BILL ANALYSIS

Senate Research Center

H.B. 2292
By: Wohlgemuth (Nelson)
Finance
5/8/2003
Engrossed

DIGEST AND PURPOSE

To achieve the cost savings and revenue necessary to finance certain health and human services, H.B. 2292 implements changes in health and human service policy necessary to ensure that Texas continues to serve its citizens who are most in need of health and human service assistance. This bill also reorganizes and consolidates the health and human service agencies, requires additional rebates for drug manufacturers purchasing drugs under health and human service programs, increases fraud detection and recovery, reforms the regulatory burden on providers of health and human services, and consolidates certain transportation services and enacts many other measures that are necessary to deal with the current budget crisis.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of health and human services in SECTION 1.03 (Section 531.0055, Government Code), SECTION 1.06 (Section 531.0163, Government Code), SECTION 1.08 (Sections 531.409, 531.429, and 531.449, Government Code), SECTION 1.09 (Sections 1001.028, 1001.052, and 1001.075, Health and Safety Code), SECTION 1.13 (Sections 161.028, 161.052, and 161.073, Human Resources Code), and SECTION 2.25 (Section 231.113, Government Code) of this bill. Rulemaking authority is transferred to the commissioner of health and human services in SECTION 1.03 (Section 531.0055, Government Code) of this bill.

Rulemaking authority is expressly granted to the Health and Human Services Commission in SECTION 1.07 (Section 531.0224, Government Code), SECTION 2.04 (Section 531.0335, Government Code), SECTION 2.06 (Section 531.063, Government Code), SECTION 2.15 (Section 531.074, Government Code), SECTION 2.26 (Section 531.114, Government Code), and SECTION 2.93 (Section 32.028, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Human Services in SECTION 2.81 (Section 31.0032, Human Resources Code), SECTION 2.96 (Section 32.0321, Human Resources Code), and SECTION 2.98 (Section 32.0462, Human Resources Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Mental Health and Retardation in SECTION 2.71 (Section 533.0355, Health and Safety Code), to the Interagency Council on Early Childhood Interaction in SECTION 2.105 (Section 73.0051, Human Resources Code), to the Secretary of State in SECTION 2.109 (Section 33.158, Family Code), and to the Texas State Board of Pharmacy in SECTION 2.117 (Section 562.1085, Occupations Code) of this bill.

Rulemaking authority is transferred to the commissioner of the Department of Protective and Regulatory Services in SECTION 1.11 (Section 40.02, Human Resources Code), to the Health and Human Services Commission in SECTION 1.18, to the Department of Protective Services in SECTIONS 1.19 and 1.20, and to the Department of Supportive Services in SECTION 1.21 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1.01. (a) Amends Section 531.001(4), Government Code, as amended by Chapters

53, 957, and 1420, Acts of the 77th Legislature, Regular Session, 2001, to reenact and amend it to add the Department of Supportive Services and the Department of Health Services to the definition of "health and human services agencies," and to reference the Department of Protective Services rather than the Department of Protective and Regulatory Services.

(b) Amends Section 531.001(4), Government Code, as amended by Chapters 53, 957, and 1420, Acts of the 77th Legislature, Regular Session, 2001, to reenact and amend it to redefine "health and human services agencies" effective on the date the agencies listed in Section 1.25 of this article are abolished as provided by that section.

SECTION 1.02. Amends Section 531.004, Government Code, to continue the Health and Human Services Commission (HHSC) until September 1, 2009, rather than 2007.

SECTION 1.03. Amends Section 531.0055, Government Code, as follows:

Sec. 531.0055. New heading: COMMISSIONER: GENERAL RESPONSIBILITY FOR HEALTH AND HUMAN SERVICES AGENCIES. (a) Redefines "agency director." Deletes definition of "policymaking body."

(b) Requires HHSC to take certain actions.

