services provided to a child and determined to be necessary to and provided in accordance with an individualized family service plan issued by the Interagency Council on Early Childhood Intervention under Chapter 73, Human Resources Code.

(d) Rehabilitative and habilitative therapies described by Subsection (c) of this section must be covered in the amount, duration, scope, and service setting established in the child's individualized family service plan.

(e) Under the coverage required to be offered under this section, a health benefit plan issuer may not:

(1) apply the cost of rehabilitative and habilitative therapies described by Subsection (c) of this section to an annual or lifetime maximum plan benefit or similar provision under the plan; or

(2) use the cost of rehabilitative or habilitative therapies described by Subsection (c) of this section as the sole justification for:

(A) increasing plan premiums; or

(B) terminating the insured's or enrollee's participation in the plan.

(b) The change in law made by this section applies only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2004. A health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2004, is governed by the law as it existed immediately before the effective date of this section, and the former law is continued in effect for that purpose.

SECTION 2.124. Article 27.05, Insurance Code, is amended to read as follows:

Art. 27.05. EXEMPTION FROM PREMIUM TAX. The issuer of a children's health benefit plan approved under Article 27.03 of this code is not subject to the premium tax imposed by Article 4.11 of this code or the tax on revenues imposed under Section 33, Texas Health Maintenance Organization Act (Article 20A.33, Vernon's Texas Insurance Code), with respect to money received for coverage provided under that plan.

SECTION 2.125. Chapter 27, Insurance Code, is amended by adding Article 27.07 to read as follows:

Art. 27.07. INAPPLICABILITY TO CERTAIN PLANS. This chapter does not apply to a health benefit plan provided under the state

Medicaid program or the state child health plan.

SECTION 2.126. Subchapter C, Chapter 562, Occupations Code, is amended by adding Sections 562.1085 and 562.1086 to read as follows:

Sec. 562.1085. UNUSED DRUGS RETURNED BY CERTAIN PHARMACISTS. (a) A pharmacist who practices in or serves as a consultant for a health care facility in this state may return to a pharmacy certain unused drugs, other than a controlled substance as defined by Chapter 481, Health and Safety Code, purchased from the pharmacy as provided by board rule. The unused drugs must:

(1) be approved by the federal Food and Drug Administration and be:

(A) sealed in the manufacturer's original unopened tamper-evident packaging and either individually packaged or packaged in unit-dose packaging;

(B) oral or parenteral medication in sealed single-dose containers approved by the federal Food and Drug Administration;

(C) topical or inhalant drugs in sealed units-of-use containers approved by the federal Food and Drug Administration; or

(D) parenteral medications in sealed multiple-dose containers approved by the federal Food and Drug Administration from which doses have not been withdrawn; and

(2) not be the subject of a mandatory recall by a state or federal agency or a voluntary recall by a drug seller or manufacturer.

(b) A pharmacist for the pharmacy shall examine a drug returned under this section to ensure the integrity of the drug product. A health care facility may not return a drug that:

(1) has been compounded;

(2) appears on inspection to be adulterated;

(3) requires refrigeration; or

(4) has less than 120 days until the expiration date or end of the shelf life.

(c) The pharmacy may restock and redistribute unused drugs returned under this section.

(d) The pharmacy shall reimburse or credit the state Medicaid program for an unused drug returned under this section.

(e) The board shall adopt the rules, policies, and procedures necessary to administer this section, including rules that require a health care facility to inform the Health and Human Services Commission of medicines returned to a pharmacy under this section.

Sec. 562.1086. LIMITATION ON LIABILITY. (a) A pharmacy that returns unused drugs and a manufacturer that accepts the unused drugs under Section 562.1085 and the employees of the pharmacy or manufacturer are not liable for harm caused by the accepting, dispensing, or administering of drugs returned in strict compliance with Section 562.1085 unless the harm is caused by:

(1) wilful or wanton acts of negligence;

(2) conscious indifference or reckless disregard for the safety of others; or

(3) intentional conduct.

(b) This section does not limit, or in any way affect or diminish, the liability of a drug seller or manufacturer under Chapter 82, Civil Practice and Remedies Code.

(c) This section does not apply if harm results from the failure to fully and completely comply with the requirements of Section 562.1085.

(d) This section does not apply to a pharmacy or manufacturer that fails to comply with the insurance provisions of Chapter 84, Civil Practice and Remedies Code.

SECTION 2.127. Section 455.0015, Transportation Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) It is the intent of the legislature that, whenever possible, and to the maximum extent feasible, the existing network of transportation providers, and in particular the fixed route components of the existing networks, be used to meet the client transportation requirements of the state's social service agencies and their agents. The legislature recognizes the contributions of nonprofit entities dedicated to providing social services and related activities and encourages the continued community involvement of these entities in this area. The legislature likewise recognizes the potential cost savings and other benefits for utilizing existing private sector transportation resources. The department will contract with and promote the use of private sector transportation resources to the maximum extent feasible consistent with the goals of this subsection.

(c) The Texas Department of Health and the Health and Human Services Commission shall contract with the department for the department to assume all responsibilities of the Texas Department of Health and the Health and Human Services Commission relating to the provision of transportation services for clients of eligible programs. The department shall hold at least one public hearing to solicit the views of the public concerning the transition of transportation services to the department under this subsection and shall meet with and consider the views of interested persons, including persons representing transportation clients.

(d) The department may contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services.

SECTION 2.128. Section 40.002, Human Resources Code, is amended by adding Subsection (f) to read as follows:

(f) The department may contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the department relating to the provision of transportation services for clients of eligible programs.

SECTION 2.129. Section 22.001, Human Resources Code, is amended by adding Subsection (e) to read as follows:

(e) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the department relating to the provision of transportation services for clients of eligible programs.

SECTION 2.130. Section 91.021, Human Resources Code, is amended by adding Subsection (g) to read as follows:

(g) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the commission relating to the provision of transportation services for clients of eligible programs.

SECTION 2.131. Section 101.0256, Human Resources Code, is amended to read as follows:

Sec. 101.0256. COORDINATED ACCESS TO LOCAL SERVICES. (a) The department and the Texas Department of Human Services shall develop standardized assessment procedures to share information on common clients served in a similar service region.

(b) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the department relating to the provision of transportation services for clients of eligible programs.

SECTION 2.132. Section 111.0525, Human Resources Code, is amended by adding Subsection (d) to read as follows:

(d) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the commission relating to the provision of transportation services for clients of eligible programs.

SECTION 2.133. Section 461.012(a), Health and Safety Code, is amended to read as follows:

(a) The commission shall:

(1) provide for research and study of the problems of chemical dependency in this state and seek to focus public attention on those problems through public information and education programs;

(2) plan, develop, coordinate, evaluate, and implement constructive methods and programs for the prevention, intervention, treatment, and rehabilitation of chemical dependency in cooperation with federal and state agencies, local governments, organizations, and persons, and provide technical assistance, funds, and consultation services for statewide and community-based services;

(3) cooperate with and enlist the assistance of:

(A) other state, federal, and local agencies;

(B) hospitals and clinics;

(C) public health, welfare, and criminal justice system authorities;

(D) educational and medical agencies and organizations; and

(E) other related public and private groups and persons;

(4) expand chemical dependency services for children when funds are available because of the long-term benefits of

1 those services to the state and its citizens;

2 (5) sponsor, promote, and conduct educational programs

3 on the prevention and treatment of chemical dependency, and

4 maintain a public information clearinghouse to purchase and

5 provide books, literature, audiovisuals, and other educational

6 material for the programs;

7 (6) sponsor, promote, and conduct training programs

8 for persons delivering prevention, intervention, treatment, and

9 rehabilitation services and for persons in the criminal justice

10 system or otherwise in a position to identify chemically

11 dependent persons and their families in need of service;

12 (7) require programs rendering services to chemically

13 dependent persons to safeguard those persons' legal rights of

14 citizenship and maintain the confidentiality of client records as

15 required by state and federal law;

16 (8) maximize the use of available funds for direct

17 services rather than administrative services;

18 (9) consistently monitor the expenditure of funds and

19 the provision of services by all grant and contract recipients to

20 assure that the services are effective and properly staffed and

21 meet the standards adopted under this chapter;

22 (10) make the monitoring reports prepared under

23 Subdivision (9) a matter of public record;

24 (11) license treatment facilities under Chapter 464;

25 (12) use funds appropriated to the commission to carry

26 out this chapter and maximize the overall state allotment of

27 federal funds;

28 (13) develop and implement policies that will provide

29 the public with a reasonable opportunity to appear before the

30 commission and to speak on any issue under the commission's

31 jurisdiction;

32 (14) establish minimum criteria that peer assistance

programs must meet to be governed by and entitled to the benefits of a law that authorizes licensing and disciplinary authorities to establish or approve peer assistance programs for impaired professionals;

(15) adopt rules governing the functions of the commission, including rules that prescribe the policies and procedures followed by the commission in administering any commission programs;

(16) plan, develop, coordinate, evaluate, and implement constructive methods and programs to provide healthy alternatives for youth at risk of selling controlled substances;

(17) submit to the federal government reports and strategies necessary to comply with Section 1926 of the federal Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, Pub. L. 102-321 (42 U.S.C. Section 300x-26); reports and strategies are to be coordinated with appropriate state governmental entities; [~~and~~]

(18) regulate, coordinate, and provide training for alcohol awareness courses required under Section 106.115, Alcoholic Beverage Code, and may charge a fee for an activity performed by the commission under this subdivision; and

(19) contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the commission relating to the provision of transportation services for clients of eligible programs.

SECTION 2.134. Section 533.012, Health and Safety Code, is amended to read as follows:

Sec. 533.012. COOPERATION OF STATE AGENCIES. (a) At the department's request, all state departments, agencies, officers, and employees shall cooperate with the department in activities that are consistent with their functions.

(b) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the department relating to the provision of transportation services for clients of eligible programs.

SECTION 2.135. (a) Section 1551.159, Insurance Code, as effective June 1, 2003, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) Subject to any applicable limit in the General Appropriations Act, the board of trustees shall use money appropriated for employer contributions to fund 80 percent of the cost of basic coverage for a child who:

(1) is a dependent of an employee;

(2) would be eligible, if the child were not the dependent of the employee, for benefits under the state child health plan established under Chapter 62, Health and Safety Code [~~the program established by the state to implement Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended~~]; and

(3) is not eligible for the state Medicaid program.

(h) A child enrolled in dependent child coverage under this section is subject to the same requirements and restrictions relating to income eligibility, continuous coverage, and enrollment, including applicable waiting periods, as a child enrolled in the state child health plan under Chapter 62, Health and Safety Code.

(b) The change in law made by this section applies only to a child enrolled in dependent child coverage under the state employees group benefits program on and after September 1, 2003.

SECTION 2.136. Section 31.03, Penal Code, is amended by adding Subsection (j) to read as follows:

(j) With the consent of the appropriate local county or

district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

SECTION 2.137. Section 32.45, Penal Code, is amended by adding Subsection (d) to read as follows:

(d) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

SECTION 2.138. Section 32.46, Penal Code, is amended by adding Subsection (e) to read as follows:

(e) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

SECTION 2.139. Section 37.10, Penal Code, is amended by adding Subsection (i) to read as follows:

(i) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

SECTION 2.140. Section 57.046, Utilities Code, is amended by adding Subsection (c) to read as follows:

(c) In addition to the purposes for which the qualifying entities account may be used, the board may use money in the account to award grants to the Health and Human Services Commission for technology initiatives of the commission.

SECTION 2.141. Articles 59.01(1) and (2), Code of Criminal

Procedure, are amended to read as follows:

(1) "Attorney representing the state" means the prosecutor with felony jurisdiction in the county in which a forfeiture proceeding is held under this chapter or, in a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(iv) of this article, the city attorney of a municipality if the property is seized in that municipality by a peace officer employed by that municipality and the governing body of the municipality has approved procedures for the city attorney acting in a forfeiture proceeding. In a proceeding for forfeiture of contraband as defined under Subdivision (2)(B)(vii) of this article, the term includes the attorney general.

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 21.11, 38.04, 43.25, or 43.26 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code; or

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes);

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter; [~~or~~]

(vi) any felony under Chapter 152, Finance Code; or

(vii) any felony under Chapter 31, 32, or 37, Penal Code, that involves the state Medicaid program, or any felony under Chapter 36, Human Resources Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence; or

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision or a crime of violence.

SECTION 2.142. Article 59.06, Code of Criminal Procedure, is amended by adding Subsection (p) to read as follows:

(p) Notwithstanding Subsection (a), and to the extent necessary to protect the commission's ability to recover amounts wrongfully obtained by the owner of the property and associated damages and penalties to which the commission may otherwise be entitled by law, the attorney representing the state shall transfer to the Health and Human Services Commission all forfeited property defined as contraband under Article 59.01(2)(B)(vii). If the forfeited property consists of property other than money or negotiable instruments, the attorney representing the state may, if approved by the commission, sell the property and deliver to the commission the proceeds from the sale, minus costs attributable to the sale. The sale must be conducted in a manner that is reasonably expected to result in receiving the fair market value for the property.

SECTION 2.143. STUDY. (a) The Medicaid and Public

Assistance Fraud Oversight Task Force, with the participation of the Texas Department of Health's bureau of vital statistics and other agencies designated by the comptroller, shall study procedures and documentation requirements used by the state in confirming a person's identity for purposes of establishing entitlement to Medicaid and other benefits provided through health and human services programs.

(b) Not later than December 1, 2004, the Medicaid and Public Assistance Fraud Oversight Task Force, with assistance from the agencies participating in the study required by Subsection (a) of this section, shall submit a report to the legislature containing recommendations for improvements in the procedures and documentation requirements described by Subsection (a) of this section that would strengthen the state's ability to prevent fraud and abuse in the Medicaid program and other health and human services programs.

SECTION 2.144. STUDY: REVENUE ENHANCEMENT RELATED TO MEDICAID VENDOR DRUG REBATE. (a) A task force is created to study the prescription drug rebate system established and operated under the medical assistance program and other related programs.

(b) The commission shall establish a task force, composed of appropriate legislators, state agency personnel, and other appropriate personnel to study the prescription drug rebate system established and operated under the medical assistance program and other related programs.

(c) The study must include:

(1) a background on the development and operation of the federal vendor drug rebate and state supplemental rebate system;

(2) a description of current and historical state efforts to develop and implement alternatives to the federal

vendor drug rebate system;

(3) a review of any relevant case law or legal precedents related to the vendor drug rebate system;

(4) an analysis of state implementation, including attempted implementation, of an exemption of federal requirements, including the federal Social Security Act, related to vendor drug rebates, prior authorization provisions, and formulary; and

(5) feasibility of developing either an alternative rebate system or other mechanism to enhance the state's share of prescription drug rebates.

(d) The study must be completed by December 1, 2004, and presented to the governor and the presiding officers of each house, the House Committee on Appropriations, and the Senate Finance Committee.

SECTION 2.145. LEGISLATIVE INTENT REGARDING PROVISION OF HEALTH AND HUMAN SERVICE TRANSPORTATION THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION. It is the intent of the legislature that the provision of health and human service transportation through the Texas Department of Transportation will improve the delivery of transportation services to clients and enhance their access to transportation services. Furthermore, it is the intent of the legislature that these services be provided in a manner that will generate efficiencies in operation, control costs, and permit increased levels of service. The Texas Department of Transportation shall encourage cooperation and coordination among transportation providers, regional transportation brokers, and actual and potential clients in an effort to achieve the stated legislative goals.

SECTION 2.146. (a) A change in law made by this article to Section 242.047, Health and Safety Code, that requires the Texas Department of Health to accept an annual accreditation review

from the Joint Commission on Accreditation of Health Organizations for a nursing home in satisfaction of the requirements for certification:

(1) applies only to a nursing home that participates in the medical assistance program under Chapter 32, Human Resources Code, before September 1, 2003; and

(2) may be implemented only as a pilot program.

(b) A pilot program operated in accordance with this section expires September 1, 2007.

SECTION 2.147. (a) The Texas State Board of Pharmacy shall adopt the rules required by Section 562.1085, Occupations Code, as added by this Act, not later than December 1, 2003.

(b) Notwithstanding Section 562.1085, Occupations Code, as added by this Act, a pharmacy is not required to accept unused drugs from a health care facility before January 1, 2004.

SECTION 2.148. The Health and Human Services Commission shall adopt the rules required by Sections 32.028(i) and (j), Human Resources Code, as added by this Act, not later than December 1, 2003.

SECTION 2.149. TRANSFER OF MEDICAL TRANSPORTATION PROGRAM. (a) On September 1, 2004, or on an earlier date specified by the Health and Human Services Commission:

(1) all powers, duties, functions, activities, obligations, rights, contracts, records, property, and appropriations or other money of the Texas Department of Health that are determined by the commissioner of health and human services to be essential to the administration of the medical transportation program are transferred to the Health and Human Services Commission;

(2) a rule or form adopted by the Texas Department of Health that relates to the medical transportation program is a rule or form of the Health and Human Services Commission and

1 remains in effect until altered by the commission;

2 (3) a reference in law or an administrative rule to
3 the Texas Department of Health that relates to the medical
4 transportation program means the Health and Human Services
5 Commission;

6 (4) a license, permit, or certification in effect that
7 was issued by the Texas Department of Health and that relates to
8 the medical transportation program is continued in effect as a
9 license, permit, or certification of the Health and Human
10 Services Commission; and

11 (5) a complaint, investigation, or other proceeding
12 pending before the Texas Department of Health that relates to the
13 medical transportation program is transferred without change in
14 status to the Health and Human Services Commission.

15 (b) The Health and Human Services Commission shall take all
16 action necessary to provide for the transfer of the medical
17 transportation program to the commission as soon as possible
18 after the effective date of this section but not later than
19 September 1, 2004.

20 SECTION 2.150. CONSOLIDATION OF CERTAIN DIVISIONS AND
21 ACTIVITIES. (a) Not later than March 1, 2004, the Health and
22 Human Services Commission shall consolidate the Medicaid
23 post-payment third-party recovery divisions or activities of the
24 Texas Department of Human Services, the Medicaid vendor drug
25 program, and the state's Medicaid claims administrator with the
26 Medicaid post-payment third-party recovery function.

27 (b) The Health and Human Services Commission shall use the
28 commission's Medicaid post-payment third-party recovery
29 contractor for the consolidated division.

30 (c) The Health and Human Services Commission shall update
31 its computer system to facilitate the consolidation.

32 SECTION 2.151. ABOLITION OF ADVISORY COMMITTEES. (a)

Notwithstanding any other provision of state law, each advisory committee, as that term is defined by Section 2110.001, Government Code, created before the effective date of this section that advises the Health and Human Services Commission or a health and human services agency is abolished on the effective date of this section unless the committee:

(1) is required by federal law; or

(2) advises an agency with respect to certification or licensing programs, the regulation of entities providing health and human services, or the implementation of a duty prescribed under this article, as determined by the commissioner of health and human services.

(b) The commissioner of health and human services shall certify which advisory committees are exempt from abolition under Subsection (a) of this section and shall publish that certification in the Texas Register.

(c) An advisory committee that is created on or after the effective date of this section or that is exempt under Subsection (b) of this section from abolition shall make recommendations to the executive director of the health and human services agency the advisory committee was created to advise and to the commissioner of health and human services to assist with eliminating or minimizing overlapping functions or required duties between the health and human services agencies or between those agencies and the Health and Human Services Commission.

(d) This section does not apply to the telemedicine advisory committee established under Section 531.02172, Government Code, as added by Chapters 661 and 959, Acts of the 77th Legislature, Regular Session, 2001, and that committee continues in existence.

SECTION 2.152. Community mental health centers may coordinate with local community health centers, federally

1 qualified health centers (FQHC), and/or disproportionate share
2 hospitals for the purpose of accessing local, state, and federal
3 programs that could result in lower cost pharmaceuticals. In
4 particular, community mental health centers may form a referral
5 relationship with community health centers, federally qualified
6 health centers (FQHC), disproportionate share hospitals, and/or
7 other eligible entities for the purpose of obtaining federal 340B
8 pricing for pharmaceuticals. Community mental health centers may
9 form a referral relationship with community health centers,
10 federally qualified health centers (FQHC), disproportionate share
11 hospitals, and/or other eligible entities for the purpose of
12 taking advantage of 340B or other lower cost drug programs
13 regardless of any statewide preferred drug list or vendor drug
14 program which may be adopted.
15 SECTION 2.153. CHILD HEALTH PLAN PROGRAM WAIVER. Not later
16 than October 1, 2003, the Health and Human Services Commission
17 shall request and actively pursue any necessary waivers from a
18 federal agency or any other appropriate entity to allow families
19 enrolled in the state Medicaid program to opt into the child
20 health plan program under Chapter 62, Health and Safety Code,
21 while retaining the appropriate federal match rate, the state's
22 entitlement to federal matching funds, and the child's
23 entitlement to Medicaid coverage. The waiver shall, on at least
24 an annual basis, allow families eligible for Medicaid who have
25 previously opted to enroll their children in the child health
26 plan program under Chapter 62, Health and Safety Code, to return
27 those children to the Medicaid program.
28 SECTION 2.154. STATE CHILD HEALTH PLAN AMENDMENT. (a) In
29 this section, "group plan" means the group health benefit plan
30 under the health insurance premium payment reimbursement program
31 established under Section 62.059, Health and Safety Code.
32 (b) As soon as possible after the effective date of this

section, the Health and Human Services Commission shall submit for approval a plan amendment relating to the state child health plan under 42 U.S.C. Section 1397ff, as amended, as necessary to include the employers' share of required premiums for coverage of individuals enrolled in the group plan as expenditures for the purpose of determining the state children's health insurance expenditures, as that term is defined by 42 U.S.C. Section 1397ee(d)(2)(B), as amended, for federal match funding for the child health plan program provided under Chapter 62, Health and Safety Code.

SECTION 2.155. STATE MEDICAID PLAN AMENDMENT. (a) In this section, "group plan" means the group health benefit plan under the health insurance premium payment reimbursement program for Medicaid recipients established under Section 32.0422, Human Resources Code.

(b) As soon as possible after the effective date of this section, the Health and Human Services Commission shall submit an amendment to the state Medicaid plan as necessary to allow this state to include the employers' share of required premiums for coverage of individuals enrolled in the group plan as expenditures for the purpose of determining this state's Medicaid program expenditures for federal match funding for the state Medicaid program.

SECTION 2.156. REPEAL. (a) The following are repealed:

(1) Sections 62.055(b) and (c), 62.056, 62.057, 142.006(d), (e), and (f), 142.009(i), 142.0176, 242.0372, 252.206(d), and 252.207(b), Health and Safety Code; and

(2) Sections 32.027(b) and (e), Human Resources Code.

(b) An advisory committee established under Section 62.057, Health and Safety Code, is abolished on the effective date of this section.

SECTION 2.157. In the event of a conflict between a

provision of this Act and another Act passed by the 78th Legislature, Regular Session, 2003, that becomes law, this Act prevails and controls regardless of the relative dates of enactment.

SECTION 2.158. FEDERAL AUTHORIZATION OR WAIVER. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 2.159. Any funds that are used by the Texas Department of Transportation to implement the transportation services provided in Sections 2.127, 2.128, 2.129, 2.130, 2.131, 2.132, 2.133, and 2.134 of this Act shall be accounted for and budgeted separately from other funds appropriated to the Texas Department of Transportation for any other public transportation program or budget strategy.

SECTION 2.160. Section 38.001, Education Code, is amended by amending Subsection (c) and adding Subsections (c-1) and (f) to read as follows:

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required <u>poses a significant risk</u> [~~would be injurious~~] to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief [~~conflicts with the tenets and practice of a recognized church or religious denomination of which the applicant is an adherent or member, except that this exemption does not apply in times of emergency or epidemic declared by the commissioner of public health~~]; or

(2) is a member of the armed forces of the United States and is on active duty.

(c-1) An affidavit submitted under Section (c)(1)(B) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

(f) A person who has not received the immunizations required by this section for reasons of conscience, including because of the person's religious beliefs, may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

SECTION 2.161. Section 51.933, Education Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) No form of immunization is required for a person's admission to an institution of higher education if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine within the United States in which it is stated that, in the physician's opinion, the immunization required poses a significant risk [~~would be injurious~~] to the health and well-being of the applicant or any member of the applicant's

family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief [~~conflicts with the tenets and practice of a recognized church or religious denomination of which the applicant is an adherent or member~~]; or

(2) is a member of the armed forces of the United States and is on active duty.

(d-1) An affidavit submitted under Section (d)(1)(B) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

SECTION 2.162. Section 161.004(d), Health and Safety Code, is amended to read as follows:

(d) A child is exempt from an immunization required by this section if:

(1) [~~immunization conflicts with the tenets of an organized religion to which~~] a parent, managing conservator, or guardian states that the immunization is being declined for reasons of conscience, including a religious belief [~~belongs~~]; or

(2) the immunization is medically contraindicated based on the opinion of [~~an examination of the child by~~] a physician licensed by any state in the United States who has examined the child.

SECTION 2.163. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0041 to read as follows:

Sec. 161.0041. IMMUNIZATION EXEMPTION AFFIDAVIT FORM. (a) A person claiming an exemption from a required immunization based on reasons of conscience, including a religious belief, under Section 161.004 of this code, Section 38.001 or 51.933, Education Code, or Section 42.043, Human Resources Code, must complete an

affidavit on a form provided by the department stating the reason for the exemption.

(b) The affidavit must be signed by the person claiming the exemption or, if the person is a minor, the person's parent, managing conservator, or guardian and the affidavit must be notarized.

(c) A person claiming an exemption from a required immunization under this section may only obtain the affidavit form by submitting a written request for the affidavit form to the department.

(d) The department shall develop a blank affidavit form that contains a seal or other security device to prevent reproduction of the form. The affidavit form shall contain a statement indicating that the person or, if a minor, the person's parent, managing conservator, or guardian understands the benefits and risks of immunizations and the benefits and risks of not being immunized.

(e) The department shall maintain a record of the total number of affidavit forms sent out each year and shall report that information to the legislature each year. The department may not maintain a record of the names of individuals who request an affidavit under this section.

SECTION 2.164. Section 42.043, Human Resources Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) No immunization may be required for admission to a facility regulated under this chapter if a person applying for a child's admission submits one of the following affidavits:

(1) an affidavit signed by a licensed physician stating that the immunization poses a significant risk [~~would be injurious~~] to the health and well-being of the child or a member of the child's family or household; or

(2) an affidavit signed by the child's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief [~~conflicts with the tenets and practices of a recognized religious organization of which the applicant is an adherent or a member~~].

(d-1) An affidavit submitted under Section (d)(2) must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted not later than the 90th day after the date the affidavit is notarized.

SECTION 2.165. (a) Chapter 51, Government Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. ADDITIONAL FILING FEE FOR FAMILY PROTECTION

Sec. 51.961. FAMILY PROTECTION FEE. (a) The commissioners court of a county may adopt a family protection fee in an amount not to exceed $15.

(b) Except as provided by Subsection (c), the district clerk or county clerk shall collect the family protection fee at the time a suit for dissolution of a marriage under Chapter 6, Family Code, is filed. The fee is in addition to any other fee collected by the district clerk or county clerk.

(c) The clerk may not collect a fee under this section from a person who is protected by an order issued under:

(1) Subtitle B, Title 4, Family Code; or

(2) Article 17.292, Code of Criminal Procedure.

(d) The clerk shall pay a fee collected under this section to the appropriate officer of the county in which the suit is filed for deposit in the county treasury to the credit of the family protection account. The account may be used by the commissioners court of the county only to fund a service provider located in that county or an adjacent county. The commissioners court may provide funding to a non-profit organization that provides services described by Subsection (e).

(e) A service provider who receives funds under Subsection (d) may provide family violence prevention, intervention, mental health, counseling, legal, and marriage preservation services to families that are at risk of experiencing or that have experienced family violence or the abuse or neglect of a child.

(f) In this section, "family violence" has the meaning assigned by Section 71.004, Family Code.

(b) Subchapter M, Chapter 51, Government Code, as added by this section, applies only to a filing fee collected for a suit for the dissolution of a marriage under Chapter 6, Family Code, on or after the effective date of this section. A filing fee collected for a suit for the dissolution of a marriage under Chapter 6, Family Code, before the effective date of this section is governed by the law as it existed immediately before the effective date of this section, and that law is continued in effect for that purpose.

SECTION 2.166. (a) Chapter 531, Government Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. PROVISION OF SERVICES FOR CERTAIN CHILDREN WITH MULTIAGENCY NEEDS

Sec. 531.421. DEFINITIONS. In this subchapter:

(1) "Children with severe emotional disturbances" includes:

(A) children who are at risk of incarceration or placement in a residential mental health facility;

(B) children for whom a court may appoint the Department of Protective and Regulatory Services as managing conservator;

(C) children who are students in a special education program under Subchapter A, Chapter 29, Education Code; and

(D) children who have a substance abuse disorder

1 or a developmental disability.

2 (2) "Community resource coordination group" means a

3 coordination group established under a memorandum of

4 understanding adopted under Section 531.055, as added by Chapter

5 114, Acts of the 77th Legislature, Regular Session, 2001.

6 (3) "Consortium" means the consortium that oversees

7 the Texas Integrated Funding Initiative under Subchapter G,

8 Chapter 531, as added by Chapter 446, Acts of the 76th

9 Legislature, Regular Session, 1999.

10 (4) "Systems of care services" means a comprehensive

11 state system of mental health services and other necessary and

12 related services that is organized as a coordinated network to

13 meet the multiple and changing needs of children with severe

14 emotional disturbances and their families.

15 Sec. 531.422. EVALUATIONS BY COMMUNITY RESOURCE

16 COORDINATION GROUPS. (a) Each community resource coordination

17 group shall evaluate the provision of systems of care services in

18 the community that the group serves. Each evaluation must:

19 (1) describe and prioritize services needed by

20 children with severe emotional disturbances in the community;

21 (2) review and assess the systems of care services

22 that are available in the community to meet those needs;

23 (3) assess the integration of the provision of those

24 services; and

25 (4) identify any barriers to the effective provision

26 of those services.

27 (b) Each community resource coordination group shall create

28 a report that includes the evaluation in Subsection (a) and makes

29 related recommendations, including:

30 (1) suggested policy and statutory changes at agencies

31 that provide systems of care services; and

32 (2) recommendations for overcoming barriers to the

provision of systems of care services and improving the integration of those services.

(c) Each community resource coordination group shall submit the report described by Subsection (b) to the consortium. The consortium shall provide a deadline to each group for submitting the reports. The time frame for completing the reports must be coordinated with any regional reviews by the commission of the delivery of related services.

Sec. 531.423. SUMMARY REPORT BY TEXAS INTEGRATED FUNDING INITIATIVE CONSORTIUM. (a) The consortium shall create a summary report based on the evaluations in the reports submitted to the consortium by community resource coordination groups under Section 531.422. The consortium's report must include recommendations for policy and statutory changes at each agency that is involved in the provision of systems of care services and the outcome expected from implementing each recommendation.

(b) The consortium shall coordinate, where appropriate, the recommendations in the report created under this section with recommendations in the assessment developed under S.B. No. 491, Acts of the 78th Legislature, Regular Session, 2003, and with the continuum of care developed under S.B. No. 490, Acts of the 78th Legislature, Regular Session, 2003.

(c) The consortium may include in the report created under this section recommendations for the statewide expansion of sites participating in the Texas Integrated Funding Initiative under Subchapter G, Chapter 531, as added by Chapter 446, Acts of the 76th Legislature, Regular Session, 1999, and the integration of services provided at those sites with services provided by community resource coordination groups.

(d) The consortium shall provide a copy of the report created under this section to each agency for which the report makes a recommendation and to other agencies as appropriate.

1 Sec. 531.424. AGENCY IMPLEMENTATION OF RECOMMENDATIONS. An
2 agency described by Section 531.423(a) shall, as appropriate,
3 adopt rules, policy changes, and memoranda of understanding with
4 other agencies to implement the recommendations in the report
5 created under Section 531.423.
6 (b) The consortium that oversees the Texas Integrated
7 Funding Initiative under Subchapter G, Chapter 531, Government
8 Code, as added by Chapter 446, Acts of the 76th Legislature,
9 Regular Session, 1999, in cooperation with the Health and Human
10 Services Commission and the Texas Department of Health, shall
11 report to the governor and the 79th Legislature not later than
12 January 11, 2005, on:
13 (1) recommendations in the report under Section
14 531.423, Government Code, as added by this section, including
15 recommendations for statutory changes; and
16 (2) agency implementation of recommendations under
17 Section 531.424, Government Code, as added by this section.
18 SECTION 2.167. Subdivisions (2) and (7), Section 81.003,
19 Health and Safety Code, are amended to read as follows:
20 (2) "Health authority" means:
21 (A) a physician appointed as a health authority
22 [~~such~~] under Chapter 121 (Local Public Health Reorganization Act)
23 or the health authority's designee; or
24 (B) a physician appointed as a regional director
25 under Chapter 121 (Local Public Health Reorganization Act) who
26 performs the duties of a health authority or the regional
27 director's designee.
28 (7) "Public health disaster" means:
29 (A) a declaration by the governor of a state of
30 disaster; and
31 (B) a determination by the commissioner that
32 there exists an immediate threat from a communicable disease

that:

(i) poses a high risk of death or serious long-term disability to a large number of people; and

(ii) creates a substantial risk of public exposure because of the disease's high level of contagion or the method by which the disease is transmitted [~~"Regional director" means a physician appointed as such under Chapter 121 (Local Public Health Reorganization Act)~~].

SECTION 2.168. Section 81.004, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) A designee of the commissioner may exercise a power granted to or perform a duty imposed on the commissioner under this chapter except as otherwise required by law.

SECTION 2.169. Subsection (d), Section 81.023, Health and Safety Code, is transferred to Subchapter A, Chapter 81, Health and Safety Code, redesignated as Section 81.011, Health and Safety Code, and amended to read as follows:

Sec. 81.011. REQUEST FOR INFORMATION. [~~(d)~~] In times of emergency or epidemic declared by the commissioner, the department [~~board~~] is authorized to request information pertaining to names, dates of birth, and most recent addresses of individuals from the driver's license records of the Department of Public Safety for the purpose of notification to individuals of the need to receive certain immunizations or diagnostic, evaluation, or treatment services for suspected communicable diseases.

SECTION 2.170. Section 81.041, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) In a public health disaster, the commissioner may require reports of communicable diseases or other health conditions from providers without board rule or action. The commissioner shall issue appropriate instructions relating to

complying with the reporting requirements of this section.

SECTION 2.171. Subsection (a), Section 81.042, Health and Safety Code, is amended to read as follows:

(a) A report under Subsection (b), (c), or (d) shall be made to the local health authority [~~or, if there is no local health authority, the regional director~~].

SECTION 2.172. Section 81.043, Health and Safety Code, is amended to read as follows:

Sec. 81.043. RECORDS AND REPORTS OF HEALTH AUTHORITY [~~AND REGIONAL DIRECTOR~~]. (a) Each health authority [~~or regional director~~] shall keep a record of each case of a reportable disease that is reported to the authority [~~or director~~].

(b) A health authority [~~or regional director~~] shall report reportable diseases to the department's central office at least as frequently as the interval set by board rule.

SECTION 2.173. Section 81.046, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under Chapter 552, Government Code, and may not be released or made public on subpoena or otherwise except as provided by Subsections (c), [~~and~~] (d), and (f).

(f) Reports, records, and information relating to cases or suspected cases of diseases or health conditions may be released to the extent necessary during a public health disaster to law enforcement personnel solely for the purpose of protecting the health or life of the person identified in the report, record, or information. Only the minimum necessary information may be released under this subsection, as determined by the health authority or the department.

SECTION 2.174. Section 81.064, Health and Safety Code, is

amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The department or [~~commissioner, the commissioner's designee,~~] a health authority[~~, or a health authority's designee~~] may enter at reasonable times and inspect within reasonable limits a public place in the performance of that person's duty to prevent or control the entry into or spread in this state of communicable disease by enforcing this chapter or the rules of the board adopted under this chapter.

(c) Evidence gathered during an inspection by the department or health authority under this section may not be used in a criminal proceeding other than a proceeding to assess a criminal penalty under this chapter.

SECTION 2.175. Section 81.065, Health and Safety Code, is amended to read as follows:

Sec. 81.065. RIGHT OF ENTRY. (a) For an investigation or inspection, the commissioner, an employee of the department, or a health authority has the right of entry on land or in a building, vehicle, watercraft, or aircraft and the right of access to an individual, animal, or object that is in isolation, detention, restriction, or quarantine instituted by the commissioner, an employee of the department, or a health authority or instituted voluntarily on instructions of a private physician.

(b) Evidence gathered during an entry by the commissioner, department, or health authority under this section may not be used in a criminal proceeding other than a proceeding to assess a criminal penalty under this chapter.

SECTION 2.176. Subsection (a), Section 81.066, Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly conceals or attempts to conceal from the department [~~board~~], a health authority, or a peace officer, during the course of an

investigation under this chapter, the fact that:

(1) the person has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health; or

(2) a minor child or incompetent adult of whom the person is a parent, managing conservator, or guardian has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health.

SECTION 2.177. Subsection (a), Section 81.067, Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly conceals, removes, or disposes of an infected or contaminated animal, object, vehicle, watercraft, or aircraft that is the subject of an investigation under this chapter by the department [~~board~~], a health authority, or a peace officer.

SECTION 2.178. Section 81.068, Health and Safety Code, is amended to read as follows:

Sec. 81.068. REFUSING ENTRY OR INSPECTION; CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly refuses or attempts to refuse entry to the department [~~board~~], a health authority, or a peace officer on presentation of a valid search warrant to investigate, inspect, or take samples on premises controlled by the person or by an agent of the person acting on the person's instruction.

(b) A person commits an offense if the person knowingly refuses or attempts to refuse inspection under Section 81.064 or entry or access under Section 81.065.

(c) An offense under this section is a Class A misdemeanor.

SECTION 2.179. Section 81.082, Health and Safety Code, is amended to read as follows:

Sec. 81.082. ADMINISTRATION OF CONTROL MEASURES. (a) A health authority has supervisory authority and control over the

1 administration of communicable disease control measures in the
2 health authority's jurisdiction unless specifically preempted by
3 the department [~~board~~]. Control measures imposed by a health
4 authority must be consistent with, and at least as stringent as,
5 the control measure standards in rules adopted by the board.
6 (b) A communicable disease control measure imposed by a
7 health authority in the health authority's jurisdiction may be
8 amended, revised, or revoked by the department [~~board~~] if the
9 department [~~board~~] finds that the modification is necessary or
10 desirable in the administration of a regional or statewide public
11 health program or policy. A control measure imposed by the
12 department may not be modified or discontinued until the
13 department authorizes the action.
14 (c) The control measures may be imposed on an individual,
15 animal, place, or object, as appropriate.
16 (d) A declaration of a public health disaster may continue
17 for not more than 30 days. A public health disaster may be
18 renewed one time by the commissioner for an additional 30 days.
19 (e) The governor may terminate a declaration of a public
20 health disaster at any time.
21 (f) In this section, "control measures" includes:
22 (1) immunization;
23 (2) detention;
24 (3) restriction;
25 (4) disinfection;
26 (5) decontamination;
27 (6) isolation;
28 (7) quarantine;
29 (8) disinfestation;
30 (9) chemoprophylaxis;
31 (10) preventive therapy;
32 (11) prevention; and

(12) education.

SECTION 2.180. Subsection (e), Section 81.083, Health and Safety Code, is amended to read as follows:

(e) An individual may be subject to court orders under Subchapter G if the individual is infected or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health and:

(1) the individual, or the individual's parent, legal guardian, or managing conservator if the individual is a minor, does not comply with the written orders of the department or a health authority under this section; or [~~and~~]

(2) a public health disaster exists, regardless of whether the department or health authority has issued a written order and the individual has indicated that the individual will not voluntarily comply with control measures [~~is infected or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health~~].

SECTION 2.181. Section 81.084, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (d-1) and (k) to read as follows:

(b) The department or health authority shall send notice of its action by registered or certified mail or by personal delivery to the person who owns or controls the property. If the property is land or a structure or an animal or other property on the land, the department or health authority shall also post the notice on the land and at a place convenient to the public in [~~on~~] the county courthouse [~~door~~]. If the property is infected or contaminated as a result of a public health disaster, the department or health authority is not required to provide notice under this subsection.

(d-1) In a public health disaster, the department or health authority by written order may require a person who owns or

controls property to impose control measures that are technically feasible to disinfect or decontaminate the property or, if technically feasible control measures are not available, may order the person who owns or controls the property:

(1) to destroy the property, other than land, in a manner that disinfects or decontaminates the property to prevent the spread of infection or contamination;

(2) if the property is land, to securely fence the perimeter of the land or any part of the land that is infected or contaminated; or

(3) to securely seal off an infected or contaminated structure or other property on land to prevent entry into the infected or contaminated area until the department or health authority authorizes entry into the structure or property.

(k) In a public health disaster, the department or a health authority may impose additional control measures the department or health authority considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health.

SECTION 2.182. Section 81.085, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (e), (f), and (h), and adding Subsection (i) to read as follows:

(a) If an outbreak of communicable disease occurs in this state, the commissioner or one or more health authorities may impose an area quarantine coextensive with the area affected. The commissioner may impose an area quarantine, if the commissioner has reasonable cause to believe that individuals or property in the area may be infected or contaminated with a communicable disease, for the period necessary to determine whether an outbreak of communicable disease has occurred. A health authority may impose the quarantine only within the boundaries of the health authority's jurisdiction.

(b) A health authority may not impose an area quarantine

until the authority consults with [~~and obtains the approval of~~] the department. A health authority that imposes an area quarantine shall give written notice to and shall consult with [~~commissioner and of~~] the governing body of each county and municipality in the health authority's jurisdiction that has territory in the affected area as soon as practicable.

(c) The department may impose additional disease control measures in a quarantine area that the department considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health. Absent preemptive action by the department [~~board~~] under this chapter or by the governor under Chapter 418, Government Code (Texas Disaster Act of 1975), a health authority may impose in a quarantine area under the authority's jurisdiction additional disease control measures that the health authority considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health.

(e) The department or health authority may use all reasonable means of communication to inform persons in the quarantine area of the department's [~~board's~~] or health authority's orders and instructions during the period of area quarantine. The department or health authority shall publish at least once each week during the area quarantine period, in a newspaper of general circulation in the area, a notice of the orders or instructions in force with a brief explanation of their meaning and effect. Notice by publication is sufficient to inform persons in the area of their rights, duties, and obligations under the orders or instructions.

(f) The department [~~commissioner~~] or, with the department's [~~commissioner's~~] consent, a health authority may terminate an area quarantine.

(h) A person commits an offense if the person knowingly fails or refuses to obey a rule, order, or instruction of the

department [~~board~~] or an order or instruction of a health authority issued under a department [~~board~~] rule and published during an area quarantine under this section. An offense under this subsection is a felony of the third degree.

(i) On request of the department during a public health disaster, an individual shall disclose the individual's immunization information. If the individual does not have updated or appropriate immunizations, the department may take appropriate action during a quarantine to protect that individual and the public from the communicable disease.

SECTION 2.183. Subsections (b) and (i), Section 81.086, Health and Safety Code, are amended to read as follows:

(b) If the department or health authority has reasonable cause to believe that a carrier or conveyance has departed from or traveled through an area infected or contaminated with a communicable disease, the department or health authority may order the owner, operator, or authorized agent in control of the carrier or conveyance to:

(1) stop the carrier or conveyance at a port of entry or place of first landing or first arrival in this state; and

(2) provide [~~a statement in a form approved by the board that includes information required by board rules, including~~] information on passengers and cargo manifests[~~, and~~] that includes the details of:

(A) any illness suspected of being communicable that occurred during the journey;

(B) any condition on board the carrier or conveyance during the journey that may lead to the spread of disease; and

(C) any control measures imposed on the carrier or conveyance, its passengers or crew, or its cargo or any other object on board during the journey.

(i) The department or health authority may require an individual transported by carrier or conveyance who the department or health authority has reasonable cause to believe has been exposed to or is the carrier of a communicable disease to be isolated from other travelers and to disembark with the individual's personal effects and baggage at the first location equipped with adequate investigative and disease control facilities, whether the person is in transit through this state or to an intermediate or ultimate destination in this state. The department or health authority may investigate and, if necessary, isolate or involuntarily hospitalize the individual until the department or health authority approves the discharge as authorized by Section 81.083 [~~81.084~~].

SECTION 2.184. Subsection (a), Section 81.088, Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly or intentionally:

(1) removes, alters, or attempts to remove or alter an object the person knows is a quarantine device, notice, or security item in a manner that diminishes the [~~device's~~] effectiveness of the device, notice, or item; or

(2) destroys an object the person knows is a quarantine device, notice, or security item.

SECTION 2.185. Subsection (a), Section 81.089, Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if, before notifying the department [~~board~~] or health authority at a port of entry or a place of first landing or first arrival in this state, the person knowingly or intentionally:

(1) transports or causes to be transported into this state an object the person knows or suspects may be infected or contaminated with a communicable disease that is a threat to the

public health;

(2) transports or causes to be transported into this state an individual who the person knows has or is the carrier of a communicable disease that is a threat to the public health; or

(3) transports or causes to be transported into this state a person, animal, or object in a private or common carrier or a private conveyance that the person knows is or suspects may be infected or contaminated with a communicable disease that is a threat to the public health.

SECTION 2.186. Subsection (d), Section 81.151, Health and Safety Code, is amended to read as follows:

(d) A copy of written orders made under Section 81.083, if applicable, and a medical evaluation must be filed with the application, except that a copy of the written orders need not be filed with an application for outpatient treatment.

SECTION 2.187. Subsection (c), Section 81.152, Health and Safety Code, is amended to read as follows:

(c) Any application must contain the following information according to the applicant's information and belief:

(1) the person's name and address;

(2) the person's county of residence in this state;

(3) a statement that the person is infected with or is reasonably suspected of being infected with a communicable disease that presents a threat to public health and that the person meets the criteria of this chapter for court orders for the management of a person with a communicable disease; and

(4) a statement, to be included only in an application for inpatient treatment, that the person fails or refuses to comply with written orders of the department or health authority under Section 81.083, if applicable.

SECTION 2.188. Subsection (a), Section 81.162, Health and Safety Code, is amended to read as follows:

(a) The judge or designated magistrate may issue a protective custody order if the judge or magistrate determines:

(1) that the health authority or department has stated its opinion and the detailed basis for its opinion that the person is infected with or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health; and

(2) that the person fails or refuses to comply with the written orders of the health authority or the department under Section 81.083, if applicable.

SECTION 2.189. Section 161.011, Health and Safety Code, is amended to read as follows:

Sec. 161.011. PERMISSION REQUIRED. A person, including an officer or agent of this state or of an instrumentality or political subdivision of this state, may not enter a private residence to conduct a health inspection without first receiving:

(1) permission obtained from a lawful adult occupant of the residence; or

(2) an authorization to inspect the residence for a specific public health purpose by a magistrate or by an order of a court of competent jurisdiction on a showing of a probable violation of a state health law, a control measure under Chapter 81, or a health ordinance of a political subdivision.

SECTION 2.190. Subsection (d), Article 49.10, Code of Criminal Procedure, is amended to read as follows:

(d) A justice of the peace may not order a person to perform an autopsy on the body of a deceased person whose death was caused by Asiatic cholera, bubonic plague, typhus fever, or smallpox. A justice of the peace may not order a person to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.

SECTION 2.191. Sections 10 and 10a, Article 49.25, Code of Criminal Procedure, are amended to read as follows:

Sec. 10. DISINTERMENTS AND CREMATIONS. When a body upon which an inquest ought to have been held has been interred, the medical examiner may cause it to be disinterred for the purpose of holding such inquest.

Before any body, upon which an inquest is authorized by the provisions of this Article, can be lawfully cremated, an autopsy shall be performed thereon as provided in this Article, or a certificate that no autopsy was necessary shall be furnished by the medical examiner. Before any dead body can be lawfully cremated, the owner or operator of the crematory shall demand and be furnished with a certificate, signed by the medical examiner of the county in which the death occurred showing that an autopsy was performed on said body or that no autopsy thereon was necessary. It shall be the duty of the medical examiner to determine whether or not, from all the circumstances surrounding the death, an autopsy is necessary prior to issuing a certificate under the provisions of this section. No autopsy shall be required by the medical examiner as a prerequisite to cremation in case death is caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox. All certificates furnished to the owner or operator of a crematory by any medical examiner, under the terms of this Article, shall be preserved by such owner or operator of such crematory for a period of two years from the date of the cremation of said body. <u>A medical examiner is not required to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.</u>

Sec. 10a. The body of a deceased person shall not be cremated within <u>48</u> [~~forty-eight~~] hours after the time of death as indicated on the regular death certificate, unless the death

certificate indicates death was caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox, or unless the time requirement is waived in writing by the county medical examiner or, in counties not having a county medical examiner, a justice of the peace. In a public health disaster, the commissioner of public health may designate other communicable diseases for which cremation within 48 hours of the time of death is authorized.

SECTION 2.192. (a) Section 104.011(a), Health and Safety Code, is amended to read as follows:

(a) The statewide health coordinating council is composed of 17 members determined as follows:

(1) the commissioner of health and human services or a representative designated by the commissioner;

(2) the presiding officer of the Texas Higher Education Coordinating Board or a representative designated by the presiding officer;

(3) the presiding officer of the department or a representative designated by the presiding officer;

(4) [~~the presiding officer of the Texas Health Care Information Council or a representative designated by the presiding officer;~~]

[~~(5)~~] the presiding officer of the Texas Department of Mental Health and Mental Retardation or a representative designated by the presiding officer; and

(5) [~~(6)~~] the following members appointed by the governor:

(A) three health care professionals from the allied health, dental, medical, mental health, [~~nursing,~~] and pharmacy professions, no two of whom may be from the same profession;

(B) one registered nurse;

(C) two representatives of a university or health-related institution of higher education;

(D) [~~(C)~~] one representative of a junior or community college with a nursing program;

(E) [~~(D)~~] one hospital administrator;

(F) [~~(E)~~] one managed care administrator; and

(G) [~~(F)~~] four public members.

(b) The changes in law made by this section do not affect the entitlement of a member serving on the council immediately before the effective date of this section to continue to carry out the council's functions for the remainder of the member's term. Any vacancy that occurs after the effective date of this section shall be filled in a manner that complies with Section 104.011(a), Health and Safety Code, as amended by this section.

SECTION 2.193. Section 142.001, Health and Safety Code, is amended by amending Subdivisions (6), (13), and (22) and adding Subdivision (22-a) to read as follows:

(6) "Certified agency" means a home and community support services agency, or a portion of the agency, that:

(A) provides a home health service; and

(B) is certified by an official of the Department of Health and Human Services as in compliance with conditions of participation in Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.).

(13) "Home health service" means the provision of one or more of the following health services required by an individual in a residence or independent living environment:

(A) nursing, including blood pressure monitoring and diabetes treatment;

(B) physical, occupational, speech, or respiratory therapy;

(C) medical social service;

(D) intravenous therapy;

(E) dialysis;

(F) service provided by unlicensed personnel under the delegation or supervision of a licensed health professional;

(G) the furnishing of medical equipment and supplies, excluding drugs and medicines; or

(H) nutritional counseling.

(22) "Personal assistance service" means routine ongoing care or services required by an individual in a residence or independent living environment that enable the individual to engage in the activities of daily living or to perform the physical functions required for independent living, including respite services. The term includes:

(A) personal care;

(B) health-related services performed under circumstances that are defined as not constituting the practice of professional nursing by the Board of Nurse Examiners through a memorandum of understanding with the department in accordance with Section 142.016; and

(C) health-related tasks provided by unlicensed personnel under the delegation of a registered nurse or that a registered nurse determines do not require delegation.

(22-a) "Personal care" means the provision of one or more of the following services required by an individual in a residence or independent living environment:

(A) bathing;

(B) dressing;

(C) grooming;

(D) feeding;

(E) exercising;

(F) toileting;

(G) positioning;

(H) assisting with self-administered medications;

(I) routine hair and skin care; and

(J) transfer or ambulation.

SECTION 2.194. Section 142.002, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) A person who is not licensed to provide personal assistance services under this chapter may not indicate or imply that the person is licensed to provide personal assistance services by the use of the words "personal assistance services" or in any other manner.

SECTION 2.195. Section 142.0062(a), Health and Safety Code, is amended to read as follows:

(a) A home and community support services agency or its employees who are registered nurses or licensed vocational nurses may purchase, store, or transport for the purpose of administering to the agency's employees, home health or hospice patients, or patient family members under physician's standing orders the following dangerous drugs:

(1) hepatitis B vaccine;

(2) influenza vaccine; [~~and~~]

(3) tuberculin purified protein derivative for tuberculosis; and

(4) pneumococcal polysaccharide vaccine.

SECTION 2.196. Sections 142.016(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The Board of Nurse Examiners and the department shall adopt a memorandum of understanding governing the circumstances under which the provision of health-related tasks or services do not constitute the practice of professional nursing. The agencies periodically [~~annually~~] shall review and shall renew or modify the memorandum as necessary.