(c) Deletes existing text relating to the implementation of HHSC's duties under Subsection (b) and existing text relating to certain sections as added by Chapter 1045, Acts of the 75th Legislature, Regular Session, 1997. Makes a nonsubtantive change.

(d) Requires HHSC to plan and implement an efficient and effective centralized system of administrative support services for health and human services agencies. Provides that the performance of administrative support services for health and human services agencies is the responsibility of HHSC. Provides that 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) Requires the commissioner of health and human services, notwithstanding any other law, to adopt rules and policies for the operation of and provision of health and human services by the health and human services agencies. Requires the commissioner of health and human services, in addition and as necessary to perform the functions described by Subsections (b), (c), and (d) in implementation of applicable, policies established for an agency by the commissioner of health and human services, rather than each agency's policymaking body, to perform certain functions.

(f) Provides that the operational authority and responsibility of the commissioner of health and human services for purposes of Subsection (e) at each health and human services agency includes authority over and responsibility for certain actions, policies, and systems.

(g) Provides that notwithstanding any other law, the operational authority and responsibility of the commissioner of health and human services 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) No change to this subsection.

(i) Provides that the agency director acts on behalf of the commissioner of health and human services in performing the delegated function and reports to the

commissioner of health and human services regarding the delegated function and any matter affecting agency programs and operations.

(j) Requires, rather than authorizes, the commissioner of health and human services to adopt rules to implement the commissioner's authority under this section.

(k) Requires the commissioner of health and human services and each agency director to enter into a memorandum of understanding in the manner prescribed by Section 531.0163 that clearly defines certain responsibilities of the agency director and the commissioner of health and human services.

(l) Provides that the commissioner of health and human services, rather than a policymaking body, has the authority to adopt policies and rules governing the delivery of services to persons who are served by each health and human services agency and the rights and duties of persons who are served or regulated by each agency, notwithstanding any other law. Deletes existing text relating to requiring the commissioner of health and human services and each policymaking body to enter into a memorandum of understanding that clearly defines the policymaking authority of the policymaking body and the operational authority of the commissioner of health and human services.

SECTION 1.04. Amends Section 531.0056, Government Code, as follows:

Sec. 531.0056. New heading: APPOINTMENT OF AGENCY DIRECTOR BY GOVERNOR. (a) Requires the governor to appoint an agency director for each health and human services agency. Deletes existing text relating to this section only applying to an agency director employed by the commissioner of health and human services.

(b) Requires the agency director to serve for a term of one year. Deletes existing text relating to authorizing an agency director employed by the commissioner of health and human services to be employed only with the concurrence of the agency's policymaking body and the approval of the governor.

(c) Requires the memorandum of understanding required by that section to clearly define the responsibilities of the agency director, in addition to the requirements of Section 531.0055(k)(1). Deletes existing text relating to requiring the commissioner of health and human services and agency director to enter into a memorandum of understanding and authorizes establishing certain terms and conditions.

(d) Makes conforming changes.

(f) Requires the commissioner of health and human services to submit the evaluation to the governor not later than January 1 of each even numbered year. Deletes existing text relating to the commissioner of health and human services submitting any recommendation regarding employment of the agency director. Deletes existing Subsections (g) and (h).

SECTION 1.05. Amends Section 531.008, Government Code, as follows:

(a)-(b) Make conforming and nonsubstantive changes.

(c) Requires the commissioner of health and human services to establish certain divisions and offices within HHSC.

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

Sec. 531.0161. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE PROCEDURES. (a) and (b) Apply standard Sunset language regarding negotiated rulemaking and alternate dispute procedures.

Sec. 531.0162. USE OF TECHNOLOGY. (a) Applies standard Sunset language regarding the use of technology.

(b) Requires HHSC to develop and implement a policy described by Subsection (a) in relation to HHSC's functions.