(b) The Board of Nurse Examiners and the department shall consult with an advisory committee in developing, modifying, or renewing the memorandum of understanding. The advisory committee shall be appointed by the Board of Nurse Examiners and the department and at a minimum shall include:

(1) one representative from the Board of Nurse Examiners and one representative from the department to serve as cochairmen;

(2) one representative from the Texas Department of Mental Health and Mental Retardation;

(3) [~~one representative from the Texas Department of Human Services;~~

[~~(4)~~] one representative from the Texas Nurses Association;

(4) [~~(5)~~] one representative from the Texas Association for Home Care, Incorporated, or its successor;

(5) [~~(6)~~] one representative from the Texas Hospice Organization, Incorporated, or its successor;

(6) [~~(7)~~] one representative of the Texas Respite Resource Network or its successor; and

(7) [~~(8)~~] two representatives of organizations such as the Personal Assistance Task Force or the Disability Consortium that advocate for clients in community-based settings.

SECTION 2.197. Sections 142.018(b) and (c), Health and Safety Code, are amended to read as follows:

(b) A home and community support services agency that has cause to believe that a person receiving services from the agency has been abused, exploited, or neglected by an employee of the agency shall report the information to:

(1) the department; and

(2) the Department of Protective and Regulatory Services or other appropriate state agency as required by Section

48.051 [~~Sections 48.036 and 48.002~~], Human Resources Code.

(c) This section does not affect the duty or authority of any state agency to conduct an investigation of alleged abuse, exploitation, or neglect as provided by other law. An investigation of alleged abuse, exploitation, or neglect may be conducted without an on-site survey, as appropriate.

SECTION 2.198. Section 250.001(3), Health and Safety Code, is amended to read as follows:

(3) "Facility" means:

(A) a nursing home, custodial care home, or other institution licensed by the Texas Department of Human Services under Chapter 242;

(B) an assisted living facility licensed by the Texas Department of Human Services under Chapter 247;

(C) a home and community support services [~~health~~] agency licensed under Chapter 142;

(D) an adult day care facility licensed by the Texas Department of Human Services under Chapter 103, Human Resources Code;

(E) a facility for persons with mental retardation licensed under Chapter 252;

(F) [~~an unlicensed attendant care agency that contracts with the Texas Department of Human Services;~~

[~~(G)~~] an adult foster care provider that contracts with the Texas Department of Human Services;

(G) [~~(H)~~] a facility that provides mental health services and that is operated by or contracts with the Texas Department of Mental Health and Mental Retardation; [~~or~~]

(H) [~~(J)~~] a local mental health or mental retardation authority designated under Section 533.035; or

(J) a person exempt from licensing under Section 142.003(a)(19).

SECTION 2.199. Section 431.116, Health and Safety Code, is amended by adding Subsections (f) - (i) to read as follows:

(f) Notwithstanding any other state law, pricing information disclosed by manufacturers or labelers under this section may be provided by the department only to the Medicaid vendor drug purchase program for its sole use. The Medicaid vendor drug purchase program may use the information only as necessary to administer its drug programs, including Medicaid drug programs.

(g) Notwithstanding any other state law, pricing information disclosed by manufacturers or labelers under this section is confidential and, except as necessary to permit the attorney general to enforce state and federal laws, may not be disclosed by the Health and Human Services Commission or any other state agency in a form that discloses the identity of a specific manufacturer or labeler or the prices charged by a specific manufacturer or labeler for a specific drug.

(h) The attorney general shall treat information obtained under this section in the same manner as information obtained by the attorney general through a civil investigative demand under Section 36.054, Human Resources Code.

(i) Notwithstanding any other state law, the penalties for unauthorized disclosure of confidential information under Chapter 552, Government Code, apply to unauthorized disclosure of confidential information under this section.

SECTION 2.200. Section 534.003(a), Health and Safety Code, is amended to read as follows:

(a) The board of trustees of a community center established by an organizational combination of local agencies is composed of not fewer than five or more than 13 [~~nine~~] members.

SECTION 2.201. (a) Section 31.032(d), Human Resources Code, is amended to read as follows:

(d) In determining whether an applicant is eligible for assistance, the department shall exclude from the applicant's available resources:

(1) $1,000 [~~$2,000~~] for the applicant's household, including a household in which there is [~~or $3,000 if there is~~] a person with a disability or a person who is at least 60 years of age [~~in the applicant's household~~]; and

(2) the fair market value of the applicant's ownership interest in a motor vehicle, but not more than the amount determined according to the following schedule:

(A) $4,550 on or after September 1, 1995, but before October 1, 1995;

(B) $4,600 on or after October 1, 1995, but before October 1, 1996;

(C) $5,000 on or after October 1, 1996, but before October 1, 1997; and

(D) $5,000 plus or minus an amount to be determined annually beginning on October 1, 1997, to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

(b) Section 31.032(d), Human Resources Code, as amended by this section, applies to a person receiving financial assistance on or after the effective date of this section, regardless of the date on which eligibility for financial assistance was determined.

SECTION 2.202. (a) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.066 to read as follows:

Sec. 32.066. CONSUMER-DIRECTED SERVICES PROGRAM. (a) In this section:

(1) "Consumer" means a participant in the consumer-directed services program established under this section

who receives a stipend under the program.

(2) "Home and community-based services" include:

(A) personal care services;

(B) a home modification and assistive device that may increase the consumer's independence;

(C) respite services, as defined by Section 142.001, Health and Safety Code; and

(D) personal assistance services, as defined by Section 142.001, Health and Safety Code.

(3) "Medical assistance waiver program" means:

(A) the community-based alternatives program;

(B) the community living assistance and support services program;

(C) the deaf-blind/multiple disabilities program;

(D) the consolidated waiver pilot program; or

(E) the medically dependent children program.

(b) The department by rule shall establish a consumer-directed services program in which certain individuals enrolled in a medical assistance waiver program are given a monthly stipend to direct the delivery of home and community-based services provided to the individual under the waiver program.

(c) The department shall work in conjunction with the Texas Rehabilitation Commission, the comptroller, and any other appropriate agency to develop the consumer-directed services program.

(d) In establishing the consumer-directed services program, the department shall:

(1) ensure that the amount of a consumer's stipend is based on the assessed functional needs of a consumer and the financial resources available to the medical assistance waiver program providing services to the consumer;

(2) develop purchasing guidelines to assist consumers in using the stipend to purchase necessary and cost-effective home and community-based services;

(3) design the program in a manner in which a private entity or local governmental entity may apply with the department for approval to act as the fiscal intermediary for a consumer for the limited purpose of:

(A) managing the consumer's stipend;

(B) computing federal and state employment taxes;

(C) preparing and filing income tax forms and reports; and

(D) distributing money to a service provider;

(4) ensure that a consumer is the employer of and retains control over the selection, management, and dismissal of an individual providing home and community-based services; and

(5) develop a system to monitor the program to ensure:

(A) adherence to existing applicable program standards;

(B) appropriate use of funds; and

(C) consumer satisfaction with the delivery of services.

(e) The Texas Rehabilitation Commission and comptroller shall provide information to the department as necessary to facilitate the development and implementation of the consumer-directed services program.

(f) The department may not implement the consumer-directed services program within the consolidated waiver pilot program before January 2, 2004.

(g) The department, in consultation with the Centers for Medicare and Medicaid Services, shall:

(1) determine which state or other government-funded programs are appropriate for inclusion in the consumer-directed

services program; and

(2) provide for the inclusion of cost-sharing provisions as practicable.

(h) Not later than February 1 of each year, the department shall submit to the governor, the lieutenant governor, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over long-term care services a report on the effectiveness, including the cost-effectiveness, of the consumer-directed services program. The report must include recommendations for improvements to the program.

(i) This section expires September 1, 2007.

(b) The state agency responsible for implementing the consumer-directed services program required by Section 32.066, Human Resources Code, as added by this section, shall request and actively pursue any necessary waivers or authorizations from the Centers for Medicare and Medicaid Services or other appropriate entities to enable the agency to implement the program not later than January 1, 2004. The agency may delay implementing the program until the necessary waivers or authorizations are granted.

SECTION 2.203. Section 533.007, Government Code, is amended by adding Subsections (g), (h), (i), (j), and (k) to read as follows:

(g) To ensure appropriate access to an adequate provider network, each managed care organization that contracts with the commission to provide health care services to recipients in a health care service region shall submit to the commission, in the format and manner prescribed by the commission, a report detailing the number, type, and scope of services provided by out-of-network providers to recipients enrolled in a managed care plan provided by the managed care organization. If, as

determined by the commission, a managed care organization exceeds maximum limits established by the commission for out-of-network access to health care services, or if, based on an investigation by the commission of a provider complaint regarding reimbursement, the commission determines that a managed care organization did not reimburse an out-of-network provider based on a reasonable reimbursement methodology, the commission shall initiate a corrective action plan requiring the managed care organization to maintain an adequate provider network, provide reimbursement to support that network, and educate recipients enrolled in managed care plans provided by the managed care organization regarding the proper use of the provider network under the plan.

(h) The corrective action plan required by Subsection (g) must include at least one of the following elements:

(1) a requirement that reimbursements paid by the managed care organization to out-of-network providers for a health care service provided to a recipient enrolled in a managed care plan provided by the managed care organization equal the allowable rate for the service, as determined under Sections 32.028 and 32.0281, Human Resources Code, for all health care services provided during the period:

(A) the managed care organization is not in compliance with the utilization benchmarks determined by the commission; or

(B) the managed care organization is not reimbursing out-of-network providers based on a reasonable methodology, as determined by the commission;

(2) an immediate freeze on the enrollment of additional recipients in a managed care plan provided by the managed care organization, to continue until the commission determines that the provider network under the managed care plan

can adequately meet the needs of additional recipients; and

(3) other actions the commission determines are necessary to ensure that recipients enrolled in a managed care plan provided by the managed care organization have access to appropriate health care services and that providers are properly reimbursed for providing medically necessary health care services to those recipients.

(i) Not later than the 60th day after the date a provider files a complaint with the commission regarding reimbursement for or overuse of out-of-network providers by a managed care organization, the commission shall provide to the provider a report regarding the conclusions of the commission's investigation. The report must include:

(1) a description of the corrective action, if any, required of the managed care organization that was the subject of the complaint; and

(2) if applicable, a conclusion regarding the amount of reimbursement owed to an out-of-network provider.

(j) If, after an investigation, the commission determines that additional reimbursement is owed to a provider, the managed care organization shall, not later than the 90th day after the date the provider filed the complaint, pay the additional reimbursement or provide to the provider a reimbursement payment plan under which the managed care organization must pay the entire amount of the additional reimbursement not later than the 120th day after the date the provider filed the complaint. If the managed care organization does not pay the entire amount of the additional reimbursement on or before the 90th day after the date the provider filed the complaint, the commission may require the managed care organization to pay interest on the unpaid amount. If required by the commission, interest accrues at a rate of 18 percent simple interest per year on the unpaid amount

from the 90th day after the date the provider filed the complaint until the date the entire amount of the additional reimbursement is paid.

(k) The commission shall pursue any appropriate remedy authorized in the contract between the managed care organization and the commission if the managed care organization fails to comply with a corrective action plan under Subsection (g).

SECTION 2.204. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.067 to read as follows:

Sec. 32.067. DELIVERY OF COMPREHENSIVE CARE SERVICES TO CERTAIN RECIPIENTS OF MEDICAL ASSISTANCE. (a) In this section, "certified agency" and "home health service" have the meanings assigned by Section 142.001, Health and Safety Code.

(b) The department shall assure that any agency licensed to provide home health services under Chapter 142, Health and Safety Code, and not only a certified agency licensed under that chapter, may provide home health services to individuals enrolled in the Texas Health Steps Comprehensive Care Program.

SECTION 2.205. The section heading to Section 403.1066, Government Code, is amended to read as follows:

Sec. 403.1066. PERMANENT HOSPITAL FUND FOR CAPITAL IMPROVEMENTS AND THE TEXAS CENTER FOR INFECTIOUS DISEASE [~~COMMUNITY HOSPITAL CAPITAL IMPROVEMENT FUND~~].

SECTION 2.206. Sections 403.1066(a) and (c), Government Code, are amended to read as follows:

(a) The permanent hospital [~~community hospital capital improvement~~] fund for capital improvements and the Texas Center for Infectious Disease is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) payments of interest and principal on loans and

fees collected under this section;

(3) gifts and grants contributed to the fund; and

(4) the available earnings of the fund determined in accordance with Section 403.1068.

(c) The available earnings of the fund may be appropriated to the Texas Department of Health for the purpose of providing services at the Texas Center for Infectious Disease and grants, loans, or loan guarantees to public or nonprofit community hospitals with 125 beds or fewer located in an urban area of the state.

SECTION 2.207. (a) Section 32.024(w), Human Resources Code, is amended to read as follows:

(w) The department shall set a personal needs allowance of not less than $45 [~~$60~~] a month for a resident of a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, personal care facility, ICF-MR facility, or other similar long-term care facility who receives medical assistance. The department may send the personal needs allowance directly to a resident who receives Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.). This subsection does not apply to a resident who is participating in a medical assistance waiver program administered by the department.

(b) Section 32.024(w), Human Resources Code, as amended by this section, applies only to a personal needs allowance paid on or after the effective date of this Act.

SECTION 2.208. Section 281.002, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) A county with at least 190,000 inhabitants that has within its boundaries a municipality that owns a hospital or hospital system for indigent or needy persons that is operated by or on behalf of the municipality may create a countywide hospital district to assume ownership of the hospital or hospital system and to furnish medical aid and hospital care to indigent and needy persons residing in the district.

SECTION 2.209. Section 281.004, Health and Safety Code, is amended to read as follows:

Sec. 281.004. BALLOT PROPOSITIONS. (a) Except as provided by Subsection (a-1) or (b), the ballot for an election under this chapter shall be printed to provide for voting for or against the proposition: "The creation of a hospital district and the levy of a tax not to exceed 75 cents on each $100 of the taxable value of property taxable by the district."

(a-1) The ballot for an election under this chapter held in a county with a population of more than 800,000 that is not included in the boundaries of a hospital district before September 1, 2003, shall be printed to provide for voting for or against the proposition: "The creation of a hospital district and the levy of a tax not to exceed 25 cents on each $100 of the taxable value of property taxable by the district."

(b) If the county or a municipality in the county has any outstanding bonds issued for hospital purposes, the ballot for an

election under this chapter shall contain the proposition prescribed by Subsection (a) or (a-1), as appropriate, followed by " [~~be printed to provide for voting for or against the proposition: "The creation of a hospital district, the levy of a tax not to exceed 75 cents on each $100 of the taxable value of property taxable by the district~~], and the assumption by the district of all outstanding bonds previously issued for hospital purposes by _____ County and by any municipality in the county."

SECTION 2.210. Section 281.021, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) If a district is created under this chapter in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003, the district shall be governed by a nine-member board of hospital managers, appointed as follows:

(1) the commissioners court of the county shall appoint four members;

(2) the governing body of the municipality with the largest population in the county shall appoint four members; and

(3) the commissioners court and the governing body of the municipality described by Subdivision (2) shall jointly appoint one member.

SECTION 2.211. Section 281.022, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) The members of a board of hospital managers appointed under Section 281.021(d) serve staggered four-year terms, with as near as possible to one-fourth of the members' terms expiring each year. The terms of the members appointed under that section are as follows:

(1) the members appointed solely by the governing body of the municipality with the largest population in the county shall

draw lots to determine which member serves a one-year term, which member serves a two-year term, which member serves a three-year term, and which member serves a four-year term;

(2) the members appointed solely by the commissioners court of the county shall draw lots to determine which member serves a one-year term, which member serves a two-year term, which member serves a three-year term, and which member serves a four-year term; and

(3) the member appointed jointly by the governing body of the municipality described by Subdivision (1) and the commissioners court serves a four-year term.

SECTION 2.212. Section 281.041, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsections (e) and (f) to read as follows:

(a) Except as provided by Subsection (e), on [~~On~~] the creation of a district under this chapter and the appointment and qualification of the district board, the county owning the hospital or hospital system, [~~or~~] the county and municipality jointly operating a hospital or hospital system, or the municipality owning a hospital or hospital system shall execute and deliver to the district board a written instrument conveying to the district the title to land, buildings, and equipment jointly or separately owned by the county and municipality and used to provide medical services or hospital care, including geriatric care, to indigent or needy persons of the county or municipality.

(b) On the creation of a district under this chapter and the appointment and qualification of the district board, the county owning the hospital or hospital system, [~~or~~] the county and municipality jointly operating a hospital or hospital system, or the municipality owning a hospital or hospital system shall, on the receipt of a certificate executed by the board's chairman stating

that a depository for the district has been chosen and qualified, transfer to the district:

(1) all joint or separate county and municipal funds that are the proceeds of any bonds assumed by the district under Section 281.044; and

(2) all unexpended joint or separate county and municipal funds that have been established or appropriated by the county or municipality to support and maintain the hospital facilities for the year in which the district is created, to be used by the district to operate and maintain those facilities for the remainder of the year.

(e) A county or municipality transferring property or funds under this section is not required to transfer to the district:

(1) a medical facility used primarily for the treatment of inmates of a jail or any other correctional facilities, including juvenile justice facilities;

(2) property owned by the municipality that is used in connection with the provision of utility services, including electricity, water, wastewater, and sewer services;

(3) any real property or other assets related to a medical clinic facility on which construction has begun, but has not been completed, by the date on which the board members have been appointed and qualified to serve;

(4) a building and related land owned by the county or municipality that are used for purposes related or unrelated to the hospital or hospital system, except that:

(A) if the county or municipality retains ownership of the building and related land, the county or municipality shall lease the space used for hospital or hospital system purposes to the district for an initial term of three years unless a shorter term is otherwise agreed to by the district and the

transferring entity; or

(B) if the county or municipality transfers the building and related land to the district, the district shall lease to the transferring entity the space not used for hospital or hospital system purposes for an initial term of three years unless a shorter term is otherwise agreed to by the district and the transferring entity;

(5) any or all of the public health services and related facilities of the county or municipality, other than a hospital or hospital district, unless the transfer of the public health services or a related facility to the district is mutually agreed to by the district and the transferring entity; or

(6) an ambulance service, emergency medical service, search and rescue service, or medical transport service that is owned or operated by the county or municipality, unless the transfer of all or part of the service and related buildings and equipment to the district is mutually agreed to by the district and the transferring entity.

(f) A transfer of an asset under this section, including a federally qualified health center, that would violate federal or state law unless a waiver or other authorization or approval is granted by a federal or state agency may not occur until the required waiver, authorization, or approval is obtained. A facility designated as a federally qualified health center under 42 U.S.C. Section 1396d(l)(2)(B), as amended, may not be transferred to the district until the district board has confirmed that the transfer will not jeopardize the federal designation of that facility.

SECTION 2.213 Section 281.043, Health and Safety Code, is amended to read as follows:

Sec. 281.043. ASSUMPTION OF CONTRACT OBLIGATIONS. On the

creation of the district, the district assumes, without prejudice to the rights of third parties, any outstanding contract obligations legally incurred by the county or municipality, or both, for the construction, support, [~~or~~] maintenance, or operation of hospital facilities and the provision of health care services or hospital care, including mental health care, to indigent residents of the county or municipality before the creation of the district.

SECTION 2.214. Subchapter C, Chapter 281, Health and Safety Code, is amended by adding Section 281.0461 to read as follows:

Sec. 281.0461. STUDY. (a) This section applies only to a district created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003.

(b) The board shall contract with an independent and disinterested person or entity to conduct a study to:

(1) examine the necessity of increased indigent, pediatric, trauma, and mental health care in the geographical area served by the district over the 5-year, 15-year, and 30-year periods following the date of the district's creation;

(2) examine the necessity of an increased number of health care specialists and nurses to adequately serve the district over the 5-year, 15-year, and 30-year periods following the date of the district's creation; and

(3) determine whether additional education and training programs will be required to address the issues studied under this section.

SECTION 2.215. The heading to Subchapter G, Chapter 281, Health and Safety Code, is amended to read as follows:

SUBCHAPTER G. TAXES [~~TO PAY BONDS~~]

SECTION 2.216. Section 281.121(b), Health and Safety Code, is amended to read as follows:

(b) The tax amount:

(1) must be sufficient to create an interest and sinking fund to pay the principal of and interest on the bonds as they mature; and

(2) may not exceed 75 cents on each $100 of the taxable value of property taxable by the district, or the rate authorized in the election to create the district.

SECTION 2.217. Subchapter G, Chapter 281, Health and Safety Code, is amended by adding Sections 281.122 and 281.123 to read as follows:

Sec. 281.122. REDUCTION IN AD VALOREM TAX RATE BY GOVERNMENTAL ENTITY. (a) This section applies only to a district created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003.

(b) The commissioners court of the county and the governing body of the municipality with the largest population in the county, in determining the ad valorem tax rate of the county or municipality, as appropriate, for the first year in which the district imposes ad valorem taxes on property in the district, shall:

(1) take into account the decrease in the amount the county or municipality will spend for health care purposes in that year because the district is providing health care services previously provided or paid for by the county or municipality; and

(2) reduce the ad valorem tax rate adopted for the county or municipality, as appropriate, in accordance with the amount of the decrease.

(c) The commissioners court of the county and the governing body of the municipality with the largest population in the county shall retain an independent auditor to verify that the ad valorem

1 tax rate of the county or municipality, as appropriate, has been
2 reduced as required by Subsection (b).
3 Sec. 281.123. SALES AND USE TAX PROHIBITED FOR CERTAIN
4 DISTRICTS. (a) This section applies only to a district created in
5 a county with a population of more than 800,000 that was not
6 included in the boundaries of a hospital district before September
7 1, 2003.
8 (b) The board may not impose a sales and use tax under
9 Subchapter E, Chapter 285, or any other law.

SECTION 2.219. EFFECTIVE DATE. Except as otherwise provided by this article, this article takes effect September 1, 2003.

House Bill 2292
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
ARTICLE 1. Organization of the Health and Human Services Commission and Health and Human Services Agencies	ARTICLE 1. Organization of the Health and Human Services Commission and Health and Human Services Agencies	ARTICLE 1. Same as House version.
SECTION 1.01.	SECTION 1.01.	SECTION 1.01.
No equivalent provision.	(a) Amends Section 531.001(3), Government Code. Changes from "commissioner" to "executive commissioner" the executive commissioner of the Health and Human Services Commission.	(a) Same as Senate version.
(a) Reenacts and amends Section 531.001(4), Government Code, as amended by Chapters 53, 957, and 1420, Acts of the 77th Legislature, R.S., 2001. Changes the definition of "health and human services agencies" to add the Department of Supportive Services and the Department of Health Services. Also changes the name of the Department of Protective and Regulatory Services to the Department of Protective Services.	(b) Similar to House version. Changes the definition of "health and human services agencies" to add the Department of Aging and Disability Services, the Department of *State* Health Services, and the Department of Assistive and Rehabilitative Services. Also, changes the name of the Department of Protective and Regulatory Services to the Department of *Family and* Protective Services.	(b) Same as Senate version.
(b) Effective on the date the agencies listed in Section 1.26 of this article are abolished as provided by that section, reenacts and amends Section 531.001(4), Government Code, to change the definition of "health and human services agencies" to include the Department of Supportive Services, the Department of Health Services, and the Department of Protective Services. Deletes references to other health and human services agencies.	(c) Similar to House version. The names of the new agencies are different as provided by Subsec. (b) of Senate version and adds the Department of Assistive and Rehabilitative Services to the list of health and human services agencies	(c) Same as Senate version.
No equivalent provision.	(d) Transition provision.	(d) Same as Senate version.

Associated Draft:

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 1.02. Amends Section 531.004, Government Code, Sunset Provision.	SECTION 1.02. Same as House version.	SECTION 1.02. Same as House version.
No equivalent provision.	SECTION 1.02A. Amends Section 531.005, Government Code. Provides for the appointment by the governor of the *executive* commissioner of the commission.	SECTION 1.02A. Same as Senate version.
SECTION 1.03. Amends Section 531.0055, Government Code, as follows:	SECTION 1.03. Similar to House version. Makes conforming and other changes as follows:	SECTION 1.03. Combines House and Senate versions Makes as follows:
(b) Requires the commission to: implement Texas Integrated Enrollment Services and provides that it is the responsibility of the commission to determine eligibility for benefits under the following programs: the child health plan program; the financial assistance program under Chapter 31, Human Resources Code; the medical assistance program under Chapter 32, Human Resources Code; the nutritional assistance programs under Chapter 33, Human Resources Code; Supplemental Security Income (SSI); long-term care services; and certain community-based support services.	(b) Similar to House version. Provides that the commission has responsibility to determine eligibility for benefits under other health and human services programs, as appropriate, but does not specifically list Supplemental Security Income as one of those programs.	(b) Same as Senate.
(e) Requires the *commissioner* to adopt rules and policies for the operation of health and human services agencies; requires the commissioner to implement these policies for an agency by managing the operations of each agency and supervising each agency director.	(e) Same as House version, except requires the *executive commissioner* to be responsible for the administrative supervision of the internal audit program for all health and human services agencies; deletes the requirement that the executive director adopt rules and implement policies; makes the agency director responsible for establishing policies. (FA 5, 3rd reading)	(e) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
(i) Authorizes the commissioner, to facilitate the operations of a health and human services agency in accordance with this section, to delegate a specific power or duty given under Subsection (f) or (g) to an agency director. Provides that the agency director acts on behalf of the commissioner in performing the delegated function and reports to the commissioner regarding the delegated function and any matter affecting agency programs and operations.	(i) Same as House version.	(i) Same as House version, except also requires the agency director, at the request of the executive commissioner, to assist in the development of rules and policies for the operation and provision of health and human services by the agency.
(l) Establishes that the commissioner has the authority to adopt policies and rules governing delivery of services by agencies and the right and duties of persons served.	(l) Establishes that an *agency director* has the authority to adopt policies and rules. Requires the executive commissioner and each agency director to define the authority of the agency director and the executive commissioner (FA5, 3rd reading)	(l) Same as Senate version.
SECTION 1.04. Amends Section 531.0056, Government Code, Appointment of Agency Director by *Governor*. Requires the *governor* to appoint an agency director for each health and human services agency to serve *for a term of one year*.	SECTION 1.04. Similar to House version. Amends Section531.0056, Government Code, Appointment of Agency Director by *Executive Commissioner*. Requires the *executive commissioner* to appoint an agency director for each health and human services agency *with the approval of the governor* to serve *at the pleasure of the executive commissioner*. Makes conforming changes.	SECTION 1.04. Same as Senate version.
No equivalent provision.	SECTION 1.04A. Requires a health and human services agency to notify the executive commissioner before implementing certain rules. (FA 5, 3rd reading)	SECTION 1.04A. Same as House version.
SECTION 1.05. Amends Section 531.008, Government Code. Requires the commissioner to establish certain divisions and offices within the commission, including: (1)	SECTION 1.05. Similar to House version. Provides that the eligibility services division also makes eligibility determinations for benefits under other health and human	SECTION 1.05. Same as House version, except: Does not include office for the blind, office for the deaf and hard of hearing and office of rehabilitation services. Includes internal

HOUSE VERSION	SENATE VERSION	CONFERENCE
the eligibility services division to make determinations related to eligibility for the child health plan program, the financial assistance program, the medical assistance program, the nutritional assistance program, Supplemental Security Income (SSI), long-term care services, and certain community-based support services; (2) the office of inspector general to conduct audits and perform certain investigations and enforcement functions; (3) the office for the deaf and hard of hearing; and (4) the office of rehabilitation services.	services programs, as appropriate, but does not specifically list Supplemental Security Income as one of those programs. Omits audits as a duty to be performed by the office of inspector general. Omits the office for the deaf and hard of hearing and the office of rehabilitation services from and adds an internal audit division to the list of offices to be established by the commissioner.	audit division.
SECTION 1.06. Adds Sections 531.0161, 531.0162, and 531.0163, Government Code, as follows:	SECTION 1.06. Same as House version, except as follows:	SECTION 1.06. Same as House version, except as follows:
Sec. 531.0161. Negotiated Rulemaking and Alternative Dispute Procedures.	Sec. 531.0161. Same as House version, except extends provision to each human services agency as well as the commission. (FA5 3rd. reading)	Sec. 531.0161. Same as Senate version.
Sec. 531.0162. Requires the commission to develop and implement a policy relating to each health and human services agency's use of technological solutions to improve the agency's performance. The solutions must meet certain requirements relating to availability of information and services on the Internet and be cost-effective and developed through the commission's planning process.	Sec. 531.0162. Same as House version, except also requires that the technological solutions meet federal accessibility standards for persons with disabilities.	Sec. 531.0162. Same as Senate version.
Sec. 531.0163. Memorandum of Understanding.	Sec. 531.0163. Same as House version, with conforming changes.	Sec. 531.0163. Same as Senate version.
SECTION 1.07. Adds Section 531.0224, Government Code,	SECTION 1.07. Same as House version, except deletes	SECTION 1.07. Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
Planning and Policy Direction of Temporary Assistance for Needy Families Program. Requires the commission to adopt rules and standards in consultation with the policy councils of the agencies that operate the program.	requirement that the commission adopt rules *in consultation with the policy councils of the agencies that operate the program.* (FA5, 3rd reading)	
No equivalent provision.	SECTION 1.07A. Amends Section 531.034, Government Code, by amending Subsec. (a) and adding Subsec. (e) as follows: requires the executive commissioner to review and approve all rules adopted by certain agencies and prohibits the agencies from implementing a rule before review; requires the executive commissioner to report to the governor and legislature regarding each rule that is approved and adopted. (FA5, 3rd. reading)	Same as House version.
SECTION 1.08. Adds Subchapters K, L, and M, Chapter 531, Government Code, as follows:	SECTION 1.08. Adds Subchapter K, Chapter 531, Government Code, as follows:	SECTION 1.08. Same as Senate version.
Subchapter K. Health and Human Services Council	Subchapter K. Same as House version, with conforming changes.	Same as Senate version.
Subchapter L. Relating to the creation, composition, appointment, duties, and functions of the Council for the Blind, Deaf, and Hard of Hearing.	No equivalent provision.	Subchapter L. Same as Senate version.
Subchapter M. Relating to the creation, composition, appointment, duties, and functions of the Rehabilitation Council.	No equivalent provision.	Same as Senate version.
SECTION 1.09. Adds Title 12, Health and Safety Code,	SECTION 1.09. Same as House version, except as follows:	SECTION 1.09. Same as Senate version, except as follows:

HOUSE VERSION	SENATE VERSION	CONFERENCE
Health and Mental Health, as follows:		
Chapter 1001. Department of Health Services	Chapter 1001. Substantially the same as House version.	Chapter 1001. Same as Senate version.
Subchapter A. General Provisions.	Subchapter A. Substantially the same as House version.	Subchapter A. Same as Senate version.
Subchapter B. Administrative Provisions, as follows:	Subchapter B. Secs. 1001.021-1001.032 are substantially the same as House version. Subchapter differences as follows:	Subchapter B. Same as Senate version, except makes conforming changes and as follows:
Sec. 1001.021. Creates the Health Services Council to assist the *commissioner of health and human services* in developing rules and policies for the department. Requires a person to have demonstrated an interest in and knowledge of problems and available services related to public health, mental health, substance abuse, or early childhood intervention services to be eligible for appointment to the council. Requires the council to study and make recommendations to the commissioner of health and human services regarding operation of the department.	Sec. 1001.021. Substantially the same as House version, except the council assists the *executive commissioner* in developing rules and policies for the department and omits early childhood intervention services as a required field of interest and knowledge for potential members of the council. Requires the council to make recommendations to the executive commissioner and the commissioner. (FA5, 3rd reading)	Sec. 1001.021. Substantially the same as Senate version, except does not give rulemaking authority to the commissioner of the agency, rather than the executive commissioner of HHSC.
Sec. 1001.030. Requires the commissioner, with advice of the council, to delineate the policymaking responsibilities of the commissioner of health and human services from the management responsibilities of the commission, the commissioner, and the staff of the department.	Sec. 1001.030. Same as House version, except policymaking responsibilities must be delineated from management responsibilities of the department and staff of the department. (FA5, 3rd reading)	Sec. 1001.030. Same as House version, except the commissioner's actions are subject to the approval of the executive commisioner.
Subchapter C. Personnel, as follows:	Subchapter C. Secs. 1001.051-1001.057 are substantially the same as House version. Subchapter differences as follows:	Subchapter C. Same as Senate version, except makes conforming changes relating to rulemaking authority and as follows:

HOUSE VERSION	SENATE VERSION	CONFERENCE
Sec. 1001.051. (a) Requires the *governor* to appoint a commissioner of the department of health services to administer this chapter. (b) The commissioner serves *for a term of one year.*	Sec. 1001.051. Similar to House version, except (a) requires the *executive commissioner* to appoint the commissioner of the department *with the approval of the governor* and (b) the commissioner serves *at the pleasure of the executive commissioner.*	Sec. 1001.051. Same as Senate version.
Subchapter D. Powers and Duties of Department, as follows:	Subchapter D. Secs. 1001.071-1001.075 are substantially the same as House version. Subchapter differences as follows:	Subchapter D. Same as Senate version, as follows:
Sec. 1001.073. Provides that the department is responsible for administering human services programs regarding substance abuse, including administering and coordinating substance abuse prevention and treatment programs at the state and local level.	Sec. 1001.073. Same as House version, except provides that the department is responsible for administering human services programs regarding substance abuse, including administering, coordinating, and *contracting* for the delivery of substance abuse programs. (FA40, 3rd reading)	Sec. 1001.073. Same as Senate version.
SECTION 1.10. Amends Section 40.001, Human Resources Code, as follows: (2-a) "Council" means the Protective Services Council (4) "Commissioner" means the commissioner of the Department of Protective Services.	SECTION 1.10. Amends Section 40.001, Human Resources Code, as follows: (2-a) "Council" means the Family and Protective Services Council 4) "Commissioner" means the commissioner of the Department of Family and Protective Services.	SECTION 1.10. Same as Senate version.
SECTION 1.11. Amends Section 40.002, Human Resources Code. Provides for the composition and general duties of the Department of Protective Services. Requires the department to provide certain protective services for children and elderly and disabled persons; provide certain family support and family preservation services; license, register, and enforce certain regulations; implement and manage programs	SECTION 1.11. Substantially the same as House version, except does not include investigation of allegations of abuse or neglect of persons residing in long-term facilities as a required duty of the department. Gives rulemaking authority to the commissioner of the agency, rather than the executive commissioner of HHSC (FA5, 3rd reading)	SECTION 1.11. Substantially the same as Senate version, except does not give rulemaking authority to the commissioner of the agency, rather than the executive commissioner of HHSC.

HOUSE VERSION	SENATE VERSION	CONFERENCE
intended to provide early intervention or prevent certain at-risk behaviors; and investigate allegations of abuse or neglect of persons residing in long-term care facilities.		
SECTION 1.12. Amends Sections 40.004, 40.021, 40.022, 40.0226, 40.024, 40.025, 40.026, 40.027, Human Resources Code, as follows:	SECTION 1.12. Substantially the same as House version, except as follows:	SECTION 1.12. Substantially the same as Senate version, except as follows:
Sec. 40.004. Public Interest Information and Public Access	Sec. 40.004. Substantially the same as House version.	Sec. 40.004. Substantially the same as Senate version, except does not give rulemaking authority to the commissioner of the agency, rather than the executive commissioner of HHSC.
Sec. 40.021. Protective Services Council. Requires the council to make recommendations to the commissioner	Sec. 40.021. Substantially the same as House version, except requires the council to make recommendations to the executive commissioner and commissioner. (FA5, 3rd reading)	Sec. 40.021. Same as Senate version, except makes conforming changes related to rulemaking authority.
Sec. 40.022. Appointments.	Sec. 40.022. Same as House version.	Sec. 40.022. Same as House version.
Sec. 40.0226. Training Program for Council Members. Requires the training program to provide information regarding the rules of the commissioner.	Sec. 40.0226. Substantially the same as House version, except requires training to provide information regarding the rules of the executive commissioner and commissioner. (FA5, 3rd reading)	Sec. 40.0226. Same as Senate version.
Sec. 40.024. Terms; Vacancy.	Sec. 40.024. Same as House version	Sec. 40.024. Same as House version
Sec. 40.025. Reimbursement for Expenses.	Sec. 40.025. Same as House version.	Sec. 40.025. Same as House version.
Sec. 40.026. Presiding Officer; Other Officers; Meetings.	Sec. 40.026. Same as House version.	Sec. 40.026. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
Sec. 40.027. (a) Requires the *governor* to appoint a commissioner and (b) the commissioner serves *for a term of one year.*	Sec. 40.027. Similar to House version, except (a) requires the *executive commissioner* to appoint the commissioner *in accordance with Section 531.0056, Government Code,* and (b) the commissioner serves *at the pleasure of the executive commissioner.*	Sec. 40.027. Same as Senate version.
SECTION 1.13. Adds Title 11, Human Resources Code, Community-Based and Long-Term Care Services, as follows:	SECTION 1.13A. Adds Title 11, Human Resources Code, *Aging,* Community-Based and Long-Term Care Services (FA18, 3rd reading) Substantially the same as House version, except as follows:	SECTION 1.13A. Substantially the same as Senate version, except does not give rulemaking authority to the commissioner of the agency, rather than the executive commissioner of HHSC, makes conforming changes, and as follows:
Ch. 161. Department of *Supportive Services.*	Ch. 161. Same as House version, except refers to Department of *Aging and Disability Services.*	Ch. 161. Same as Senate version.
Subchapter A. General Provisions	Subchapter A. Substantially the same as House version.	Subchapter A. Substantially the same as House version.
Subchapter B. Administrative Provisions	Subchapter B. Substantially the same as House version.	Subchapter B. Substantially the same as House version, except gives the commissioner limited authority to assist in developing policies and the council advises the commissioner for that purpose.
Subchapter C. Personnel	Subchapter C. Substantially the same as House version, except as follows:	Subchapter C. Substantially the same as Senate version, except as follows:
Sec. 161.051. (a) Requires the *governor* to appoint a commissioner of the department of health services to administer this chapter and (b) the commissioner serves *for a term of one year.*	Sec. 161.051. Similar to House version, except (a) requires the *executive commissioner* to appoint the commissioner of the department *with the approval of the governor* and (b) the commissioner serves *at the pleasure of the executive*	Sec. 161.051. Substantially the same as Senate version, except makes conforming changes.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	commissioner.	
Subchapter D. Powers and Duties of Department	Subchapter D. Substantially the same as House version, except as follows:	Subchapter D. Substantially the same as Senate version, as follows:
Sec. 161.071. Provides that the department is responsible for administering human services programs for the aging and disabled, including: (1) administering and coordinating certain programs to provide community-based care and support services; (2) providing certain institutional care services; (3) providing and coordinating certain programs and services for persons with disabilities; (4) operating certain state facilities; (5) serving as the state unit on aging; (6) performing all licensing and enforcement activities related to certain facilities under Chapter 242, Health and Safety Code; and (7) performing all licensing and enforcement activities related to certain agencies under Chapter 142, Health and Safety Code.	Sec. 161.071. Same as House version, except also includes performing all licensing and enforcement activities related to certain facilities under Chapters 247 and 252, Health and Safety Code.	Sec. 161.071. Same as Senate version.
SECTION 1.14. Appointment of Commissioners. (a) Directs the *governor* to appoint the commissioners of the Department of Health Services, the Department of Protective Services, and the Department of Supportive Services as soon as possible.	SECTION 1.14. (a) Directs the *executive commissioner* to appoint the commissioners of the Department of State Health Services, the Department of Family and Protective Services, the Department of Assistive and Rehabilitative Services, and the Department of Aging and Disability Services as soon as possible.	SECTION 1.14. (a) Same as Senate version.
SECTION 1.15. Appointments of Council Members. Provides for the appointment by the governor of members to the Health Services Council, the Protective Services Council,	SECTION 1.15. Similar to House version. The names of the councils correspond with the different names of each agency in Section 1.14(a) and also provides for the appointment by	SECTION 1.15. Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
the Supportive Services Council, and the Health and Human Services Council.	the governor of members to the Assistive and Rehabilitative Services Council.	
SECTION 1.16. Limitation on Activities.	SECTION 1.16. Same as House version.	SECTION 1.16. Same as House version.
SECTION 1.17. Initial Council Meetings.	SECTION 1.17. Substantially the same as House version.	SECTION 1.17. Same as Senate version, except for conforming changes relating to the Health and Human Services Transition Legislative Oversight Council.
SECTION 1.18. Transfers to the Health and Human Services Commission. Subsecs. (a)(1), (2), and (3) provide for the transfer to the Health and Human Services Commission of the powers, duties, functions, programs, and activities of various agencies and divisions of agencies that are abolished by Section 1.25 of this article.	SECTION 1.18. Subsecs. (a)(1), (2), and (3) are substantially the same as House version.	SECTION 1.18. Substantially the same as Senate version, except gives over the health and human services agencies to th executive commissioner of the Health and Human Services Commission.
Subsecs. (a)(4), (5), and (6) provide for the transfer to the Health and Human Services Commission of the powers, duties, functions, programs, and activities of the Texas Rehabilitation Commission, the Texas Commission for the Blind, and the Texas Commission for the Deaf and Hard of Hearing.	SECTION 1.13. Creates the Department of Assistive and Rehabilitative Services responsible for administering human services programs to provide early childhood intervention services and rehabilitation services to persons who are blind, deaf, or hard of hearing. The department is also made responsible for programs for the rehabilitation of persons with disabilities. (FA3, 2nd reading)	SECTION 1.13. Substantially the same as Senate version, except gives rulemaking authority to the executive commissioner of HHSC, rather than the commissioner of the agency.
Subsec. (a)(7) transfers all rulemaking and policymaking authority relating to health and human services to the commission.	No equivalent provision. (FA5, 3rd reading)	Subsec. (a)(4) Same as House version.
Subsec. (f) transfers all powers and duties relating to audits	Subsec. (f) is same as House version, except omits provision	Subsec. (f) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
and powers and duties of the Texas Department of Human Services office of inspector general to the commission's office of inspector general.	relating to transferred audit powers being performed by the office of inspector general..	
SECTION 1.19. Transfers to the Department of Health Services. Subsec. (a) transfers the powers, duties, functions, programs, and activities of certain agencies to the Department of Health Services.	SECTION 1.19. Substantially the same as House version, except for conforming changes and for Subsec. (a) as follows:	SECTION 1.19. Same as Senate version.
Subsec. (a)(4) transfers the powers, duties, functions, programs, and activities of the Interagency Council on Early Childhood Intervention to the Department of Health Services.	No equivalent provision (SECTION 1.21. Subsec. (a)(2) transfers the powers, duties, functions, programs, and activities of the Interagency Council on Early Childhood Intervention to the newly created Department of Assistive and Rehabilitative Services.)	Same as Senate version.
Subsec. (a)(5) transfers powers and duties of the Texas Health Care Information Council to the Department of Health Services.	Subsec. (a)(4). Same as House version.	Subsec. (a)(4) Same as House version.
SECTION 1.20. Transfers to the Department of Protective Services. Except as provided by Sections 1.18 and 1.21 of this article, Subsec. (a) transfers certain powers, duties, functions, programs, and activities of a state agency abolished by H.B. 2292 related to the investigation of abuse or neglect of persons residing in long-term care facilities and of the Texas Department of Human Services to the Department of Protective Services.	No equivalent provision.	SECTION 1.20. Same as Senate version.
SECTION 1.21. Transfers to the Department of *Supportive*	SECTION 1.20. Transfers to the Department of *Aging and*	SECTION 1.21. Same as Senate version, except gives

HOUSE VERSION	SENATE VERSION	CONFERENCE
Services.	*Disability Services*. Substantially the same as House version. Gives rulemaking authority to the commissioners of the individual agencies, rather than the executive commissioner of HHSC. (FA5, 3rd reading)	rulemaking authority for the health and human services agencies to the executive commissioner of HHSC.
No equivalent provision.	SECTION 1.21. Transfers to the Department of Assistive and Rehabilitative Services. Provides for the transfer of all powers, duties, functions, programs, and activities of the Texas Rehabilitation Commission, the Texas Commission for the Blind, and the Texas Commission for the Deaf and Hard of Hearing to the newly created Department of Assistive and Rehabilitative Services. Gives rulemaking authority to the commissioners of the individual agencies, rather than the executive commissioner of HHSC (FA5, 3rd reading)	SECTION 1.21. Same as Senate version, except gives rulemaking authority for the health and human services agencies to the executive commissioner of HHSC.
SECTION 1.22. Relates to the facilitation of transfers by Health and Human Services Transition Council, as follows:	SECTION 1.22. Similar to House version. Relates to the facilitation of transfers by the Health and Human Services Transition Legislative Oversight Committee, as follows:	SECTION 1.22. Same as House version, except as follows:
(a) Creates the Health and Human Services Transition Council to facilitate the transfer of powers, duties, functions, programs, and activities among the state's health and human services agencies and the Health and Human Services Commission as provided by this article with a minimal negative effect on the delivery of those services in this state.	(a) and (f)(1) are similar to House version. (a) Creates the Health and Human Services Transition Legislative Oversight Committee and (f)(1) requires the committee to facilitate the transfers.	(a) and (g)(1) are same as Senate version.
(b) Provides that the council is composed of *10* members, as	(b) Similar to House version. Provides that the committee is	(b) Similar to Senate version, except the committee is

HOUSE VERSION	SENATE VERSION	CONFERENCE
follows: (1) the commissioner of health and human services; (2) two members of the senate, appointed by the lieutenant governor not later than October 1, 2003; (3) two members of the house of representatives, appointed by the speaker of the house of representatives not later than October 1, 2003; and (4) five members of the public, appointed by the governor not later than October 1, 2003.	composed of *nine* members, as follows: (1) *three* members of the senate, appointed by the lieutenant governor not later than October 1, 2003; (2) *three* members of the house of representatives, appointed by the speaker of the house of representatives not later than October 1, 2003; (3) three members of the public, appointed by the governor not later than October 1, 2003.	composed of *seven* members, as follows: (1) *two* members of the senate, appointed by the lieutenant governor not later than October 1, 2003; (2) *two* members of the house of representatives, appointed by the speaker of the house of representatives not later than October 1, 2003; (3) three members of the public, appointed by the governor not later than October 1, 2003.
(c) Provides that the commissioner of health and human services serves as presiding officer. The members of the council shall elect any other necessary officers.	(d) Similar to House version. Requires the lieutenant governor and the speaker of the house of representatives to each designate a co-chair from among their respective appointments.	(e) Similar to Senate version, except requires the lieutenant governor and the speaker of the house of representatives to alternate designating a presiding officer from among their respective appointments and requires the speaker of the house of representatives to make the first appointment after the effective date of this section.
(d) Requires the council to meet at the call of the presiding officer.	(f)(3) Same as House version, except makes conforming changes.	(g)(3) Same as Senate version.
(e) Provides that a member of the council serves at the will of the appointing official.	(c) Same as House version, except makes conforming changes.	(d) Same as Senate version.
(f) Provides that a member of the council may not receive compensation for serving on the council but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided by the General Appropriations Act.	(e) Same as House version, except with conforming changes.	(f) Substantially the same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
(g) Requires the council, with assistance from the Health and Human Services Commission and the health and human services agencies, to advise the commissioner of health and human services concerning: (1) the powers, duties, functions, programs, and activities transferred under this article and the funds and obligations that are related to the powers, duties, functions, programs, or activities; and (2) the transfer of the powers, duties, functions, programs, activities, records, property, funds, obligations, and employees by the entities *listed in Sections 1.18, 1.19, 1.20, and 1.21 of this article* in accordance with this article.	(f)(2) Substantially the Same as House version, except makes conforming changes and refers to transfers by entities *required by statute.*	(g)(2) Substantially the same as House version, except makes conforming changes and refers to transfers by entities required by the article.
No equivalent provision.	(f)(4) Requires the committee to receive information about rules proposed or adopted by the Health and Human Services Commission and the health and human services agencies.	Same as House version.
No equivalent provision.	(f)(5) Requires the committee to research, take public testimony, and issue reports on other appropriate issues or specific issues requested by the lieutenant governor, speaker, or governor.	(g)(5) Same as Senate version.
No equivalent provision.	(f)(6) Requires the committee to review specific recommendations for legislation proposed by the Health and Human Services Commission and the health *and* human services agencies relating to health and human service rules and regulations and other appropriate issues.	(g)(6) Similar to Senate version. Requires the committee to review specific recommendations for legislation proposed by the Health and Human Services Commission *or* the health and human services agencies.
No equivalent provision.	(g) Requires the committee to monitor the effectiveness and efficiency of the health and human service system of this	(h) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	state.	
No equivalent provision.	(h) Authorizes the committee to request reports and other information from the department and the attorney general relating to health and human service of this state and other appropriate issues.	(i) Similar to Senate version. Authorizes the committee to request reports and other information from the Health and Human Services Commission, health and human services agencies, and the attorney general relating to health and human service of this state and other appropriate issues.
No equivalent provision.	(i) Requires the committee to use existing staff *resources* of the senate, the house of representatives, and the Texas Legislative Council to assist the committee in performing its duties under this section.	(j) Similar to Senate version. Requires the committee to use existing staff resources of the senate, the house of representatives, and the Texas Legislative Council to assist the committee in performing its duties under this section.
(h) Requires the council to fully consider all written and oral submissions made on any matter or issue under the council's jurisdiction.	No equivalent provision.	Same as Senate version.
(i) Chapter 551, Government Code, applies to the council.	(j) Same as House version, except with conforming changes.	(k) Same as Senate version.
No equivalent provision.	(k) Requires the committee to report to the governor, the lieutenant governor, and speaker of the house of representatives not later than November 15 of each even-numbered year. The report is required to include: (1) identification of significant issues within the health and human service delivery system, with recommendations for action; (2) the effectiveness and efficiency of the health and human service delivery system, with recommendations for any necessary research; and (3) recommendations for	(l) Similar to Senate version. Requires the committee to report to the governor, the lieutenant governor, and speaker of the house of representatives not later than November 15 of each even-numbered year. The report is required to include: (1) identification of significant issues within the health and human service delivery system, with recommendations for action; (2) *an analysis of* the effectiveness and efficiency of the health and human service delivery system, with recommendations for any necessary research; and (3)