Sec. 531.0163. MEMORANDUM OF UNDERSTANDING. (a) Requires the memorandum of understanding under Section 531.0055(k) to be adopted by the commissioner of health and human services, 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 concerns only internal management or organization within or among health and human services agencies and does not affect private rights or procedures or relates solely to the internal personnel practices of health and human services agencies.

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

SECTION 1.07. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0224, as follows:

Sec. 531.0224. PLANNING AND POLICY DIRECTION OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM. Requires HHSC to take certain actions, including adopting rules and standards governing the financial assistance program under Chapter 31, Human Resources Code (Financial Assistance and Service Programs), in consultation with the policy councils of the agencies that operate the program, including rules for determining eligibility for and the amount and duration of an earned income disregard.

SECTION 1.08. Amends Chapter 531, Government Code, by adding Subchapters K, L, and M as follows:

SUBCHAPTER K. HEALTH AND HUMAN SERVICES COUNCIL

Sec. 531.401. DEFINITION. Defines "council."

Sec. 531.402. HEALTH AND HUMAN SERVICES COUNCIL. (a) Provides that the Health and Human Services Council (council) is created to assist the commissioner of health and human services in developing rules and policies for HHSC.

(b) Provides that the council is composed of nine members of the public appointed by the governor with the advice and consent of the senate. Requires a person, to be eligible for appointment to the council, to 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 (Medical Assistance Programs), Human Resources Code, or the nutritional assistance programs under Chapter 33 (Nutritional Assistance Programs), Human Resources Code.

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

(d) Provides that Chapter 551 (Open Meetings), Government Code, applies to the council.

(e) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the council.

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

Sec. 531.403. APPOINTMENTS. (a) and (b) Applies standard Sunset language regarding appointments.

Sec. 531.404. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) and (b) Applies standard Sunset language regarding a training program for council members.

Sec. 531.405. TERMS. Sets forth the terms for council members.

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

Sec. 531.407. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) - (c) Apply standard Sunset language regarding the presiding officer, other officers, and meetings.

Sec. 531.408. REIMBURSEMENT FOR EXPENSES. Applies standard Sunset language regarding reimbursement for expenses of council members.

Sec. 531.409. PUBLIC INTEREST INFORMATION AND COMPLAINTS. Applies standard Sunset language regarding public interest information and complaints.

Sec. 531.410. PUBLIC ACCESS AND TESTIMONY. Applies standard Sunset language regarding public access and testimony.

Sec. 531.411. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. Applies standard Sunset language regarding the delineation of policymaking and management responsibilties.

[Reserves Sections 531.412-531.420 for expansion.]

SUBCHAPTER L. COUNCIL FOR THE BLIND, DEAF, AND HARD OF HEARING

Sec. 531.421. DEFINITION. Defines "council."

Sec. 531.422. COUNCIL FOR THE BLIND, DEAF, AND HARD OF HEARING. (a) Provides that the Council for the Blind, Deaf, and Hard of Hearing (council) is created to advise the commissioner of health and human services and the offices for the blind and for the deaf and hard of hearing regarding programs and services for those populations.

(b) Provides that the council is composed of nine members of the public appointed by the governor. Requires a person, to be eligible for appointment to the council, to have demonstrated an interest in and knowledge of problems and available services for persons who are blind, deaf, or hard of hearing.

(c) Provides that Chapter 551 (Open Meetings) applies to the council.

(d) Provides that Chapter 2110 (State Agency Advisory Committees) does not apply to the council.

Sec. 531.423. APPOINTMENTS. (a) Applies standard Sunset language regarding

appointments to the council.

Sec. 531.424. TRAINING PROGRAM FOR COUNCIL MEMBERS. (a) Applies standard Sunset language regarding a training program for council members.

Sec. 531.425. TERMS. Applies standard Sunset language regarding terms of council members.

Sec. 531.426. VACANCY. Requires the governor by appointment to fill the unexpired term of a vacancy on the council.

Sec. 531.427. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. Applies standard Sunset language regarding the presiding officer, other officers, and meetings.