HOUSE VERSION	SENATE VERSION	CONFERENCE
	legislative action.	recommendations for legislative action.
(j) Abolishes the council December 31, 2004.	No equivalent provision.	Same as Senate version.
SECTION 1.23. Transition Plan.	SECTION 1.23. Substantially the same as House version.	SECTION 1.23. Substantially the same as House version.
SECTION 1.24. Applicability of Former Law.	SECTION 1.24. Same as House version.	SECTION 1.24. Same as House version.
SECTION 1.25. Work Plan for Health and Human Services Agencies.	SECTION 1.25. Same as House version.	SECTION 1.25. Same as House version, except makes conforming changes.
SECTION 1.26. Abolition of State Agencies and Entities.	SECTION 1.26. Same as House version.	SECTION 1.26. Same as House version.
SECTION 1.27. Provides that a reference in law to the Department of Protective and Regulatory Services means the Department of Protective Services.	SECTION 1.27. Provides that a reference in law to the Department of Protective and Regulatory Services means the Department of Family and Protective Services.	SECTION 1.27. Same as Senate version.
SECTION 1.28. Repeals Sections 531.0057, 531.034, and 531.0345, Government Code; Sections 40.0225 and 40.023, Human Resources Code; and Article 2, Chapter 1505, Acts of the 76th Legislature, R.S., 1999.	SECTION 1.28. Same as House version, except does not repeal Sections 531.0057, 531.034, and 531.0345, Government Code. (FA5, 3rd reading)	SECTION 1.28. Same as Senate version.
SECTION 1.29. Effective Date. Provides that the Department of Health Services and Department of Supportive Services are created when the *governor* appoints the commissioners.	SECTION 1.29. Substantially the same as House version, except provides that the Department of State Health Services and the Department of Aging and Disability Services are created when the *executive commissioner* appoints the commissioners.	SECTION 1.29. Same as Senate version.
ARTICLE 2. Administration, Operation, and Financing of	ARTICLE 2. Same as House version.	ARTICLE 2. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
Health and Human Services Programs and Provision of Health and Human Services.		
SECTION 2.01. Adds Section 531.001(1-a), Government Code, Definitions.	SECTION 2.01. Same as House version.	SECTION 2.01. Same as House version.
SECTION 2.02. (a) Adds Section 531.017, Government Code, Purchasing Division.	SECTION 2.02. (a) Section 531.017. Same as House version.	SECTION 2.02. (a) Same as House version.
No equivalent provision.	Adds Sec. 531.018, Government Code. Provides for an employee wellness program at the commission and each health and human services agency.	Sec. 531.018 Same as House version
(b) Transition provision relating to Sec. 531.017, Government Code, as added by this section.	(b) Same as House version.	(b) Same as House version.
SECTION 2.03. Adds Section 531.021(c), Government Code, as follows:	SECTION 2.03. Adds Sections 531.021(c), (d), and(e). Similar to House version, except as follows:	SECTION 2.03. Same as Senate version, except as follows:
Adds Subsec. (c) to require the commission in adopting rules to include financial performance standards that provide certain facilities and providers with flexibility in determining how to use medical assistance payments to provide services in the most cost-effective manner.	Subsec. (c) is same as House version, except clarifies that facilities and providers are to provide services in the most cost-effective manner *while continuing to meet the state and federal requirements of the Medicaid program.*	
No equivalent provision.	Adds Subsec. (d) to authorize the commission in adopting rules related to medical assistance payments to provide for payment of fees, charges, and rates in accordance with formulas, procedures, or methodologies prescribed by the	Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	commission's rules; applicable state or federal law, policies, rules, regulations, or guidelines; economic conditions that substantially and materially affect provider participation in the Medicaid program, as determined by the commissioner; or available levels of appropriated state and federal funds.	
No equivalent provision.	Adds Subsec. (e) to authorize the commission to adjust the fees, charges, and rates paid to Medicaid providers.	
SECTION 2.04. Adds Section 531.0335, Government Code, Prohibition on Punitive Action for Failure to Immunize.	SECTION 2.04. Same as House version, except as follows:	SECTION 2.04. Same as House version.
Subsec. (a)(2) Provides that "Punitive action" includes initiation of an investigation for abuse or neglect of a child	Subsec. (a)(2) Provides that "Punitive action" includes a finding that a person responsible for a child has abused or neglected a child. (FA2, 3rd reading)	Subsec. (a)(2) Same as House version.
Subsec. (b) Requires the commissioner to prohibit an agency from punishing a person for failure to have a child immunized.	Subsec. (b) Requires the commissioner to prohibit punishing a person who fails to have a child immunized *if the child is exempt under that section.* (FA2, 2nd reading)	Subsec. (b) Same as House version.
SECTION 2.05. Adds Section 531.0392, Government Code, Recovery of Certain Third-Party Reimbursements Under Medicaid.	SECTION 2.05. Same as House version.	SECTION 2.05. Same as House version.
SECTION 2.06. Adds Section 531.063, Government Code, Call Center, as follows:	SECTION 2.06. Same as House version, except as follows:	SECTION 2.06. Same as House version, except as follows:
(a) Requires the commission to establish a call center for	(a) Similar to House version. Requires the commission to	(a) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
purposes of determining a person's eligibility and need for services, if cost-effective.	establish at least one but not more than four call centers and to conduct a public hearing before establishing the initial call center.	
(b) Requires the commission to contract with at least one but not more than four private entities for operation of the call center.	(b) Requires the commission to contract with at least one but not more than four private entities for operation of the call center unless HHSC determines it would not be cost-effective.	(b) Same as Senate version.
No equivalent provision.	(c) Requires each call center to be located in this state, including a call center that processes overflow calls. (FA27, 3rd reading)	(c) Same as Senate version, except does not prohibit a call center from processing overflow calls through a center located in another state.
(c) Requires the call center to provide translation services for certain clients.	(d) Substantially the same as House version.	(d) Substantially the same as House version.
(h) Requires the commissioner to develop and implement policies that provide certain applicants with an opportunity to appear in person to establish or recertify eligibility.	(i) Similar to House version. Also requires the commission in implementing the policies to maintain sufficient offices in each of the commission's services areas to serve certain applicants.	(i) Substantially the same as Senate version.
No equivalent provision.	A contract with a private provider of services described in ARTICLE 2 of this act will stipulate that the provider will not engage in any activities that would be in violation of Section 572.051, Texas Government Code, if the provider were a state agency. (FA42, 3rd reading)	Same as Senate version.
No equivalent provision.	Any entity to which functions described in ARTICLE 2 of this act are transferred will be considered a state agency for	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	the purposes of certain provisions of the Texas Labor Code. (FA43, 3rd reading)	
SECTION 2.07. Adds Section 531.065, Government Code, Consolidation and Coordination of Health Insurance Premium Payment Reimbursement Programs.	SECTION 2.07. Same as House version.	SECTION 2.07. Same as House version.
SECTION 2.08. Adds Section 531.067, Government Code, as follows:	SECTION 2.08. Same as House version, except as follows:	SECTION 2.08. Same as House version, except as follows:
(a) Requires the commission to appoint a Public Assistance Health Benefit Review and Design Committee to consist of nine representatives of certain health care providers participating in the Medicaid program or the child health plan program.	(a) Similar to House version, except committee is required to include nine representatives of health care providers and *health plan providers, including at least one health plan provider participating in the Medicaid program and one health plan provider participating in the child health plan program.*	(a) Same as House version.
(d) Requires the committee to review and provide recommendations relating to prescription drug benefits and high utilization of benefits provided under the state Medicaid program, the child health plan program, and any other income-based health care program administered by the commission or a health and human services agency.	(d) Similar to House version, except requires the committee to review and provide recommendations relating to *benefits* provided under each program.	(d) Same as Senate version.
SECTION 2.09. Adds Section 531.068, Government Code, Medicaid or Other Health Benefit Coverage.	SECTION 2.09. Same as House version.	SECTION 2.09. Same as House version.
SECTION 2.10. Adds Section 531.069, Periodic Review of Vendor Drug Program.	SECTION 2.10. Same as House version.	SECTION 2.10. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2.11. (a) Adds Section 531.070, Government Code, as follows:	SECTION 2.11. (a) Substantially the same as House version, except as follows:	SECTION 2.11. Substantially the same as Senate version, except as follows:
Adds Subsec. (g) to authorize the commissioner to consider certain supplemental rebates as an offset to other expenditures.	Subsec. (g). Same as House version, except authorizes the commissioner to consider certain *program benefits made in lieu of supplemental rebates.*	Subsec. (g) Same as Senate version.
Adds Subsec. (h) to require the commission to negotiate with certain manufacturers and labelers to obtain supplemental rebates for prescription drugs.	Subsec. (h) is similar to House version, except specifies that the rebates are for drugs provided under: (1) the Medicaid vendor drug program in excess of the rebates required by federal law; (2) the child health plan program; and (3) any other state program administered by the commission or a health and human services agency.	Subsec. (h) Same as Senate version.
Adds Subsec. (l) to require the commission to submit an annual report to the legislature and governor that covers: (1) the cost of administering certain preferred drug lists; (2) an analysis of the utilization trends for medical services provided by the state and any correlation to the preferred drug lists; (3) an analysis of the effect on health outcomes and results for recipients; and (4) statistical information related to the number of approvals granted or denied.	Subsec. (l) is substantially the same as House version, except also requires the report to include an analysis of dispensing fee costs to the state resulting from the limitations on drug supply imposed by Section 32.024(z)(2), Human Resources Code, and Section 62.151(f)(2), Health and Safety Code.	Subsec. (k) is same as House version.
(b) Transition provision relating to the implementation of Section 531.070, Government Code, as added by this section.	(b) Same as House version.	(b) Same as House version.
SECTION 2.12. Adds Section 531.071, Government Code, relating to confidentiality of information regarding drug rebates, pricing, and negotiations. Subsec. (b) provides that	SECTION 2.12. Same as House version, except Subsec. (b) also includes information obtained or maintained by another state program administered by the commission or a health and	SECTION 2.12. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
information that is confidential includes information obtained or maintained by the commission in connection with the Medicaid vendor drug program, the child health plan program, the kidney health care program, or the children with special health care needs program.	human services agency.	
SECTION 2.13. (a) Adds Section 531.072, Government Code, Preferred Drug Lists *for Medicaid and Child Health Plan Programs*, as follows:	SECTION 2.13. (a) Adds Section 531.072, Government Code, Preferred Drug Lists. Same as House version, except as follows:	SECTION 2.13. (a) Same as Senate version, except as follows:
Adds Subsec. (a) to require the commission in a manner that complies with applicable state and federal law, to adopt preferred drug lists for the Medicaid vendor drug program and for prescription drugs purchased through the child health plan program.	Subsec. (a) is similar to House version but also authorizes the commission to adopt preferred drug lists for community mental health centers, state mental health hospitals, and any other state program administered by the commission or a state health and human services agency.	Subsec. (a) Same as Senate version
Adds Subsec. (d) to require the commission to provide current copies of the preferred drug lists to all appropriate health care providers by posting the list on the Internet.	Subsec. (d) is similar to House version with minor wording differences.	Subsec. (d) Same as Senate version.
(b) Transition provision relating to the preferred drug list required by Section 531.072, Government Code, as added by this section.	(b) Same as House version.	(b) Same as House version.
SECTION 2.14. Adds Section 531.073, Prior Authorization for Certain Prescription Drugs, as follows:	SECTION 2.14. Same as House version, except as follows:	SECTION 2.14. Same as Senate version, except as follows:
(a) Requires the commission in its rules and standards governing the Medicaid vendor drug program and the child	(a) Similar to House version, but also authorizes the commission to require prior authorization for the	(a) Same as Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
health plan program, to require prior authorization for the reimbursement of a drug that is not included in the appropriate preferred drug list adopted under Section 531.072, except for any drug exempted from prior authorization requirements by federal law. The commission shall require that the prior authorization be obtained by the prescribing physician.	reimbursement of a drug provided through any other state program administered by the commission or a state health and human services agency, including a community health center and a state mental health hospital if the commission adopts preferred drug lists under Section 531.072 that apply to those facilities and the drug is not included in the appropriate list.	
(a-1)Directs the commission to delay requiring prior authorization for certain drugs until the commission has completed a study evaluating the impact of a prior authorization requirement on the recipients of certain drug classes.	(a-1) Directs the commission to delay requiring prior authorization for drugs that are used to treat patients with life-threatening and chronic illnesses that require complex medical management strategies until the commission has completed a study evaluating the impact of a prior authorization requirement on recipients. Also requires the commission to report its findings to the 79th Legislature or a subsequent legislature.	(a-1) Combines both versions to provide that *until the commission has completed a study evaluating the impact of a requirement of prior authorization on recipients of certain drugs*, the commission shall delay requiring prior authorization for drugs that are used to treat patients with illnesses that: (1) are life-threatening; (2) are chronic; and (3) require complex medical management strategies. Omits reporting requirement.
(a-2) Establishes that the drugs subject to the study include drugs used in the treatment of: (1) cancer and cancer-supportive care; (2) end-stage renal disease; (3) chronic nonmalignant pain; (4) hemophilia; and (5) multiple sclerosis.	(a-2) Requires the commission to post certain information on the internet not later than the 30th day before the date on which prior authorization requirements are implemented. (FA19, 3rd reading)	(a-2) Same as Senate version.
(c) Requires the commission to ensure that a prescription drug prescribed before implementation of a prior authorization requirement for that drug for certain recipients under the child health plan program, the Medicaid program, or another state program administered by the commission or	(c) Similar to House version, except includes a recipient or a person who becomes eligible under a state program administered by the commission *or a health and human services agency.*	(c) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
for a person who becomes eligible under the child health plan program, the Medicaid program, or another state program administered by the commission is not subject to any requirement for prior authorization under this section unless the recipient has exhausted all the prescription, including any authorized refills, or a period prescribed by the commission has expired, whichever occurs first.		
(d) Requires the commission to implement procedures to ensure that a recipient under the child health plan program, the Medicaid program, or another state program administered by the commission or a person who becomes eligible under the child health plan program, the Medicaid program, or another state program administered by the commission receives continuity of care in relation to certain prescriptions identified by the commission.	(d) Same as House version, except extends the provision to *a health and human services agency.*	(d) Same as Senate version.
SECTION 2.15. (a) Adds Section 531.074, Government Code, Pharmaceutical and Therapeutics Committee, as follows:	SECTION 2.15. (a) Same as House version, except makes conforming changes and as follows:	SECTION 2.15. (a) Same as House version, except as follows:
Adds Subsec. (a) to establish the Pharmaceutical and Therapeutics Committee for the purposes of developing recommendations for a preferred drug list for the Medicaid vendor drug program and a preferred drug list for the child health plan program.	Adds Subsec. (a) to establish the Pharmaceutical and Therapeutics Committee for the purposes of developing recommendations for preferred drug lists adopted by the commission under Section 531.072.	Adds Subsec. (a) Same as Senate version
Adds Subsec. (c)(3) to direct the governor in making appointments to the committee to ensure that the committee	Subsec. (c)(3) is similar to House version, but specifically mentions contractual relationships, ownership interests, or	Subsec. (c)(3) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
includes physicians and pharmacists who do not have a contractual relationship, ownership interest, or other conflict of interest with an entity engaged by the commission to assist in the development of the preferred drug list or administration of the prior authorization system.	other conflicts of interest *with a pharmaceutical manufacturer or labeler.*	
Adds Subsc. (j) to require the committee to ensure cost-effective therapies for Medicaid recipients and beneficiaries of the child health plan program.	Subsec. (j). Same as House version, but extends provision to include any other affected individuals.	Subsec. (j) Same as Senate version.
(b) Transition provision relating to the appointment of members to the Pharmaceutical and Therapeutics Committee.	(b) Same as House version.	(b) Same as House version.
(c) Transition provision relating to the committee's recommendations for the preferred drug list.	(c) Same as House version.	(c) Same as House version.
SECTION 2.16. Adds Section 531.075, Government Code, to require certain programs to recognize prohibitions in federal law that would limit prior authorization for high-cost medical services for children on Medicaid.	SECTION 2.16. Substantially the same as House version, except extends the provision to include state law as well as federal law.	SECTION 2.16. Same as Senate version.
SECTION 2.17. Adds Section 531.076, Government Code. Authorizes the commission to develop a plan to permit the use of a residential program model of a facility of up to six beds in the mental retardation Medicaid waiver program under the authority of the Texas Department of Mental Health and Mental Retardation.	No equivalent provision.	Same as Senate version.
SECTION 2.18. Adds Section 531.077, Government Code.	No equivalent provision.	SECTION 2.17. Substantially the same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
Directs the commissioner to ensure that the state Medicaid program implements 42 U.S.C. Section 1396p(b)(1), establishes a Medicaid account in the general revenue fund, and provides that money in the account may be appropriated only to fund long-term care, including community-based care and facility-based care.		
SECTION 2.19. Amends Section 531.101, Government Code, Award for Reporting Medicaid Fraud, Abuse, or Overcharges.	SECTION 2.17. Same as House version.	SECTION 2.18. Same as House version.
SECTION 2.20. (a) Amends Section 531.102, Government Code, relating to the commission's office of inspector general and investigations of fraud and abuse in the provision of health and human services and the enforcement of state law relating to the provision of those services.	SECTION 2.18. (a) Same as House version, except as follows:	SECTION 2.19. (a) Same as House version, as follows:
No equivalent provision.	Adds Subsec. (g)(3) to require the office, on a timely written request by a provider subject to a hold on payment, to file a request with the State Office of Administrative Hearings for an expedited administrative hearing regarding the hold. The provider must request the hearing not later than the 10th day after the date the providers receives notice of the hold from the office.	Subsec. (g)(3) Same as Senate version.
No equivalent provision.	Adds Subsec. (g)(4) to require the commission to adopt rules that permit a provider subject to a hold on payment, other than a hold by the state's Medicaid fraud control unit, to seek	Subsec. (g)(4) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	an informal resolution of the issues identified by the office in the notice of the hold. Provides a deadline by which a provider must seek an informal resolution.	
(b) Transition provision relating to the appointment and initial term of the inspector general.	(b) Same as House version.	(b) Same as House version.
SECTION 2.21. Adds Section 531.1021, Subpoenas.	SECTION 2.19. Same as House version.	SECTION 2.20. Same as House version.
SECTION 2.22. (a) Amends Section 531.103, Government Code, relating to a memorandum of understanding between the office of inspector general and the office of the attorney general to develop and implement joint written procedures for processing cases of suspected fraud, waste, or abuse under certain programs administered by the commission or a health and human services agency, as follows:	SECTION 2.20. (a) Same as House version, except as follows:	SECTION 2.21. Same as Senate version, except as follows:
Adds Subdivisions (1-a) and (1-b). The memorandum of understanding shall require: (1-a) the office of inspector general to refer each case of suspected provider fraud, waste, or abuse to the office of the attorney general not later than the *10th* business day after the date the office of inspector general determines that the existence of fraud, waste, or abuse is reasonably indicated; and	Adds Subdivisions (1-a) and (1-b). Similar to House version, except: (1-a) the office of inspector general is required to refer each case not later than the *30th* business day; and	Adds Subdivisions(1-a) and (1-b). Same as Senate version, except: (1-a) the office of inspector general is required to refer each case not later than the *20th* business day.
(1-b) the office of the attorney general to take appropriate action in response to each case referred to the attorney	(1-b) the office of the attorney general in directing initiation of prosecution must do so *with the consent of the appropriate*	(1-b) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
general, which action may include direct initiation of prosecution or civil litigation or referral to an appropriate United States attorney, a district attorney, a county attorney, or a collections agency for initiation of prosecution, civil litigation, or other appropriate action.	*local district or county attorney.*	
(b) Transition provision	(b) Same as House version.	(b) Same as House version.
SECTION 2.23. Amends Section 531.104(b), Government Code, relating to assisting investigations by the attorney general.	SECTION 2.21. Same as House version.	SECTION 2.22. Same as House version.
SECTION 2.24. (a) Adds Section 531.1063, Government Code, relating to the development and implementation of a front-end Medicaid fraud reduction pilot program.	SECTION 2.22. (a) Substantially the same as House version, except as follows:	SECTION 2.23. (a) Substantially the same as House version, except as follows:
No equivalent provision.	Adds Subsec. (d) to authorize the commission, in implementing the program, to exempt recipients who are children or who are elderly or disabled and to obtain a fingerprint image from a parent or caretaker of a recipient who is a child, regardless of whether the parent or caretaker is a recipient.	Subsec. (d) Same as Senate version.
No equivalent provision.	Adds Subsec. (e) to require the commission to ensure that the procedures for obtaining fingerprints under Subsec. (d) give consideration to transportation barriers and work schedules of the participating individuals.	Subsec. (e) Same as Senate version.
(b) Transition provision	(b) Same as House version.	(b) Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
(c) Requires the Health and Human Services Commission to report to the governor, lieutenant governor, and speaker of the house regarding the medicaid fraud pilot program not later than February 1, 2005.	(c) Same as House version.	(c) Same as House version.
SECTION 2.24A. Amends Section 531.107(b), Government Code, Medicaid and Public Assistance Fraud Oversight Task Force.	SECTION 2.23. Same as House version.	SECTION 2.24. Same as House version.
SECTION 2.25. (a) Adds Section 531.113, Government Code, Managed Care Organizations: Special Investigative Units or Contracts.	SECTION 2.24. (a) Same as House version.	SECTION 2.25. (a) Same as House version.
(b) Transition provision relating to compliance with Section 531.113, Government Code, as added by this section.	(b) Same as House version.	(b) Same as House version.
SECTION 2.26. (a) Adds Section 531.114, Government Code, Financial Assistance Fraud.	SECTION 2.25. (a) Same as House version.	SECTION 2.26. (a) Same as House version.
(b) Savings provision.	(b) Same as House version.	(b) Same as House version.
SECTION 2.27. Adds Section 531.115, Government Code, Federal Felony Match.	SECTION 2.26. Same as House version.	SECTION 2.27. Same as House version.
SECTION 2.28. Adds Section 531.116, Government Code, Compliance with Law Prohibiting Solicitation.	SECTION 2.27. Same as House version.	SECTION 2.28. Same as House version.
SECTION 2.29. Adds Section 533.0025, Delivery of Services. (e) Prohibits the commission from using an HMO	SECTION 2.28. Same as House version, except (e) does not prohibit the use of certain pilot programs and does not include	SECTION 2.29. Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
model to provide services in Cameron, Hidalgo, Webb, or Maverick Counties	Webb county on the list of prohibited counties. (FA46, 3rd reading)	
No equivalent provision	Adds Subsec. (f) to require the commission to conduct a study to determine the best model for managed care in the counties listed in (e) and to report its findings to the governor and legislative leaders no later than December 1, 2004. (FA46, 3rd reading)	Same as House version.
SECTION 2.30. Adds Section 533.0132, Government Code, State Taxes.	SECTION 2.29. Same as House version.	SECTION 2.30. Same as House version.
SECTION 2.31. Amends Sections 403.105(a) and (c), Government Code, Permanent Fund for Tobacco Education and Enforcement. Section (2) provides that earnings of the fund may be appropriated for the provision of coordinated essential public health services administered by the Texas Department of Health	SECTION 2.30. Same as House version, except that Section (2) provides that earnings of the fund may be appropriated for the provision of preventive medical and dental services to children in the medical assistance program under Chapter 32, Human Resources Code. (FA3, 2nd reading)	SECTION 2.31. Same as Senate version.
SECTION 2.32. Amends the heading to Section 403.105, Government Code, Permanent Fund for Health and Tobacco Education and Enforcement.	SECTION 2.31. Same as House version.	SECTION 2.32. Same as House version.
SECTION 2.33. Amends Section 403.1055(c), Government Code to authorize the appropriation of certain funds to the Texas Department of Health to (A) develop strategies for improving health outcomes for children and the public; (B) provide grants to local communities for specific public health priorities; and (C) provide grants to local communities for	SECTION 2.32. Same as House version, except that it adds Subsec. (D) to authorize providing grants to schools of public health located in Texas. (FA30, 3rd reading)	SECTION 2.33. Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
essential public health services		
No equivalent provision.	SECTION__. Amends Section 403.1066, Government Code to change the name of the Community Hospital Capital Improvement Fund to the Permanent Hospital Fund for Capital Improvements and the Texas Center for Infectious Disease; authorizes appropriation of the funds to the Texas Department of Health for providing services at the Texas Center for Infectious Disease. (FA3, 2nd reading)	SECTION 2.206. Same as Senate version.
SECTION 2.34. (a) Effective September 1, 2003, amends Section 466.408(b), Government Code, Unclaimed Prizes, as follows:	SECTION 2.33. (a) Same as House version, except as follows:	SECTION 2.34. (a) Same as House version, except as follows:
Amends Subsec. (b) to prioritize the use of certain unclaimed prize money, as follows:	Subsec. (b) is the same as House version, except as follows:	Subsec. (b) is the same as House version, except as follows:
(1) *$10 million* in prize money each year shall be deposited to the credit of the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund.	(1) Subject to legislative appropriation, *not more than $20 million* in prize money each year may be deposited to *or appropriated from* the credit of the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund. (FA29, 3rd reading)	(1) Same as Senate version.
(2) $5 million in prize money each year shall be used by the Health and Human Services Commission to support the provision of inpatient hospital services in hospitals located in the 15 counties that comprise the Texas-Mexico border area, with payment for those services to be not less than the amount	(2) Same as House version.	(2) Substantially the same as House version, except provides that *not more than* $5 million in prize money *may be appropriated to* the Health and Human Services Commission.

HOUSE VERSION	SENATE VERSION	CONFERENCE
established under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) cost reimbursement methodology for the hospital providing the services.		
(3) $8 million in prize money each year shall be deposited in the tertiary care facility account and may be appropriated only for purposes specified in Chapter 46 or 61, Health and Safety Code.	No equivalent provision.	Same as Senate version
(4) an additional $10 million in prize money each year shall be deposited to the credit of the Texas Department of Health state-owned multicategorical teaching hospital account.	No equivalent provision.	Same as Senate version.
(5) *in addition to the amount specified by Subdivision (3),* all remaining prize money subject to this section shall be deposited in the tertiary care facility account and may be appropriated only for purposes specified in Chapter 46 or 61, Health and Safety Code.	(2) all remaining prize money subject to this section shall be deposited in the general revenue fund and may be appropriated for any purpose as determined by the legislature, including purposes specified in Chapter 61, Health and Safety Code. (FA29, 3rd reading)	(3) Similar to House version, except provides that all prize money subject to this section and not appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account or not appropriated to the Health and Human Services Commission for the purpose specified in Subdivision (2) shall be deposited in the general revenue fund and may be appropriated for any purpose as determined by the legislature, including the provision of indigent health care services as specified in Chapter 61, Health and Safety Code.
(b) Reenacts and amends Section 466.408(b), Government Code, Unclaimed Prizes, to be effective September 1, 2005.	No equivalent provision. (FA29, 3rd reading)	Same as Senate version.
(c) Statement of legislative intent relating to financial support	No equivalent provision.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
to provide community care services and support for the aging.		
SECTION 2.35. Adds Section 533.005(11), Government Code, to require a managed care organization to pay an out-of-network provider at either the Medicaid allowable rate for certain services or the highest contractual rate paid by the managed care organization to an in-network provider.	Requires managed care organizations to make appropriate use of out-of-network providers; allows out of network providers to be paid at the Medicaid allowable rate and HHSC to impose a corrective action plan if maximum out-of-network limits are exceeded. (FA13, 3rd reading)	SECTION 2.35. Amends Section 533.005, Government Code is amended as follows: (11) Provides that a contract between a managed care organization and the commission must contain a requirement that the managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits for those usages relating to total inpatient admissions, total outpatient services, and emergency room admissions determined by the commission; and (12) if the commission finds that a managed care organization has violated this requirement, a requirement that the managed care organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services, as determined under Sections 32.028 and 32.0281, Human Resources Code. (b) In accordance with Subsection (a)(12), all post-stabilization services provided by an out-of-network provider must be reimbursed by the managed care organization at the allowable rate for those services until the managed care organization arranges for the timely transfer of the recipient, as determined by the recipient's attending physician, to a provider in the network. A managed care organization may not refuse to reimburse an out-of-network provider for emergency or post-stabilization services provided as a result of the managed care organization's failure to arrange for and authorize a timely transfer of a recipient.