Sec. 531.428. REIMBURSEMENT FOR EXPENSES. Applies standard Sunset language regarding reimbursement for expenses for council members.

Sec. 531.429. PUBLIC INTEREST INFORMATION AND COMPLAINTS. Applies standard Sunset language regarding public interest information and complaints.

Sec. 531.430. PUBLIC ACCESS AND TESTIMONY. Applies standard Sunset language regarding public access and testimony.

Sec. 531.431. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. Applies standard Sunset language regarding the delineation of policymaking and management responsiblities.

[Reserves Sections 531.432-531.440 for expansion.]

SUBCHAPTER M. REHABILITATION COUNCIL

Sec. 531.441. DEFINITION. Defines "council."

Sec. 531.442. REHABILITATION COUNCIL. (a) Provides that the Rehabilitation Council (council) is created to advise the commissioner of health and human services and the office of rehabilitation services regarding programs and services for persons with disabilities other than developmental delay and mental retardation.

(b) Sets forth the composition of and eligibility for the council.

(c) Provides that Chapter 551 (Open Meetings) applies to the council.

(d) Provides that Chapter 2110 (State Agency Advisory Committees) does not apply to the council.

Sec. 531.443. APPOINTMENTS. Applies standard Sunset language regarding appointments to the council.

Sec. 531.444. TRAINING PROGRAM FOR COUNCIL MEMBERS. Applies standard Sunset language regarding a training program for council members.

Sec. 531.445. TERMS. Sets forth the terms of council members.

Sec. 531.446. VACANCY. Requires the governor by appointment to fill the unexpired term of a vacancy on the council.

Sec. 531.447. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) -(c) Applies standard Sunset language regarding the presiding officer, other officers, and meetings.

Sec. 531.448. REIMBURSEMENT FOR EXPENSES. Applies standard Sunset language regarding reimbursement for expenses for council members.

Sec. 531.449. PUBLIC INTEREST INFORMATION AND COMPLAINTS. Applies standard Sunset language regarding public interest information and complaints.

Sec. 531.450. PUBLIC ACCESS AND TESTIMONY. Applies standard Sunset language regarding public access and testimony.

Sec. 531.451. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. Applies standard Sunset language regarding the delineation of the policymaking and management responsibilities.

SECTION 1.09. Amends the Health and Safety Code by adding Title 12 as follows:

TITLE 12. HEALTH AND MENTAL HEALTH

CHAPTER 1001. DEPARTMENT OF HEALTH SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1001.001. DEFINITIONS. Defines "commission," "commissioner," "council," and "department."

Sec. 1001.002. AGENCY. Provides that the Department of Health Services (department) is an agency of the state.

Sec. 1001.003. SUNSET PROVISION. Continues the Department of Health Services until September 1, 2009.

[Reserves Sections 1001.004-1001.020 for expansion.]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 1001.021. HEALTH SERVICES COUNCIL. (a) Provides that the Health Services Council (council) is created to assist the commissioner of health and human services in developing rules and policies for the department.

(b) Sets forth the composition of and eligibility for the council.

(c) Requires the council to study and make recommendations to the commissioner of health and human services 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) Provides that Chapter 551 (Open Meetings), Government Code, applies to the council.

(e) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the council.

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

Sec. 1001.022. APPOINTMENTS. Applies standard Sunset language regarding appointments.

Sec. 1001.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. Applies standard Sunset language regarding a training program for council members.

Sec. 1001.024. TERMS. Sets forth the terms of council members.

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

Sec. 1001.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) - (c) Applies standard Sunset language regarding the presiding officer, other officers, and meetings.

Sec. 1001.027. REIMBURSEMENT FOR EXPENSES. Applies standard Sunset language regarding reimbursement for expenses of council members.

Sec. 1001.028. PUBLIC INTEREST INFORMATION AND COMPLAINTS. Applies standard Sunset language regarding public interest information and complaints.