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2.36. Amends Section 533.012(a), Government Code, to require each managed care organization contracting with the commission under this chapter to submit to the commission a description and breakdown of all funds paid to the managed care organization, including a health maintenance organization, primary care case management, and an exclusive provider organization, necessary for the commission to determine the actual cost of administering the managed care plan.	SECTION 2.139. Requires HHSC during FY 2004 and FY 2005 to evaluate the administrative costs of a Medicaid managed care plan for MCO's, including HMO, PCCM and EPO.	SECTION 2.36. Same as House version.
SECTION 2.37A. Adds Section 531.1011, Government Code, Definitions.	SECTION 2.35. Same as House version.	SECTION 2.37A. Same as House version.
No equivalent provision.	SECTION 2.36. Amends Section 2177.0001(3), Government Code, to change the definition of "state agency" to clarify that the term does not include an agency identified in Section 531.001(4), Government Code.	SECTION 2.38. Same as Senate version.
No equivalent provision.	SECTION 2.37. Amends Section 2177.101(a), Government Code, to provide that this subchapter does not apply to procurements conducted by an agency identified in Section 531.001(4), Government Code.	SECTION 2.39. Same as Senate version.
No equivalent provision.	SECTION 2.38. Amends Section 2055.001(4), Government Code, to change the definition of "state agency" to clarify that the term does not include an agency identified in Section 531.001(4), Government Code.	SECTION 2.40. Same as Senate version.
No equivalent provision.	SECTION 2.39. Amends Section 2055.002, Government	SECTION 2.41. Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Code. Provides that the requirements of this chapter regarding electronic government projects do not apply to a health and human services agency identified in Section 531.001(4), Government Code. Also authorizes a health and human services agency to elect to participate regarding certain electronic government projects.	
SECTION 2.38. (a) Adds Sections 12.0111 and 12.0112, Health and Safety Code, as follows:	SECTION 2.40. (a) Substantially the same as House version, except as follows:	SECTION 2.42 (a) Same as Senate version, as follows:
Sec. 12.0111. Relates to licensing fees of each licensing program administered by or under the jurisdiction of the Texas Department of Health. Subsec. (d) provides that if H.B. 1930 or S.B. 1556, Acts of the 78th Legislature, Regular Session, 2003, is enacted and becomes law, this section does not apply to emergency services personnel regulated under Chapter 773.	Sec. 12.0111. Same as House version, but non-applicability of section to emergency services personnel regulated under Chapter 773 is not contingent on passage of H.B. 1930 or S.B. 1556.	Sec. 12.0111. Same as Senate version
Sec. 12.0112. Provides that the term of each license issued by the department or under the jurisdiction of the department is two years.	Sec. 12.0112. (a) is the same as House version, except authorizes the department to provide for staggering the issuance and renewal of licenses. (b) Provides that this section does not apply to a license issued for a youth camp under Chapter 141.	Sec. 12.0112. (a) Same as Senate version
(b) Savings provision	(b) Same as House version.	(b) Same as House version.
(c) Savings provision	(c) Same as House version.	(c) Same as House version.
SECTION 2.39. Amends Sections 62.055(a), (d), and (e),	SECTION 2.41. Same as House version.	SECTION 2.43. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
Health and Safety Code, relating to contracts for the implementation of the child health plan.		
SECTION 2.40. (a) Adds Section 62.0582, Health and Safety Code, relating to contracts between the commission and third-party billing vendors for the submission of claims for payment on behalf a health plan provider. Subsec. (c) requires the commission to send a remittance notice directly to the provider referenced in the claim on receipt of a claim submitted by a third-party billing vendor. The notice must: (1) include detailed information regarding the claim submitted on behalf of the provider; and (2) require the provider to review the claim for accuracy and notify the commission promptly regarding any errors.	SECTION 2.42. (a) Same as House version, except the notice in Subsec. (c) does not include the requirement relating to provider review of a claim for accuracy.	SECTION 2.44 Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
(b) Section 62.0582, Health and Safety Code, as added by this section, takes effect January 1, *2004*.	(b) Section 62.0582, Health and Safety Code, as added by this section, takes effect January 1, *2006*.	(b) Same as Senate version.
SECTION 2.41. Amends Section 62.002(4), Health and Safety Code, to change the definition of "net family income" to mean the amount of income established for a family after reduction for offsets, not to exceed *5* percent of the amount of net family income, for expenses such as child care and work-related expenses.	SECTION 2.43. Amends Section 62.002(4), Health and Safety Code, to provide that Gross family income means the total amount of income established for a family without consideration of any reduction for offsets that may be available to the family under any other program, other than offsets for child support paid out and the first $50 of child support received. (FA3, 2nd reading; FA3A, 3rd reading)	SECTION 2.45 (4) "Gross family income" means the total amount of income established for a family without consideration of any reduction for offsets that may be available to the family under any other program.
SECTION 2.42. Amends Sections 62.101(b) Health and Safety Code, relating to eligibility. Sets eligibility level for certain programs at *165* percent of the federal poverty level for net family income, unless different levels are prescribed by the General Appropriations Act.	SECTION 2.44. Same as House version, except deletes reference to levels prescribed by the General Appropriations Act; sets eligibility level for certain programs at or below 200 percent of the federal poverty level for gross family income. In addition, authorizes the commission to establish standards regarding the amount and types of allowable assets for a family whose gross family income is above 150 percent of the federal poverty level. (FA3, 2nd reading)	SECTION 2.46. Same as Senate version.
(c) Requires the commissioner to take certain actions in the event that appropriated money in insufficient to sustain enrollment at the authorized eligibility level or when enrollment exceeds the number of children authorized to be enrolled in the child health plan under the General Appropriations Act.	(c) Same as House version, except deletes reference to *when enrollment exceeds the number of children authorized to be enrolled in the child health plan under the General Appropriations Act.* (FA34, 3rd reading)	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2.43. Amends Section 62.1015(b), Health and Safety Code, relating to eligibility of certain children for the child health plan.	SECTION 2.45. Same as House version.	SECTION 2.47. Same as House version.
SECTION 2.44. Amends Section 62.102, Health and Safety Code, Continuous Coverage, to provide that an individual who is eligible for the child health plan remains eligible until the end of a period not to exceed 180 days or the individual's 19th birthday, whichever is earlier.	SECTION 2.46. Same as House version, except that it extends the period of eligibility to a period of 12 months or the individual's 19th birthday, whichever is earlier. Adds new Subsec. (b) to provide that the period of continuous eligibility may be established at an interval of 6 months beginning immediately upon passage of this act and ending September 1, 2005 at which time an interval of 12 months of continuous eligibility will be re-established. (FA34, 3rd reading)	SECTION 2.48. Same as ~~House~~ Senate version.
SECTION 2.45. Amends Section 62.151, Health and Safety Code, relating to child health plan coverage.	SECTION 2.47. Same as House version, except deletes requirements that the plan provide certain benefits when it is first implemented.	SECTION 2.49. Same as Senate version.
SECTION 2.46. Amends Section 62.153, Health and Safety Code, relating to cost sharing.	SECTION 2.48. Same as House version.	SECTION 2.50. Same as House version.
SECTION 2.47. (a) Amends the heading to Section 62.154, Health and Safety Code, Waiting Period; Crowd Out	SECTION 2.49. (a) Same as House version.	SECTION 2.51. Same as Senate version.
(b) Amends Sections 62.154(a), (b), and (d), Health and Safety Code, as follows:	(b) Similar to House version, except as follows:	(b) Same as Senate version.
Amends Subsec. (d) to provide that the waiting period must	Subsec. (d) is similar to House version, except provides that	Subsec. (d) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
extend for a period of 90 days after the date on which the applicant is enrolled under the child health plan.	the waiting period must extend for a period of 90 days after: (1) the first day of the month in which the applicant is enrolled under the child health plan, if the date of enrollment is on or before the 15th day of the month; or (2) the first day of the month after which the applicants is enrolled under the child health plan, if the date of enrollment is after the 15th day of the month.	
SECTION 2.48. Amends Sections 62.155(c) and (d), Health and Safety Code, relating to health plan providers. Requires that the commission provide a choice of *not more than* two providers.	SECTION 2.50. Substantially the same as House version., except requires a choice of *at least* two plan providers.	SECTION 2.52. Same as Senate version.
SECTION 2.49. Adds Section 62.158, Health and Safety Code, State Taxes.	SECTION 2.51. Same as House version.	SECTION 2.53. Same as House version.
No equivalent provision.	SECTION 2.52. (a) Adds Chapter 112, Health and Safety Code, Border Health Foundation, as follows:	SECTION 2.54. (a) Same as Senate version.
No equivalent provision.	Ch. 112. Border Health Foundation. Sec. 112.001. Definitions. In this chapter: (1) "Board of directors" means the board of directors of the Border Health Foundation. (2) "Foundation" means the Border Health Foundation. Sec. 112.002. Creation of Foundation.. (a) The department shall establish the Border Health Foundation as a nonprofit corporation that complies with the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), except as otherwise provided by this chapter,	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	and qualifies as an organization exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended. (b) The department shall ensure that the foundation operates independently of any state agency or political subdivision of this state. Sec. 112.003. Powers and Duties.. (a) The foundation shall raise money from other foundations, governmental entities, and other sources to finance health programs in this state in areas adjacent to the border with the United Mexican States. (b) The foundation shall: (1) identify and seek potential partners in the private sector that will afford this state the opportunity to maintain or increase the existing levels of financing of health programs and activities; (2) engage in outreach efforts to make the existence of the office known to potential partners throughout this state; and (3) perform any other function necessary to carry out the purposes of this section. (c) The department shall review programs from all agencies under its control to determine which projects should be available to receive money under Subsection (a). (d) The foundation has the powers necessary and convenient to carry out its duties. Sec. 112.004. Administration. (a) The foundation is governed by a board of five directors appointed by the Texas Board of Health from individuals recommended by the commissioner. (b) Members of the board of directors serve for staggered terms of six years, with as near as possible to one-third of the	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	members' terms expiring every two years. (c) Appointments to the board of directors shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees. (d) The board of directors shall ensure that the foundation remains eligible for an exemption from federal income tax under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt organization under Section 501(c)(3) of that code, as amended. Sec. 112.005. Restrictions on Board Appointment, Membership, and Employment. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. (b) A person may not be a member of the board of directors and may not be a foundation employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), as amended, if: (1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care. (c) A person may not be a member of the board of directors or act as the general counsel to the board of directors or the foundation if the person is required to register as a lobbyist	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the foundation. Sec. 112.006. Removal of Board Member. (a) It is a ground for removal from the board of directors that a member:(1) is ineligible for membership under Section 112.005; (2) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or (3) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board of directors. (b) The validity of an action of the board of directors is not affected by the fact that it is taken when a ground for removal of a board member exists. (c) The foundation in its articles or bylaws shall establish the manner in which a board member may be removed under this section and may establish other grounds for removal of a member. Sec. 112.007. Vacancy. A vacancy on the board of directors shall be filled for the remainder of the unexpired term in the same manner as provided in Section 112.004(a). Sec. 112.008. Officers. The board of directors shall elect from among its members a presiding officer, an assistant presiding officer, and other necessary officers. The presiding officer and assistant presiding officer serve for a period of one year and may be reelected. Sec. 112.009. Meetings. The board of directors may meet as often as necessary, but shall meet at least twice a year.	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Sec. 112.010. Tax Exemption. All income, property, and other assets of the foundation are exempt from taxation by this state and political subdivisions of this state. Sec. 112.011. Memorandum of Understanding. The foundation and the department shall enter into a memorandum of understanding that: (1) requires the board of directors and staff of the foundation to report to the commissioner and department; (2) allows the department to provide staff functions to the foundation; and (3) outlines the financial contributions to be made to the foundation from funds obtained from grants and other sources. Sec. 112.012. Funding. (a) The department, another agency of this state, including an institution of higher education as defined by Section 61.003, Education Code, or a political subdivision of this state may contract with the foundation to finance, on behalf of the department, agency, or political subdivision, health programs described by Section 112.003. (b) The foundation may apply for and accept funds from the federal government or any other public or private entity. The foundation or any member of the foundation may also solicit and accept pledges, gifts, and endowments from private sources on the foundation's behalf. The foundation may only accept a pledge, gift, or endowment solicited under this section that is consistent with the purposes of the foundation. (c) The board of directors of the foundation shall manage and approve disbursements of funds, pledges, gifts, and endowments that are the property of the foundation. (d) The board of directors of the foundation shall manage any	

HOUSE VERSION	SENATE VERSION	CONFERENCE
	capital improvements constructed, owned, or leased by the foundation and any real property acquired by the foundation. Sec. 112.013. Records. (a) The foundation shall maintain financial records and reports independently from those of the department. (b) The foundation shall comply with all filing requirements of the secretary of state and the Internal Revenue Service. Sec. 112.014. Report to Department. Not later than the 60th day after the last day of the fiscal year, the foundation shall submit to the department a report itemizing all income and expenditures and describing all activities of the foundation during the preceding fiscal year.	
No equivalent provision.	(b) The Border Health Foundation shall be created as required by this section not later than June 1, 2004.	(b) Same as Senate version.
SECTION 2.50. Amends Section 142.003(a), Health and Safety Code, to add persons that provide services under a home and community-based services (HCS) waiver that is funded by TDMHMR to the list of persons who do not need to be licensed as a home and community support services agency (HCSSA) under the chapter.	SECTION 2.53. Same as House version, except as follows: Exempts from licensure as an HCSSA persons providing home health, hospice, or personal assistance services and individuals providing home health or personal assistance services as the employee of a consumer or entity or employee of an entity acting as a consumer's fiscal agent. Modifies definitions of: certified agency, home health service, personal assistance service. Adds definition of personal care and provides restrictions on use of term "personal assistance services." Allows HCCSA employees who are nurses to purchase, store, and transport flu vaccines. Allows investigations of abuse or neglect to be conducted without an on-side survey. (FA25, 3rd reading)	SECTION 2.55. Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2.51. Amends Section 142.009(j), Health and Safety Code, relating to surveys and consumer complaints.	SECTION 2.54. Same as House version.	SECTION 2.56. Same as House version.
SECTION 2.52. (a) Amends Section 242.047, Health and Safety Code, Accreditation Review to Satisfy Inspection or Certification Requirements.	SECTION 2.55. Same as House version.	SECTION 2.57. Same as House version.
(b) Transition provisions relating to determination of waivers etc	(b) Same as House version.	(b) Same as House version.
(c) Requires the Texas Department of Human Services to report to the governor and the presiding officers of each house of the legislature relating to progress in (b) waiver requests etc	(c) Same as House version.	(c) Same as House version.
SECTION 2.53. (a) Amends Section 242.063(d), Health and Safety Code, relating to venue for a suit for a temporary restraining order or other injunctive relief.	SECTION 2.56. (a) Same as House version.	SECTION 2.58. (a) Same as House version.
(b) Repeals Section 242.063(e), Health and Safety Code.	(b) Same as House version.	(b) Same as House version.
(c) Savings provision.	(c) Same as House version.	(c) Same as House version.
SECTION 2.54. Amends Section 242.065(b), Health and Safety Code, relating to factors to be considered in determining the amount of a penalty to be awarded under this section.	SECTION 2.57. Same as House version.	SECTION 2.59. Same as House version.
SECTION 2.55. (a) Amends Section 242.070, Health and	SECTION 2.58. Same as House version.	SECTION 2.60. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
Safety Code, Application of Other Law.		
(b) Transition provision.	(b) Same as House version.	(b) Same as House version.
SECTION 2.56. Amends Section 242.601(a), Health and Safety Code, relating to medication administration procedures.	SECTION 2.59. Same as House version.	SECTION 2.61. Same as House version.
SECTION 2.57. Amends Section 242.603(a), Health and Safety Code, relating to medication storage.	SECTION 2.60. Same as House version.	SECTION 2.62. Same as House version.
SECTION 2.58. (a) Amends Section 245.004(a), Health and Safety Code, relating to facilities required to be licensed under this chapter.	SECTION 2.61. (a) Same as House version.	SECTION 2.63. (a) Same as House version.
(b) Transition provision.	(b) Same as House version.	(b) Same as House version.
SECTION 2.59. (a) Amends Section 252.202(a), Health and Safety Code, relating to facilities on which a quality assurance fee is imposed.	SECTION 2.62. Substantially the same as House version.	SECTION 2.64. Same as Senate version.
(b) Not later than January 1, 2004, each facility owned by the Texas Department of Mental Health and Mental Retardation shall pay the quality assurance fee imposed by Section 252.202, Health and Safety Code, as amended by this section, for patient days occurring between September 1, 2002, and July 31, 2003.	No equivalent provision.	Same as Senate version.
SECTION 2.60. Amends Section 252.203, Health and Safety	SECTION 2.63. Same as House version.	SECTION 2.65. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
Code, Patient Days.		
SECTION 2.61. Amends Section 252.204(b), Health and Safety Code, relating to the day by which certain reports are to be filed by certain facilities.	SECTION 2.64. Same as House version.	SECTION 2.66. Same as House version.
SECTION 2.62. Amends Section 252.207(a) and (c), Health and Safety Code, relating to authorized uses of money in the quality assurance fund.	SECTION 2.65. Same as House version.	SECTION 2.67. Same as House version.
SECTION 2.63. Amends Section 253.008, Health and Safety Code, Verification of Employability.	SECTION 2.66. Same as House version.	SECTION 2.68. Same as House version.
SECTION 2.64. Amends Section 253.009(a), Health and Safety Code, relating to notification to employees of the employee misconduct registry.	SECTION 2.67. Same as House version.	SECTION 2.69. Same as House version.
SECTION 2.65. (a) Adds Subchapter M, Chapter 285, Health and Safety Code, Provision of Services.	SECTION 2.68. (a) Same as House version.	SECTION 2.70. (a) Same as House version.
(b) Effective date of this section.	(b) Same as House version.	(b) Same as House version.
SECTION 2.66. Amends Section 431.021, Health and Safety Code, Prohibited Acts.	SECTION 2.69. Same as House version.	SECTION 2.71. Same as House version.
SECTION 2.67. (a) Amends Section 461.018(b), Health and Safety Code, to add a list of webpages and toll-free numbers of nonprofit entities that provide crisis counseling to services provided under the compulsive gambling program,	No equivalent provision. (Section deleted by FA20, 3rd reading)	SECTION 2.72. (a) Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
(b) Repeals Section 466.251(b), Government Code, and Section 2001.417(b), Occupations Code.	(b) Same as House version.	(b) Same as House version.
SECTION 2.68. Amends Section 533.034, Health and Safety Code, Authority to Contract for Community-based Services	SECTION 2.71. Same as House version.	SECTION 2.73. Same as House version.
SECTION 2.69. Amends Section 533.035, Health and Safety Code, by amending Subsection (c) and adding Subsections (e), (f), and (g) as follows:	No equivalent provision.	SECTION 2.74. Same as House version, as follows:
Amends Subsec. (c) to delete provisions relating to a local mental health and mental retardation authority determining whether to become a provider of a service or to contract that service to another organization.	No equivalent provision.	Subsec. (c) Same as House version
Adds Subsec. (e) to provide that in assembling a network of service providers, a local mental health and mental retardation authority is authorized to serve as a provider of services only as a provider of last resort and only if the authority demonstrates to the department that: (1) the authority has made every reasonable attempt to solicit the development of an available and appropriate provider base that is sufficient to meet the needs of consumers in its service area; and (2) there is not a willing provider of the relevant services in the authority's service area or in the county where the provision of the services is needed.	No equivalent provision.	Subsec. (e) Same as House version
Adds Subsec. (f) to provide that the department is required to review the appropriateness of a local mental health and	No equivalent provision.	Subsec. (f) Same as House version

HOUSE VERSION	SENATE VERSION	CONFERENCE
mental retardation authority's status as a service provider at least biennially.		
Adds Subsec. (g) to provide that the department, together with local mental health and mental retardation authorities and other interested persons, is required to develop and implement a plan to privatize all services by intermediate facilities for persons with mental retardation and all related waiver services programs operated by an authority. The transfer of services to private providers must occur on or before August 31, 2004. The plan must provide criteria that: (1) promote the transition of services to private providers in a manner that causes the least disruption practicable to the consumers of those services; (2) ensure the continuation of services at the same level of service provided before the transfer; (3) provide for consumer choice as appropriate and as required by rule; and (4) require local mental health and mental retardation authorities to implement the privatization of services in a fiscally responsible manner.	No equivalent provision.	Subsec. (g) Same as House version ; except transfer of services may not occur before August 31, 2006
SECTION 2.70. Adds Section 533.0354, Health and Safety Code, Disease Management Practices and Jail Diversion Measures of Local Mental Health Authorities.	SECTION 2.72. Same as House version, except as follows: Requires the Local Mental Health Authority to "ensure provision of" these services rather than "provide". Requires the Local Mental Health Authority to "ensure individuals are engaged" with treatment rather than "engage" an individual in treatment. (FA1, 2nd reading)	SECTION 2.75. Same as Senate version
SECTION 2.71. Adds Section 53.0355, Health and Safety Code, as follows:	No equivalent provision.	SECTION 2.76. Adds Section 533.0355 to Subchapter B, Chapter 533, Health and Safety Code, as follows:

HOUSE VERSION	SENATE VERSION	CONFERENCE
Adds Subsec. (a) to provide that in this section "waiver program" means the local mental retardation authority waiver program established under the state Medicaid program.	No equivalent provision.	Subsec. (a) Same as House version
Adds Subsec. (b) to require a provider of services under the waiver program to: (1) develop a person-directed plan and an individual program plan for each person who receives services from the provider under the waiver program; (2) perform justification and implementation functions for the plans described by Subdivision (1); (3) conduct case management under the waiver program, other than case management under Subsection (c)(4), in accordance with applicable state and federal laws; and (4) plan, coordinate, and review the provision of services to all persons who receive services from the service provider under the waiver program.	No equivalent provision.	Subsec. (b) Same as House version
Adds Subsec. (c) to require a local mental retardation authority to: (1) manage any waiting lists for services under the waiver program; (2) screen and assess persons who may receive services under the waiver program and perform any functions relating to inventory for those persons and agency planning assessments; (3) perform functions relating to consumer choice and enrollment for persons who receive services under the waiver program; (4) conduct case management under the waiver program relating to funding disputes between a service provider and the local mental retardation authority; and (5) manage an appeals process relating to decisions that affect a person receiving services	No equivalent provision.	Subsec. (c) Same as House version, except deletes (2) requirement to screen and assess persons who may receive services under the waiver program and perform any functions relating to inventory for those persons and agency planning assessments; and deletes (5) manage an appeals process relating to decisions that affect a person receiving services under the program.

HOUSE VERSION	SENATE VERSION	CONFERENCE
under the waiver program.		
Adds Subsec. (d) to require the department to perform all administrative functions under the waiver program that are not assigned to a service provider under Subsection (b) or to a local mental retardation authority under Subsection (c). Administrative functions performed by the department include any surveying, certification, and utilization review functions required under the waiver program.	No equivalent provision.	Subsec. (d) Same as House version, except provides that administrative functions performed by the department include managing an appeals process relating to decisions that affect a person receiving services under the waiver program.
Adds Subsec. (e) to require the department to review case management fees paid under the waiver program to a community center and administrative fees paid under the waiver program to a service provider. The review must include a comparison of fees paid before the implementation of this section with fees paid after the implementation of this section. The department may adjust fees paid based on that review.	No equivalent provision.	Subsecs. (e) , (f), and (g) Requires the department to review screening and assessment of levels of care and perform any functions relating to inventory for those persons and agency planning assessments; case management fees paid under the waiver program to a community center and administrative fees paid under the waiver program to a service provider. The review must include a comparison of fees paid before the implementation of this section. The department may adjust fees paid based on that review.
Adds Subsec. (f) to require the department to allocate the portion of the gross reimbursement funds paid to a local authority and a service provider for client services for the case management function in accordance with this section and to the extent allowed by law.	No equivalent provision.	Subsec. (h) Same as House version.
Adds Subsec. (g) to authorize the department to adopt rules governing the functions of a local mental retardation authority	No equivalent provision.	Subsec. (i) Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
or service provider under this section.		
SECTION 2.72. (a) Adds Section 533.049, Health and Safety Code, as follows:	SECTION 2.73. (a) Similar to House version, except as follows:	SECTION 2.77. (a) Same as House version, except as follows:
Adds Subsec. (a) to authorize the department to contract with a private service provider to operate a state school after August 31, 2004, and before September 1, 2005, only if:	Subsec. (a) is similar to House version, except as follows:	Subsec. (a) Same as House version.
(1) the Health and Human Services Commission determines that the private service provider will operate the state school at a cost that is at least 25 percent less than the cost to the department to operate the state school;	(1) Same as House version.	(1) Same as House version.
(2) the Health and Human Services Commission approves the contract; and	(2) Same as House version.	(2) Same as House version.
No equivalent provision.	(3) the private service provider is required under the contract to operate the school at a quality level at least equal to the quality level achieved by the department when the department operated the school, as measured by the school's most recent applicable ICF-MR survey;	(3) Same as Senate version.
(3) the state school, when operated under the contract, treats a population with the same characteristics and need levels as the population treated by the state school when operated by the department.	(4) Same as House version	(4) Same as House version

HOUSE VERSION	SENATE VERSION	CONFERENCE
(b) Effective date of Section 533.049, Health and Safety Code.	(b) Same as House version.	(b) Same as House version.
SECTION 2.73. (a) Adds Section 533.050, Health and Safety Code, as follows:	SECTION 2.74. (a) Similar to House version, except as follows:	SECTION 2.78. (a) Same as House version, except as follows:
Adds Subsec. (a) to authorize the department to contract with a private service provider to operate a state mental hospital owned by the department after August 31, 2004, and before September 1, 2005, only if:	Subsec. (a) is similar to House version, except as follows:	Subsec. (a) Same as House version.
(1) the Health and Human Services Commission determines that the private service provider will operate the hospital at a cost that is at least 25 percent less than the cost to the department to operate the hospital;	(1) Same as House version.	(1) Same as House version.
(2) the Health and Human Services Commission approves the contract; and	(2) Same as House version.	(2) Same as House version.
(3) the hospital, when operated under the contract, treats a population with the same characteristics and acuity levels as the population treated at the hospital when operated by the department.	(3) Same as House version.	(3) Same as House version.
No equivalent provision.	(4) the private service provider is required under the contract to operate the hospital at a quality level at least equal to the quality level achieved by the department when the department operated the hospital, as measured by the hospital's most recent applicable accreditation determination from the Joint	(4) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Commission on Accreditation of Healthcare Organizations (JCAHO).	
(b) Effective date.	(b) Same as House version.	(b) Same as House version.
SECTION 2.74. (a) Adds Sections 533.061 and 533.0611, Health and Safety Code, as follow:	No equivalent provision (deleted by FA15, 3rd reading)	Same as Senate version.
(b) Relating the repeal of rules adopted by the Texas Board of Mental Health and Mental Retardation.	No equivalent provision (deleted by FA15, 3rd reading)	Same as Senate version.
(c) Savings provision.	No equivalent provision (deleted by FA15, 3rd reading)	Same as Senate version.
SECTION 2.75. Amends Section 533.084, Health and Safety Code, as follows:	SECTION 2.76. Same as House version.	SECTION 2.79. Same as House version.
Adds Subsec. (b-1) relating to disposition of the proceeds from the disposal of surplus real property by the department.	Adds Subsec. (b-1) same as House version.	Subsec. (b-1) same as House version.
Adds Subsec. (b-2) relating to expiration of Sec. 533.084(b-1), Health and Safety Code, as added by this section.	Adds Subsec. (b-2) same as House version.	Subsec. (b-2) same as House version.
SECTION 2.76. Adds Section 533.0844, Health and Safety Code, Mental Health Community Services Account.	SECTION 2.77. Same as House version.	SECTION 2.80. Same as House version.
SECTION 2.77. Adds Section 533.0846, Health and Safety Code, Mental Retardation Community Services Account.	SECTION 2.78. Same as House version.	SECTION 2.81. Same as House version.
SECTION 2.78. Amends Section 534.001(b), Health and	No equivalent provision.	SECTION 2.82 Same as House version, except makes the Associated Draft:

HOUSE VERSION	SENATE VERSION	CONFERENCE
Safety Code, to make a conforming change relating to community centers.		provision effective September 1, 2005
SECTION 2.78A. Amends Section 535.002(b), Health and Safety Code, to prohibit the department from designating local mental health or mental retardation authorities as a provider of services if other providers are available.	No equivalent provision.	SECTION 2.82A Same as House version, except makes the provision effective September 1, 2005
No equivalent provision.	SECTION 2.79. Amends Section 572.0025(f), Health and Safety Code, to permit an admitting physician who has either in person or through the use of telecommunications technology conducted an examination within 72 hours of the admission or who has consulted with a physician who has conducted such an examination to provide the physician's order required before a prospective voluntary patient may be accepted for treatment.	SECTION 2.83. Same as Senate version.
No equivalent provision.	SECTION 2.80. (a) Amends Section 773.050(c), Health and Safety Code, to change the amount of the fee which must accompany each out-of-state application for emergency personnel certification from $100 to not more than $120 and the amount of the fee for out-of-country applications from $150 to not more than $180.	SECTION 2.84. Same as Senate version.
No equivalent provision.	(b) Amends Section 773.052(a), Health and Safety Code, to change the fee for an application for a variance by certain emergency medical services providers from not more than $25 to not more than $30.	(b) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	(c) Amends Sections 773.054(c) and (d), Health and Safety Code, to change the fee for an application for certification for certain emergency medical services program instructors or examiners from $25 to not more than $30 and for a course coordinator from $50 to $60; for application for a basic course or training program from $25 to not more than $30 and for an advanced course or training program from $50 to $60.	(c) Same as Senate version.
No equivalent provision.	(d) Amends Sections 773.055(a), (d), and (e), Health and Safety Code, to change the fee for an application for emergency medical services personnel certification: from $75 to $90 for an emergency medical technician-paramedic or emergency medical technician-intermediate; from $50 to $60 for an emergency medical technician or emergency care attendant; from $75 to $90 for recertification of an emergency medical technician-paramedic or emergency medical technician-intermediate; from $50 to $60 for recertification of an emergency medical technician or emergency care attendant; from $100 to $120 for certification or recertification of a licensed paramedic; to change the fee for an application for reexamination from $25 to not more than $30; and to change the fee to replace a lost certificate from $5 to not more than $10.	(d) Same as Senate version.
No equivalent provision.	(e) Amends Section 773.056(b), Health and Safety Code, to change the fee to replace a lost or stolen emergency medical services instructor, examiner, or course coordinator certificate from $5 to not more than $10.	(e) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	(f) Amends Section 773.057(b), Health and Safety Code, to change the application fee from $150 to $500 for certain emergency medical services vehicles and to add a vehicle fee that may not exceed $180 for each emergency medical services vehicle operated by the provider.	(f) Same as Senate version.
No equivalent provision.	(g) Amends Section 773.0572, Health and Safety Code, to change the emergency medical services provider provision license application fee from $25 to not more than $30.	(g) Same as Senate version.
No equivalent provision.	(h) Amends Section 773.0611(c), Health and Safety Code, to change the reinspection fee from $25 to not more than $30 if reinspection is necessary to determine compliance with this chapter and the rules adopted under this chapter.	(h) Same as Senate version.
No equivalent provision.	(i) Amends Section 773.065(c), Health and Safety Code, to change the penalty for certain violations from not more than $1,000 for each violation to not more than $7,500 for each violation.	(i) Same as Senate version.
No equivalent provision.	(j) Adds Section 773.071, Health and Safety Code. Subsec. (a) requires the board by rule to set the fees under this subchapter in amounts necessary for the department to recover the cost of administering this subchapter. Subsec. (b) provides that Subsection (a) does not apply to fees for which Section 773.059 prescribes the method for determining the amount of the fees.	(j) Same as Senate version.
No equivalent provision.	(k) Amends Sections 773.116(b) and (d), Health and Safety	(k) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Code. Subsec. (b) specifies the amounts of the fee schedule for initial or continuing designation as a trauma facility according to the number of beds in the health care facility, not to exceed : (1) $5,000 for a Level I or II facility; (2) $2,500 for a Level III facility; or (3) $1,000 for a Level IV facility. Subsec. (d) requires the board, to the extent feasible, to set the fee in an amount necessary for the department to recover the cost directly related to designating trauma facilities under this subchapter.	
No equivalent provision.	(l) Repeals Section 773.116(c), Health and Safety Code, relating to a fee charged to a health care facility that applies for initial or continuing designation as a trauma facility.	(l) Same as Senate version.
No equivalent provision.	(m) Savings provision relating to administrative penalties.	(m) Same as Senate version.
No equivalent provision.	(n) Savings provision relating to fees.	(n) Same as Senate version.
SECTION 2.79. Adds Section 22.040, Human Resources Code, Third-Party Information.	No equivalent provision. (FA33, 3rd reading)	SECTION 2.85 Same as House version.
SECTION 2.80.(a) Amends Section 31.0031, Human Resources Code, by amending Subsec. (g) relating to the definition of "payee" and adding Subsec. (h) relating to the responsibility agreement of a payee.	SECTION 2.82. (a) Same as House version.	SECTION 2.86. (a) Same as House version.
(b) Transition provision requiring each payee of financial assistance under Chapter 31, Human Resources Code, who received that assistance on behalf of a dependent child before	(b) Similar to House version, except requires each payee of financial assistance under Chapter 31, Human Resources Code, to enter into the responsibility agreement *beginning*	(b) Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
September 1, 2003, and each recipient of financial assistance under Chapter 31, Human Resources Code, who received that assistance before September 1, 2003, to enter into a responsibility agreement that complies with the requirements of Section 31.0031, Human Resources Code, as amended by this section, *not later than January 1, 2004,* to continue receiving that assistance.	*September 1, 2003,* and each payee who received financial assistance on behalf of a dependent child before September 1, 2003, to enter into the agreement *not later than the date of the first eligibility review that occurs after September 1, 2003.*	
No equivalent provision.	SECTION 2.83. Amends Section 31.0031(c), Human Resources Code, to require the department to adopt rules governing sanctions and penalties under this section to or for a person who fails to cooperate, rather than comply, with each applicable requirement of the responsibility agreement and the family of a person who fails to cooperate with the requirements of the agreement.	SECTION 2.87. Same as Senate version.
SECTION 2.81. (a) Amends Sections 31.0032, 31.0033, and 31.0034, Human Resources Code, as follows:	SECTION 2.84. (a) Same as House version, except as follows:	SECTION 2.84. (a) Same as Senate version, as follows:
Sec. 31.0032. Payment of Assistance *after* Performance, as follows:	Sec. 31.0032. Payment of Assistance *for* Performance, as follows:	Sec. 31.0032. Same as Senate version
Amends Subsec. (a) to provide that, except as provided by Section 31.0033 and notwithstanding any other law, a person for whom the department has made a determination of eligibility for financial assistance and for whom an initial payment of that assistance has been made may not receive any subsequent monthly payments of assistance for the person or person's family until the person cooperates with the	Amends Subsec. (a) to provide that, except as provided by Section 231.115, Family Code, if after an investigation the department or Title IV-D agency determines that a person is not cooperating with a requirement of the responsibility agreement required under Section 31.0031, the department is required to immediately apply a sanction terminating the total amount of financial assistance provided under this chapter to	Subsec. (a) Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
requirements of the responsibility agreement under Section 31.0031. The person and the person's family may receive a financial assistance payment each month only if the person cooperated with those requirements during the previous month.	or for the person ans the person's family.	
No equivalent provision.	Adds Subsec. (a-1) to require the department to apply a sanction or penalty imposed under Subsection (a) for a period ending when the person demonstrates cooperation with the requirement of the responsibility agreement for which the sanction was imposed or for a one-month period, whichever is longer.	Subsec. (a-1) Same as Senate version
Amends Subsec. (b) to require the department to immediately notify the caretaker relative, second parent, or payee receiving the financial assistance if the department will not make the financial assistance payment for *a one-month period* because of a person's failure to cooperate with the requirements of the responsibility agreement during *that month.*	Amends Subsec. (b) same as House version, except requires the department to immediately notify the caretaker relative, second parent, or payee receiving the financial assistance if the department will not make the financial assistance payment for *the period prescribed by Subsection (a-1)* because of a person's failure to cooperate with the requirements of the responsibility agreement during *a month.*	Subsec. (b) Same as Senate version
Amends Subsec. (c) to allow the Health and Human Services Commission, or any health and human services agency, as defined by Section 531.001, Government Code, to deny medical assistance for an individual, to the extent allowed by federal law, who is eligible for financial assistance but to whom that assistance is not paid because of the individual's failure to cooperate. Medical assistance to the person's family may not be denied for the individual's failure to cooperate.	Amends Subsec. (c) substantially the same as House version.	Subsec. (c) Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
This subsection prohibits the denial of medical assistance to persons receiving assistance under this chapter under the age of 19, pregnant adults, and any other person who may not be denied medical assistance under federal law.		
Amends Subsec. (d) to provide that this section does not prohibit the Texas Workforce Commission, the Health and Human Services Commission, or any health and human services agency, as defined by Section 531.001, Government Code, from providing medical assistance, child care, or any other social or support services for an individual who is eligible for financial assistance by to whom that assistance is not paid because of the individual's failure to cooperate.	Amends Subsec. (d) Same as House version, except deletes medical assistance and clarifies that the agencies are allowed to provide any other related social or support services.	Subsec. (d) Same as Senate version
Adds Subsec. (e) to require the department by rule to establish procedures to determine whether a person has cooperated with the requirements of the responsibility agreement during each one-month period.	Adds Subsec. (e) Same as House version, except deletes reference to each one-month period.	Subsec. (e) Same as Senate version
Sec. 31.0033. Sets out provisions relating to a good cause hearing for failure to cooperate, as follows:	Sec. 31.0033. Same as House version, except as follows:	Sec. 31.0033. Same as Senate version
Amends Subsec. (a) to provide that if it is determined that a person has failed to cooperate with the requirements of the responsibility agreement under section 31.0031 during a one-month period, the person determined to have failed to cooperate may request a hearing to show good cause for failure to cooperate.	Amends Subsec. (a) same as House version, except makes a conforming change by deleting the reference to the one-month period.; requires a person to request a hearing not later than the 13th day after the notice is *sent*; deletes the requirement that the department wait until the 31st day to withhold assistance.	Subsec. (a) Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
Amends Subsec. (c) to provide that If the department finds that good cause for the person's failure to cooperate was not shown at the hearing, the department is prohibited from making a financial assistance payment in any amount to the person for the person or person's family for the month in which the person failed to cooperate.	Amends Subsec. (c) same as House version, except refers to the period prescribed by Section 31.0032 (a-1), rather than the month in which the person failed to cooperate,	Subsec. (c) Same as Senate version
Adds Subsec. (e) to provide that, except as provided by a waiver or modification granted under Section 31.0322, a person has good cause for failing or refusing to cooperate with the requirement of the responsibility agreement under Section 31.0031(d)(1) only if the person's cooperation would be harmful to the physical, mental, or emotional health of the person or the person's dependent child.	Adds Subsec. (e) same as House version, except adds that a person has good cause if the person's noncooperation resulted from other circumstances the person could not control.	Subsec. (e) Same as Senate version
Sec. 31.0034. Annual Report.	Sec. 31.0034. Same as House version.	Sec. 31.0034. Same as House version.
(b) Adds Section 31.00331, Human Resources Code, Penalty for Failure to Cooperate, as follows:	(b) Adds Section 31.00331, Human Resources Code, *Additional* Penalty for *Continuous* Failure to Cooperate, as follows:	(b) Adds Section 31.00331 Same as Senate version.
Adds Subsec. (a) to provide that a person who, during a one-month period, fails to cooperate with the requirements of the responsibility agreement under Section 31.0031 without good cause may not receive a financial assistance payment for the person or the person's family for that month.	No equivalent provision.	Same as Senate version.
Adds Subsec. (b) to require that when the department is notified by the Texas Workforce Commission that a client	No equivalent provision.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
failed to cooperate with work requirements, the department is to suspend the case for 13 days to allow the client to appeal that finding. The case shall be denied if the client fails to request an appeal within that 13-day period. If the client requests an appeal and the appeal is denied, the case shall be denied immediately. If the appeal is upheld, the case shall be reinstated.		
Adds Subsec. (c) to provide that a person who fails to cooperate with the responsibility agreement for two consecutive months becomes ineligible for financial assistance for the person or the person's family. The person may reapply for financial assistance, but must cooperate with the requirements of the responsibility agreement for a one-month period before receiving an assistance payment for that month.	Adds Subsec. (c) same as House version.	Subsec. (c) same as House version.
(c) Savings provision.	(c) Same as House version.	(c) Same as House version.
SECTION 2.82. Adds Section 31.0038, Human Resources Code, Temporary Exclusion of New Spouse's Income.	SECTION 2.85. Same as House version.	SECTION 2.89. Same as House version.
SECTION 2.83. Amends Section 31.012(b) and (c), Human Resources Code, as follows:	SECTION 2.86. Same as House version.	SECTION 2.90. Same as House version.
(b) Relating to certain criteria regarding participation in work or employment activities under this section.	(b) Same as House version.	(b) Same as House version.
(c) Relating to certain caretakers temporary exemption from	(c) Same as House version.	(c) Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
or not required to participate in work or employment activities under this section.		
SECTION 2.84. Adds Section 31.015, Human Resources Code, to require the department to develop and implement a healthy marriage development program for recipients of financial assistance under this chapter, as follows:	SECTION 2.87. Same as House version, except as follows:	SECTION 2.91. Same as Senate version, as follows:
Adds Subsec. (b)(1) to require the program to promote and provide an instructional course on premarital counseling for engaged couples and marriage counseling for married couples that includes skill development for: (A) anger resolution; (B) communication; (C) honoring your spouse; and (D) managing a budget;	Subsec. (b)(1) is the same as House version except adds *family violence prevention* as a skill development to be included in the course on premarital counseling.	Subsec. (b)(1) Same as Senate version.
SECTION 2.85. (a) Amends Section 32.021, Human Resources Code, as follows:	No equivalent provision.	SECTION 2.92. (a) Same as House version.
Adds Subsec. (q) relating to minimum standards required to be included in contracts for the delivery of medical assistance by nursing facilities.	No equivalent provision.	Subsec. (q) Same as House version.
Adds Subsec. (r) relating to the award and termination of contracts.	No equivalent provision.	Subsec. (r) Same as House version.
Adds Subsec. (s) relating to reports to be submitted to the legislature not later than November 15 of each even-numbered year.	No equivalent provision.	Subsec. (s) Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
(b) Savings provision.	No equivalent provision.	(b) Same as House version.
No equivalent provision.	SECTION __. Amends Section 31.032(d), Human Resources Code to reduce the allowable exclusion for all households from $2000 to $1000, including a household in which there is a person with a disability or a person at least 60 years of age	SECTION 2.201. Same as Senate version.
No equivalent provision.	SECTION 2.88. (a) Adds Sections 302.0025, 302.0026, 302.0036, 302.0037, and 302.0038, Labor Code, as follows:	SECTION 2.93. Same as Senate version, as follows:
No equivalent provision.	Sec. 302.0025. Employment Plan and Postemployment Strategies. Subsec. (a) requires the commission to ensure that an individual employment plan developed for a recipient of financial assistance participating in an employment program under Chapter 31, Human Resources Code, includes specific postemployment strategies to assist the recipient in making a transition to stable employment at a wage that enables the recipient and the recipient's family to maintain self-sufficiency. Subsec. (b) requires the individual employment plan to: (1) consider a recipient's individual circumstances and needs in determining the recipient's initial job placement; (2) identify a target wage that enables the recipient and the recipient's family to maintain self-sufficiency; (3) provide specific postemployment goals and include methods and time frames by which the recipient is to achieve those goals; and (4) refer the recipient to additional educational and training opportunities.	Sec. 302.0025. Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision.	Sec. 302.0026. Employment Services Referral Program. Subsec. (a) requires the commission and local workforce development boards to develop an employment services referral program for recipients of financial assistance who participate in employment programs under Chapter 31, Human Resources Code, and have, in comparison to other recipients, higher levels of barriers to employment. The referral program must be designed to provide to a recipient referrals to preemployment and postemployment services offered by community-based organizations. Subsec. (b) requires the commission and local workforce development boards, in developing the referral program and subject to the availability of funds, to coordinate partnerships and contract with community-based organizations that provide employment services specifically for persons with high levels of barriers to employment.	Sec. 302.0026. Same as Senate version
No equivalent provision.	Sec. 302.0036. Transportation Assistance. Subsec. (a) requires the commission and local workforce development boards, to the extent funds are available, to provide transportation assistance to recipients of financial assistance participating in employment programs under Chapter 31, Human Resources Code, that enables the recipients to maintain a stable work history and attain financial stability and self-sufficiency. Subsec. (b) authorizes the commission and local workforce	Sec. 302.0036. Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
	development boards to provide the assistance described by Subsection (a) by implementing new initiatives or expanding existing initiatives that provide transportation assistance to recipients of financial assistance for whom transportation is a barrier to employment.	
No equivalent provision.	Sec. 302.0037. Maximizing Federal Funds for Transportation Assistance. Subsec. (a) requires the commission and local workforce development boards to maximize the state's receipt of federal funds available to provide transportation assistance to recipients of financial assistance participating in employment programs under Chapter 31, Human Resources Code. Subsec. (b) authorizes the commission and local workforce development boards, within any applicable appropriation limits, to take any action required by federal law to receive federal funds to provide transportation assistance.	Sec. 302.0037. Same as Senate version
No equivalent provision.	Sec. 302.0038. Housing Resources for Certain Recipients of Financial Assistance. Subsec. (a) requires the commission, in cooperation with local workforce development boards, for a recipient of financial assistance participating in an employment program under Chapter 31, Human Resources Code, to: (1) identify unmet housing needs and assess whether those needs are barriers to the recipient's full participation in the workforce and attainment of financial stability and self-sufficiency; and (2) develop a service plan	Sec. 302.0038. Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
	that takes into consideration the recipient's unmet housing needs. Subsec. (b) requires the commission by rule to develop and implement a program through which a recipient identified under Subsection (a) as having unmet housing needs is referred by the commission or local workforce development board to agencies and organizations providing housing programs and services and connected to other housing resources. To provide those referrals and connections, the commission shall establish collaborative partnerships between: (1) the commission; (2) local workforce development boards; (3) municipal, county, and regional housing authorities; and (4) sponsors of local housing programs and services. Subsec. (c) Requires the commission to ensure that commission and local workforce development board staff members receive training regarding the programs and services offered by agencies and organizations with which the commission establishes partnerships under Subsection (b) and other available housing resources.	

HOUSE VERSION	SENATE VERSION	CONFERENCE
		Subsec. (c) Same as Senate version
No equivalent provision.	(b) Requires the Texas Workforce Commission and local workforce development boards, not later than December 1, 2003, to develop the employment services referral program required by Section 302.0026, Labor Code, as added by this section.	(b) Same as Senate version
No equivalent provision.	(c) Requires the Texas Workforce Commission, not later than December 1, 2003, to develop and implement the program required by Section 302.0038(b), Labor Code, as added by this section.	(c) Same as Senate version
No equivalent provision.	SECTION 2.89. Amends Section 302.011, Labor Code, to require the commission to encourage local workforce development boards to provide postemployment case management services for and use mentoring techniques to assist recipients of financial assistance who participate in employment programs under Chapter 31, Human Resources Code, and have, in comparison to other recipients, higher levels of barriers to employment. The case management services and mentoring techniques must be designed to increase the recipient's potential for wage growth and development of a stable employment history.	SECTION 2.94. Same as Senate version
SECTION 2.86. Adds Section 32.0212, Human Resources Code, Delivery of Medical Assistance.	SECTION 2.90. Same as House version.	SECTION 2.95. Same as House version.
No equivalent provision.	SECTION 2.91. Amends Section 32.024(i), Human	SECTION 2.96. Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Resources Code, to authorize the department in its adoption of rules to establish a medically needy program that serves pregnant women, children, and caretakers who have high medical expenses, subject to availability of appropriated funds.	
SECTION 2.87. (a) Amends Section 32.024, Human Resources Code, as follows:	SECTION 2.92. (a) Same as House version, except as follows:	SECTION 2.97. (a) Same as Senate version, except as follows:
Adds Subsec. (t-1) to prohibit the department, in its rules governing the medical transportation program, from prohibiting a recipient of medical assistance from receiving transportation services through the program on the basis that the recipient resides in a nursing facility.	Subsec. (t-1) is the same as the House version, except prohibits the department from prohibiting a recipient of medical assistance from receiving transportation services through the program *to obtain renal dialysis treatment.*	Subsec. (t-1) Same as Senate version
Adds Subsec. (z) relating to rules and standards governing the vendor drug program.	Same as House version.	Same as House version.
Adds Subsec. (z-1) relating to the effect of Subsec. (z) on certain limits on prescription medications.	Same as House version.	Same as House version.
(b) Savings provision.	(b) Same as House version.	(b) Same as House version.
SECTION 2.88. Amends Section 32.026, Human Resources Code, Subsec. (e) to require the department to permit a recertification review of the eligibility and need for medical assistance of a child under 19 years of age to be conducted by a person-to-person telephone interview or through a combination of a telephone interview and mail	No equivalent provision (Amended by FA2, 2nd reading; deleted by FA33, 3rd reading)	SECTION 2.99. Provides an exception to the requirement that the department shall permit recertification review by telephone or mail when the department determines that the information needed to verify eligibility cannot be obtained in that manner. The department by rule is authorized to develop procedures to determine whether there is a need for a

HOUSE VERSION	SENATE VERSION	CONFERENCE
correspondence instead of through a personal appearance at a department office.		recertification review of a child through a personal interview with a department representative. Procedures developed under this subsection shall be based on objective, risk-based factors and conditions and shall focus on a targeted group of recertification reviews for which there is a high probability that eligibility will not be recertified; states SB 1522 will prevail not withstanding Section 2.157
No equivalent provision.	Adds Subsec. (g) to require the department to require applicants for medical assistance for long-term care programs to apply for and obtain Veteran's Administration services to which the person is entitled. (FA2, 2nd reading)	Same as House version.
SECTION 2.89. Amends Section 32.0261, Human Resources Code, to require the department to adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under this chapter. Requires the rules to provide that the child remains eligible for medical assistance, without additional review by the department and regardless of changes in the child's resources or income, until the earlier of: (1) six months from the date on which the child's eligibility was determined; or (2) the child's 19th birthday.	No equivalent provision.	Same as Senate version.
SECTION 2.90. Amends Section 32.0315(a), Human Resources Code, relating to procedures and formulas for the allocation of federal medical assistance funds.	SECTION 2.95. (a) Same as House version, except as follows:	SECTION 2.100. Same as Senate version, as follows:
No equivalent provision.	(b) Repeals Section 32.0315(d)-(h), Human Resources Code.	(b) Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2.91. Amends Section 10(c), Chapter 584, Acts of the 77th Legislature, R.S., 2001, to require the Health and Human Services Commission or the appropriate state agency operating part of the medical assistance program under Chapter 32, Human Resources Code, to adopt rules required by Section 32.0261, Human Resources Code, as added by this Act, so that the rules take effect in accordance with that section not earlier than September 1, 2002, or later than June 1, 2004. The rules must provide for a 12-month period of continuous eligibility in accordance with that section for a child whose initial or continued eligibility is determined on or after the effective date of the rules.	No equivalent provision. (deleted by FA33, 3rd reading)	SECTION 2.101. Same as House version, except that the rules take effect in accordance with the section not earlier than September 1, 2002, or later than September 1, 2005.
SECTION 2.92. Amends Section 32.028, Human Resources Code, as follows:	SECTION 2.97. (a) Same as House version, as follows:	SECTION 2.102. Same as Senate version as follows:
Amends Subsec. (g) to require the Health and Human Services Commission to ensure that the rules governing the determination of rates paid for nursing home services improve the quality of care by providing a program offering incentives for increasing direct care staff and direct care wages and benefits, *but only to the extent that appropriated funds are available after money is allocated to base rate reimbursements as determined by the Health and Human Services Commission's nursing facility rate setting methodologies.*	Subsec. (g) is the similar to House version. Requires the Health and Human Services Commission to ensure that the rules governing the determination of rates paid for nursing home services improve the quality of care by providing a program offering incentives for increasing direct care staff and direct care wages and benefits. (FA4A, 3rd reading)	Subsec. (g)(1) provides for an incentive program but only to the extent that appropriated funds are available after money is allocated to base rate reimbursements as determined by the Health and Human Services Commission's nursing facility rate setting methodologies.
Adds Subsec. (i) to require the Health and Human Services	Subsec. (i) is the same as House version (FA3), except adds	Subsec (i) Requires the HHSC to ensure that rules governing

HOUSE VERSION	SENATE VERSION	CONFERENCE
Commission to ensure that rules governing the incentives program described by Subsection (g)(1): (1) provide that participation in the program by a nursing home is voluntary; (2) do not impose on a nursing home not participating in the program a minimum spending requirement for direct care staff wages and benefits; and (3) do not set a base rate for a nursing home participating in the program that is more than the base rate for a nursing home not participating in the program.	(4) to require that the rules establish a funding process to provide incentives for increasing direct care staff and direct care wages and benefits in accordance with appropriations provided. (FA4A, 3rd reading)	the program: (1) provide for voluntary participation; (2) do not impose a minimum spending requirement for homes not participating; and (3) do not set a base rate for a participating home that is more than the rate for a non-participating home; (4) establish a funding process to provide incentives for increasing direct care staff and direct care wages and benefits in accordance with appropriations provided.
SECTION 2.93. Amends Section 32.028, Human Resources Code, to add Subsec. (j) relating to rules governing the determination of the amount of reimbursement or credit for restocking certain drugs.	SECTION 2.97. Subsec. (j) is same as House version.	Subsec (j): Same as House version.
Adds Subsec. (k) relating to an electronic system for the issuance of credit for certain returned drugs.	SECTION 2.97. Subsec. (k) is same as House version.	Subsec. (k): Same as House version.
Adds Subsec. (l) to require the commission to establish a task force to develop the rules necessary to implement Subsections (j) and (k). The task force must include representatives of nursing facilities and *long-term care facilities.*	SECTION 2.97. Subsec. (l) is same as House version, except the task force must include representatives of nursing facilities and *pharmacists.*	Subsec (l): Same as Senate version.
No equivalent provision.	SECTION 2.97. (b) Requires the Health and Human Services Commission to adopt rules required by Sections 32.028(j) and (k), Human Resources Code, as added by this section, not later than December 1, 2003.	(b) Same as Senate version.
SECTION 2.94. Adds Section 32.0291, Human Resources	SECTION 2.98. Same as House version, except as follows:	SECTION 2.103. Same as Senate version, as follows:

HOUSE VERSION	SENATE VERSION	CONFERENCE
Code, relating to prepayment reviews and postpayment holds with the differences as follows:		
No equivalent provision.	(c) Requires the department, on timely written request by a provider subject to a postpayment hold under Subsection (b), to file a request with the State Office of Administrative Hearings for an expedited administrative hearing regarding the hold. The provider must request an expedited hearing under this subsection not later than the 10th day after the date the provider receives notice from the department under Subsection (b). Requires the department to discontinue the hold unless the department makes a prima facie showing at the hearing that the evidence relied on by the department in imposing the hold is relevant, credible, and material to the issue of fraud or wilful misrepresentation.	(c) Same as Senate version.
No equivalent provision.	(d) Requires the department to adopt rules that allow a provider subject to a postpayment hold under Subsection (b) to seek an informal resolution of the issues identified by the department in the notice provided under that subsection. A provider must seek an informal resolution under this subsection not later than the deadline prescribed by Subsection (c). A provider's decision to seek an informal resolution under this subsection does not extend the time by which the provider must request an expedited administrative hearing under Subsection (c). However, a hearing initiated under Subsection (c) shall be stayed at the department's request until the informal resolution process is completed.	(d) Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2.95. Amends Section 32.032, Human Resources Code, Prevention and Detection of Fraud and Abuse.	SECTION 2.99. Same as House version.	SECTION 2.104. Same as House version.
SECTION 2.96. Amends Section 32.0321, Human Resources Code, relating to surety bonds with the differences as follows:	SECTION 2.100. Similar to House version, except as follows:	SECTION 2.105. Same as Senate version, as follows:
(d) Prohibits the department from requiring the amount of a surety bond posted for a single facility provider under Subsection (c) to exceed the average of the total average monthly balance of all the provider's resident trust fund accounts for the 12-month period preceding the bond issuance or renewal date, excluding the amounts of the residents' personal needs allowances.	(d) Same as House version, except does not exclude the amounts of the residents' personal needs allowances.	(d) Same as Senate version
(e) Prohibits the department from requiring the amount of a surety bond posted for a multiple facility provider under Subsection (c) to exceed the average of the total average monthly balance of all the provider's resident trust fund accounts in all of the provider's facilities for the 12-month period preceding the bond issuance or renewal date, excluding the amounts of the residents' personal needs allowances.	No equivalent provision.	Same as Senate version
No equivalent provsion.	(e) Provides that if an employee of a provider of medical assistance is responsible for the loss of funds in a resident's trust fund account, the resident, the resident's family, and the resident's legal representative are not obligated to make any payments to the provider that would have been made out of the trust fund had the loss not occurred.	(e) Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2.97. (a) Adds Section 32.0423, Human Resources Code, Recovery of Reimbursements from Health Coverage Providers	SECTION 2.101. (a) Substantially the same as House version, except strikes language regarding coverage that the provider should have known about.	SECTION 2.106. Same as House version.
(b) Savings provision.	(b) Same as House version.	(b) Same as House version.
SECTION 2.98. (a) Adds Section 32.0462, Human Resources Code, Medications and Medical Supplies.	SECTION 2.102. (a) Same as House version.	SECTION 2.107. (a) Same as House version.
(b) Relating to a report required to be submitted not later than January 1, 2004, to the clerks of the standing committees of the senate and house of representatives having jurisdiction over the state Medicaid program.	(b) Same as House version.	(b) Same as House version.
SECTION 2.99. Amends Section 32.050, Human Resources Code, as follows:	SECTION 2.103. Similar to House version, except as follows:	SECTION 2.108. Same as Senate version
(d) Requires a nursing facility, a home health services provider, or any other similar long-term care services provider that is Medicare-certified and provides care to individuals who are eligible for Medicare to: (1) seek reimbursement from Medicare before billing the medical assistance program for services provided to an individual identified under Subsection (a); and (2) as directed by the department, appeal Medicare claim denials for payment services provided to an individual identified under Subsection (a).	(d) *Except as provided by Subsection (e),* requires a nursing facility, a home health services provider, or any other similar long-term care services provider that is Medicare-certified and provides care to individuals who are eligible for Medicare to: (1) seek reimbursement from Medicare before billing the medical assistance program for services provided to an individual identified under Subsection (a); and (2) as directed by the department, appeal Medicare claim denials for payment services provided to an individual identified under Subsection (a).	(d) Same as Senate version
No equivalent provision.	(e) Provides that a home health services provider is not	(e) Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
	required to seek reimbursement from Medicare before billing the medical assistance program for services provided to a person who is eligible for Medicare and who: (1) has been determined as not being homebound; or (2) meets other criteria determined by the department.	
No equivalent provision.	(f) Provides that if the Medicare reimbursement rate for a service provided to an individual identified under Subsection (a) exceeds the medical assistance reimbursement rate for a comparable service, the medical assistance program may not pay a Medicare coinsurance or deductible amount for that service.	(f) Same as Senate version
SECTION 2.100. (a) Adds Section 32.060, Human Resources Code, relating to the establishment, composition, and duties of the nursing facility quality assurance team with the differences as follows:	SECTION 2.104. (a) Similar to House version, except as follows:	SECTION 2.109. (a) Same as House version, as follows:
Adds Subsec. (b) to provide that the team is composed of nine members appointed by the governor as follows: (1) two physicians with expertise in providing long-term care; (2) one registered nurse with expertise in providing long-term care; (3) three nursing facility advocates not affiliated with the nursing facility industry; and (4) three representatives of the nursing facility industry.	(b) Same as House version, except adds as a member of the team the state long-term care ombudsman, who serves as an ex officio, nonvoting member of the team.	(b) Same as House version
Adds Subsec. (c) to require the governor to designate a member of the team to serve as presiding officer.	(c) Same as House version, except prohibits the state long-term care ombudsman from serving as presiding officer.	(c) Same as House version

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2.101. Adds Section 32.061, Human Resources Code, Community Attendant Services Program.	SECTION 2.105. Same as House version.	SECTION 2.110. Same as House version.
SECTION 2.102. (a) Adds Section 32.063, Human Resources Code, relating to third-party billing vendors with the differences as follows:	SECTION 2.106. Same as House version, except as follows:	SECTION 2.111. Same as House version, as follows:
Adds Subsec. (c) to require the department, on receipt of a claim submitted by a third-party billing vendor, to send a remittance notice directly to the provider referenced in the claim. The notice must: (1) include detailed information regarding the claim submitted on behalf of the provider; and (2) require the provider to review the claim for accuracy and notify the department promptly regarding any errors.	Subsec. (c) is the same as House version, except the notice does not require the provider to review the claim for accuracy and notify the department of errors.	Subsec. (c) is the same as House version
(b) Provides that Section 32.063, Human Resources Code, as added by this section, takes effect January 1, *2004*.	(b) Similar to House version, except takes effect January 1, *2006*.	(b) Same as House version
SECTION 2.103. (a) Adds Section 32.064, Human Resources Code, Cost Sharing.	SECTION 2.107. Same as House version.	SECTION 2.112. Same as House version.
(b) Transition provision.	(b) Same as House version.	(b) Same as House version.
SECTION 2.104. Amends Section 48.401(1), Human Resources Code, relating to the definition of "agency."	SECTION 2.108. Same as House version.	SECTION 2.113. Same as House version.
SECTION 2.105. Adds Section 73.0051(l), Human Resources Code, relating to a schedule of certain sliding fees.	SECTION 2.109. Same as House version.	SECTION 2.114. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2.106. (a) Amends Sections 91.027(a) and (b), Human Resources Code, relating to a Blindness Education, Screening, and Treatment Program.	SECTION 2.110. Same as House version.	SECTION 2.115. Same as House version.
SECTION 2.107. (a) Amends Section 111.502, General Functions	SECTION 2.111. (a) Same as House version.	SECTION 2.116. (a) Same as House version.
(b) Repeals Sections 111.002(7), 111.0525(a), and 111.073, Human Resources Code.	(b) Same as House version.	(b) Same as House version.
SECTION 2.108. Adds Section 111.060(d), Human Resources Code, relating to use of money in the comprehensive rehabilitation fund.	SECTION 2.112. Same as House version.	SECTION 2.117. Same as House version.
SECTION 2.109. (a) Redesignates Subchapter I, Chapter 264, Family Code as Subchapter E, Chapter 33, Education Code, and amends the subchapter.	SECTION 2.113. (a) Substantially the same as House version and makes conforming changes.	SECTION 2.118. (a) Same as House version
(b) Amends Section 302.062(g), Labor Code, to make conforming changes.	(b) Same as House version.	(b) Same as House version.
(c) Relates to the transfer of the Communities In Schools program from the Department of Protective Services to the Texas Education Agency.	(c) Same as House version.	(c) Same as House version.
(d) Relates to the transfer of full-time equivalent positions for the Communities In Schools program to the Texas Education Agency.	(d) Same as House version.	(d) Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
(e) Relates to references in law to the Department of Protective Services that relate to the Communities In Schools program.	(e) Same as House version.	(e) Same as House version.
(f) Transition provision.	(f) Same as House version.	(f) Same as House version.
(g) Transition provision.	(g) Same as House version.	(g) Same as House version.
(h) Savings provision.	(h) Same as House version.	(h) Same as House version.
SECTION 2.110. (a) Amends Sections 2(a) and (c), Article 4.11, Insurance Code, relating to life, health and accident insurance companies required to pay premium tax.	SECTION 2.114. Same as House version.	SECTION 2.119. Same as House version, except as follows:
(c) Provides that the change in law made by this section expires December 31, 2007.	No equivalent provision.	Same as Senate version.
SECTION 2.111. (a) Amends Article 4.17(a), Insurance Code, relating to maintenance tax on gross premiums.	SECTION 2.115. (a) Same as House version.	SECTION 2.120. (a) Same as House version, except as follows:
(c) Provides that the change in law made by this section expires December 31, 2007.	No equivalent provision.	Same as Senate version.
SECTION 2.112. (a) Amends Section 20A.33(d), Texas Health Maintenance Organization Act (Article 20A.33, Vernon's Texas Insurance Code) relating to the assessment of a per capita maintenance tax.	SECTION 2.116. (a) Same as House version.	SECTION 2.121. (a) Same as House version, except as follows:
(c) Provides that the change in law made by this section	No equivalent provision.	Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
expires December 31, 2007.		
SECTION 2.113. Amends Section 2(c) and (d) and adds Subsection (g), Article 21.52K, Insurance Code, relating to enrollment of medical assistant recipients and children eligible for state child health plan.	SECTION 2.117. Same as House version.	SECTION 2.122. Same as House version.
SECTION 2.114. Adds Section 9, Offer of Coverage Required; Certain Therapies for Children with Developmental Delays, to Article 21.53F, Insurance Code, as added by Chapter 683, Acts of the 75th Legislature , R.S., 1997.	SECTION 2.118. Same as House version.	SECTION 2.123. Same as House version.
SECTION 2.115. Amends Article 27.05, Insurance Code, Exemption from Premium Tax.	SECTION 2.119. Same as House version.	SECTION 2.124. Same as House version.
SECTION 2.116. Adds Article 27.07, Insurance Code, Inapplicability to Certain Plans.	SECTION 2.120. Same as House version.	SECTION 2.125. Same as House version.
SECTION 2.117. Adds Section 562.1085, Unused Drugs Returned by Certain Pharmacists, and Section 562.1086, Limitation on Liability, Occupations Code.	SECTION 2.121. Same as House version.	SECTION 2.126. Same as House version.
SECTION 2.118. Amends Section 455.0015(b) and adds Subsections (c), (d), Transportation Code, as follows:	SECTION 2.122. Similar to House version. Amends Section 455.0015(b) and adds Subsection (c), Transportation Code, as follows:	SECTION 2.127. Same as House version, except as follows:
(b) Establishes legislative intent.	(b) Same as House version.	(b) Same as House version.
(c) Requires the Texas Department of Health and the Health	(c) Same as House version, except also requires the Texas	(c) Same as Senate version

HOUSE VERSION	SENATE VERSION	CONFERENCE
and Human Services Commission to contract with the Texas Department of Transportation for the department to assume all responsibilities of the Texas Department of Health and the Health and Human Services Commission relating to the provision of transportation services for clients of eligible programs.	Department of Transportation to hold at least one public hearing to solicit the views of the public concerning the transition of transportation services to the department under this subsection and to meet with and consider the views of interested persons, including persons representing transportation clients.	
(d) Authorizes the department to contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services.	No equivalent provision. (FA12, 3rd reading; supercedes FA9, 3rd reading)	(d) Same as House version
SECTION 2.119. Adds Section 40.002(f), Human Resources Code, to make conforming changes relating to the responsibility of the Department of Protective and Regulatory Services.	SECTION 2.123. Same as House version.	SECTION 2.128. Same as House version
SECTION 2.120. Adds Section 22.001(e), Human Resources Code, to make conforming changes relating to the general powers and duties of the Department of Human Services.	SECTION 2.124. Same as House version.	SECTION 2.129. Same as House version.
SECTION 2.121. Adds Section 91.021(g), Human Resources Code, to make conforming changes relating to the provision of transportation services for visually handicapped persons.	SECTION 2.125. Same as House version.	SECTION 2.130. Same as House version.
SECTION 2.122. Amends Section 101.0256, Human Resources Code, relating to coordinated access to local services and to make conforming changes.	SECTION 2.126. Same as House version.	SECTION 2.131. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2.123. Adds Section 111.0525(d), Human Resources Code, relating to coordination with state agencies and to make conforming changes.	SECTION 2.127. Same as House version.	SECTION 2.132. Same as House version.
SECTION 2.124. Amends section 461.012(a), Health and Safety Code, relating to a contract with the Texas Department of Transportation.	SECTION 2.128. Same as House version.	SECTION 2.133. Same as House version.
SECTION 2.125. Amends Section 533.012, Health and Safety Code, relating to the cooperation of state agencies and to make conforming changes.	SECTION 2.129. Same as House version.	SECTION 2.134. Same as House version.
SECTION 2.126. Amends Section 1551.159, Insurance Code, as effective June 1, 2003, relating to requirements and restrictions for a child enrolled in dependent child coverage.	SECTION 2.130. Same as House version.	SECTION 2.135. Same as House version.
SECTION 2.127. Adds Section 31.03(j), Penal Code, relating to jurisdiction to prosecute certain offenses that involve the state Medicaid program.	SECTION 2.131. Same as House version.	SECTION 2.136. Same as House version.
SECTION 2.128. Adds Section 32.45(d), Penal Code, relating to jurisdiction to prosecute certain offenses that involve the state Medicaid program.	SECTION 2.132. Same as House version.	SECTION 2.137. Same as House version.
SECTION 2.129. Adds Section 32.46(e), Penal Code, relating to jurisdiction to prosecute certain offenses that involve the state Medicaid program.	SECTION 2.133. Same as House version.	SECTION 2.138. Same as House version.
SECTION 2.130. Adds Section 37.10(i), Penal Code, relating	SECTION 2.134. Same as House version.	SECTION 2.139. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
to jurisdiction to prosecute certain offenses that involve the state Medicaid program.		
SECTION 2.131. Adds Section 57.046(c), Utilities Code, relating to the use of money in the qualifying entities account.	SECTION 2.135. Same as House version.	SECTION 2.140. Same as House version.
SECTION 2.132. Amends Articles 59.01(1) and (2), Code of Criminal Procedure, to make conforming changes.	SECTION 2.136. Same as House version.	SECTION 2.141. Same as House version.
SECTION 2.133. Adds Article 59.06(p), Code of Criminal Procedure, relating to the disposition of forfeited property.	SECTION 2.137. Same as House version.	SECTION 2.142. Same as House version.
SECTION 2.134. Sets out provisions relating to a study by the Medicaid and Public Assistance Fraud Oversight Task Force.	SECTION 2.138. Same as House version.	SECTION 2.143. Same as House version.
SECTION 2.136. Study: Revenue Enhancement Related to Medicaid Vendor Drug Rebate.	SECTION 2.140. Same as House version.	SECTION 2.144. Same as House version.
SECTION 2.137. Legislative Intent Regarding Provision of Health and Human Services Transportation Through the Texas Department of Transportation.	SECTION 2.141. Same as House version.	SECTION 2.145. Same as House version.
SECTION 2.138. Authorizes the Joint Commission on Accreditation of Health Organizations for a nursing home accreditation to be implemented only as a pilot	SECTION 2.142. Same as House version	SECTION 2.146. Same as House version
SECTION 2.139. Requires the State Board of Pharmacy to adopt rules relating to the restocking and redistribution of	SECTION 2.143. Same as House version.	SECTION 2.147. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
unused drugs. Provides that a pharmacy is not required to accept unused drugs before January 1, 2004		
SECTION 2.140. Requires the Health and Human Services Commission to adopt rules required by Sections 32.028(i) and (j), Human Resources Code, as added by this act, not later than December 1, 2003.	No equivalent provision.	SECTION 2.148. Same as House version.
SECTION 2.141. Transfer of Medical Transportation Program.	SECTION 2.144. Same as House version.	SECTION 2.149. Same as House version.
SECTION 2.142. Requires HHSC to consolidate the post-payment third-party recovery divisions of TDHS, vendor drug and the Medicaid claims administrator with the Medicaid TPR functions.	SECTION 2.145. Same as House version.	SECTION 2.150. Same as House version.
SECTION 2.143. Relating to the abolition of advisory committees to a health and human services agency.	SECTION 2.146. Same as House version, except that the provision also applies to an advisory committee to the Health and Human Services Commission. Also adds (d) to provide that this section does not apply to the telemedicine advisory committee established under Section 531.02172, Government Code, as added by Chapters 661 and 959, Acts of the 77th Legislature, Regular Session, 2001, and that committee continues in existence.	SECTION 2.151. Same as House version, except that this section does not apply to the telemedicine advisory committee.
SECTION 2.144. Relating to allowing community mental health centers to coordinate with local community health	SECTION 2.147. Same as House version.	SECTION 2.152. Same as House version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
centers, federally qualified health centers (FQHC), and/or disproportionate share hospitals for the purpose of accessing local, state, and federal programs that could result in lower cost pharmaceuticals.		
SECTION 2.145. Requires the Health and Human Services Commission to request and pursue waivers from a federal agency or any other appropriate entity to allow families enrolled in the state Medicaid program to opt into the child health plan program while retaining the appropriate federal match rate and the child's entitlement to Medicaid coverage.	SECTION 2.148. Same as House version, except also requires the commission to retain the state's entitlement to federal Medicaid matching funds in requesting and pursuing the waivers. (FA1, 3rd reading)	SECTION 2.153. Same as Senate version
SECTION 2.146. Sate Child Health Plan Amendment.	SECTION 2.149. Same as House version.	SECTION 2.154. Same as House version.
SECTION 2.147. State Medicaid Plan Amendment.	SECTION 2.150. Same as House version.	SECTION 2.155. Same as House version.
SECTION 2.148. (a) Repeals Sections 62.055(b) and (c), 62.056, 62.057, 142.006(d), (e), and (f), 142.009(i), 142.0176, 252.206(d), and 252.207(b), Health and Safety Code.	SECTION 2.151. (a) Same as House version, except also repeals Sections 32.027(b) and (e), Human Resources Code.	SECTION 2.156. Same as Senate version, except also repeals Section 242.0372, Health and Safety Code.
SECTION 2.149. Provides that this Act prevails in the event of a conflict between a provision of this Act and another Act passed by the 78th Legislature.	SECTION 2.152. Same as House version.	SECTION 2.157. Same as House version.
SECTION 2.150. Federal Authorization or Waiver.	SECTION 2.153. Same as House version.	SECTION 2.158. Same as House version.
SECTION 2.151. Provides that any funds that are used by the Texas Department of Transportation to implement the transportation services provided in Sections 2.118, 2.119,	SECTION 2.154. Same as House version, except omits references to Sections 2.118, 2.119, 2.120, 2.121, and adds 2.126, 2.127, 2.128, and 2.129.	SECTION 2.159. Same as House version and makes conforming changes relating to section numbers.

HOUSE VERSION	SENATE VERSION	CONFERENCE
2.120, 2.121, 2.122, 2.123, 2.124, and 2.125 of this Act shall be accounted for and budgeted separately from other funds appropriated to the Texas Department fo Transportation for any other public transportation program or budget strategy.		
No equivalent provision.	SECTION __. Amends Section 38.001, Education Code, to allow exemptions to requirements for immunizations based on reasons of conscience, where the applicant's sibling has had an adverse reaction to the immunization or because of religious belief. Requires an exemption affidavit form. (FA47, 3rd reading)	SECTION 2.160. Same as Senate version, except adds Subsection (c-1) relating to affidavits submitted under Subsection (c) and omits provisions relating to exemptions based on adverse sibling reaction.
No equivalent provision.	SECTION __. Amends Section 51.933, Education Code, to allow exemptions to requirements for immunizations based on certain conditions, including adverse sibling reaction. Requires an exemption affidavit form. (FA47, 3rd reading)	SECTION 2.161. Same as Senate version, except adds Subsection (d-1) relating to affidavits submitted under Subsection (d) and omits provisions relating to exemptions based on adverse sibling reaction.
No equivalent provision.	SECTION __. Amends Section 161.004(d), Health and Safety Code, to allow exemptions to requirements for immunizations based on reasons of conscience, including a religious belief, and adverse sibling reaction. Requires an exemption affidavit form. (FA47, 3rd reading)	SECTION 2.162. Same as Senate version, except omits provisions relating to exemptions based on adverse sibling reaction.
No equivalent provision.	SECTION __. Amends Section 161.004(d), Health and Safety Code, to provide for immunization exemption affidavit forms that must be signed by a person claiming an exemption. (FA47, 3rd reading)	SECTION 2.163. Same as Senate version, except omits provisions relating to exemptions based on adverse sibling reaction.
No equivalent provision.	SECTION __. Amends Section 42.043, Human Resources	SECTION 2.164. Same as Senate version, except for

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Code, to allow exemptions to requirements for immunizations based on reasons of conscience, including a religious belief. Requires an exemption affidavit form. (FA47, 3rd reading)	provisions relating to risk, adverse sibling reaction, and the form of affidavit.
No equivalent provision.	SECTION __. Adds Section 51.321, Government Code, relating to allow county commissioners court to adopt a family violence prevention fee, not to exceed $15. (FA52, 3rd reading)	SECTION 2.165. Same as Senate version, except renumbers the section as Section 51.961, Government Code.
No equivalent provision.	SECTION __. Adds Subchapter K. to Chapter 531, Government Code, relating to provision of services for certain children with multiagency needs (FA37, 3rd reading)	SECTION 2.166. Same as Senate version, except Subchapter redesignated as Subchapter L, Chapter 531, Government Code.
No equivalent provision.	SECTION __. Amends Chapter 81, Health and Safety Code, relating to the authority of the health department when a public health disaster occurs. (FA26, 3rd reading)	SECTIONS 2.167-2.191. Same as Senate version.
No equivalent provision.	SECTION __. Amends Article 104.011(a), Health and Safety Code, relating to membership of the statewide health coordinating council. (FA23, 3rd reading)	SECTION 2.192. Same as Senate version.
No equivalent provision.	SECTION __. Amends Chapter 142 and Section 250.001, Health and Safety Code, relating to a certified agency, home health service, personal assistance service and personal care. (FA25, 3rd reading)	SECTIONS 2.193-2.198.. Same as Senate version.
No equivalent provision.	SECTION__. Amends Subchapter E, Chapter 431.116,	SECTION 2.199. Same as Senate version, except adds that

HOUSE VERSION	SENATE VERSION	CONFERENCE
	Health and Safety Code, by inserting new sections (f), (g), (h) relating to disclosure and confidentiality of drug pricing information. (FA24, 3rd reading)	the attorney general shall tread information obtained under this section in the same manner as information obtained by the attorney general through a civil investigative demand under Section 36.054, Human Resources Code
No equivalent provision.	SECTION __. Amends Section 534.003(a) Health and Safety Code, relating to the membership of a board of trustees of a community center. (FA3, 3rd reading)	SECTION 2.200. Same as Senate version.
No equivalent provision.	SECTION__. Amends Section 31.032(d), Human Resources Code, relating to available resources of an applicant for public assistance. (FA3, 2nd reading)	SECTION 2.201. Same as Senate version.
No equivalent provision.	SECTION __. Amends Sec. 32.057, Human Resources Code, to establish the Consumer-Directed Services Program. The program allows a person receiving home and community based services through the Medicaid program to receive a stipend to direct the delivery of their services. (FA10, 3rd reading)	SECTION 2.202. Same as Senate version, except renumbers section as Section 32.066, Human Resources Code.
No equivalent provision.	SECTION __. Amends Section 533.007, Government Code, to ensure appropriate access to an adequate provider network. (FA13, 3rd reading)	SECTION 2.203. Same as Senate version
No equivalent provision.	SECTION __. Adds Section 32.067, Human Resources Code, to require the department to assure that any agency licensed to provide home health services, and not only a certified agency licensed under the chapter, may provide home health services to individuals enrolled in THSteps (FA44, 3rd	SECTION 2.204. Same as Senate version, except renumbers the section as Section 32.067, Human Resources Code.

HOUSE VERSION	SENATE VERSION	CONFERENCE
	reading)	
No equivalent provision.	SECTION __. Amends Section 403.1066, Government Code, to provide for the permanent hospital fund for capital improvements and the Texas Center for Infectious Disease (FA3, 2nd reading)	SECTIONS 2.205 and 2.206. Same as Senate version.
No equivalent provision.	SECTION __. Amends Section 32.024(w), Human Resources Code, to reduce the amount of a personal needs allowance for a resident of certain institutions. (FA3, 2nd reading)	SECTION 2.207. Same as Senate version.

HOUSE VERSION	SENATE VERSION	CONFERENCE
No equivalent provision	SECTION __. Allows county with at least 190,000 inhabitants that has municipality that owns a hospital or hospital system for indigent or needy persons to create a hospital district	SECTION 2.208. Same as Senate version
No equivalent provision	SECTION __ Defines Ballot Requirements for election	SECTION 2.209. Same as Senate version
No equivalent provision	SECTION __ Defines structure of the Board and appointments	SECTION 2.210. Same as Senate version
No equivalent provision	SECTION __ Defines length of terms	SECTION 2.211. Same as Senate version
No equivalent provision	SECTION __ Defines transfer of property	SECTION 2.212. Same as Senate version
No equivalent provision	SECTION __ Allows provision of mental health and other indigent health care services	SECTION 2.213. Same as Senate version
No equivalent provision	SECTION __ Requires study of improvements in system	SECTION 2.214. Same as Senate version
No equivalent provision	SECTION __ Changes title of chapter	SECTION 2.215 Same as Senate version
	SECTION __ Authorizes tax rate in election	SECTION 2.216 Same as Senate version
No equivalent provision	SECTION __ Requires city and county ad valorem tax to be adjusted by an increase in hospital ad valorem tax; prohibits a local sales tax to finance the hospital district	SECTION 2.217. Same as Senate version
SECTION 2.152. Effective Date	SECTION 2.155. Same as House version	SECTION 2.218. Same as House version