Sec. 1001.029. PUBLIC ACCESS AND TESTIMONY. (a) - (b) Applies standard Sunset language regarding public access and testimony.

(c) Requires the commissioner of health and human services to consider fully all written and oral submissions about a proposed rule.

Sec. 1001.030. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. Applies standard Sunset language regarding the delineation of policymaking and management responsibilities.

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

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

Sec. 1001.032. OFFICES. Requires the department to maintain its central office in Austin. Authorizes the department to maintain offices in other areas of the state as necessary.

[Reserves Sections 1001.033-1001.050 for expansion.]

SUBCHAPTER C. PERSONNEL

Sec. 1001.051. COMMISSIONER. (a) Requires the governor to appoint a commissioner of the department. Provides that the commissioner of the Department of Health Services (DHS commissioner) is to be selected according to education, training, experience, and demonstrated ability.

(b) Provides that the DHS commissioner serves for a term of one year.

(c) Requires the DHScommissioner, subject to the control of the commissioner of health and human services, to act as the department's chief administrative officer and as a liaison between the department and HHSC.

(d) Requires the DHS commissioner to administer this chapter under operational policies established by the commissioner of health and human services and in accordance with the memorandum of understanding under Section 531.0055(k), Government Code, between the DHS commissioner and the commissioner of

health and human services, as adopted by rule.

Sec. 1001.052. PERSONNEL. Applies standard Sunset language regarding personnel.

Sec. 1001.053. INFORMATION ABOUT QUALIFICATIONS AND STANDARDS OF CONDUCT. Applies standard Sunset language regarding information about qualifications of conduct.

Sec. 1001.054. MERIT PAY. Applies standard Sunset language regarding merit pay.

Sec. 1001.055. CAREER LADDER. Applies standard Sunset language regarding a career ladder.

Sec. 1001.056. EQUAL EMPLOYMENT OPPORTUNITY POLICY. Applies standard Sunset language regarding an equal employment and opportunity policy.

Sec. 1001.057. STATE EMPLOYEE INCENTIVE PROGRAM. Applies standard Sunset language regarding a state employee incentive program.

[Reserves Sections 1001.058-1001.070 for expansion.]

SUBCHAPTER D. POWERS AND DUTIES OF DEPARTMENT

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

Sec. 1001.072. GENERAL POWERS AND DUTIES OF DEPARTMENT RELATED TO MENTAL HEALTH. Provides that the department is responsible for administering certain human services programs regarding mental health.

Sec. 1001.073. GENERAL POWERS AND DUTIES OF DEPARTMENT RELATED TO SUBSTANCE ABUSE. Provides that the department is responsible for administering certain human services programs regarding substance.

Sec. 1001.074. INFORMATION REGARDING COMPLAINTS. (a) Requires the department to maintain a file on each written complaint filed with the department. Requires the file to include certain information.

(b) Requires the department to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commissioner of health and human services' and the department's policies and procedures relating to complaint investigation and resolution.

(c) Requires the department, at least quarterly until final disposition of the complaint, to 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. Authorizes the commissioner of health and human services to 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 DHS commissioner and the commissioner of health and human services, as adopted by rule.

SECTION 1.10. Amends Section 40.001, Human Resources Code, by adding Subdivision (2-a) and amending Subdivision (4) to define “council” and “commissioner.”

SECTION 1.11. Amends Section 40.002, Human Resources Code, as follows:

Sec. 40.002. New heading: DEPARTMENT OF PROTECTIVE SERVICES; GENERAL DUTIES OF DEPARTMENT. (a) Provides that the Department of Protective Services (department), rather than DPRS, is composed of the council, rather than board, the commissioner, rather than the executive director, an administrative staff, and other officers and employees necessary to efficiently carry out the purposes of this chapter.

(b) Requires the department, notwithstanding any other law, to perform certain tasks.

(c) Provides that the department is the state agency designated to cooperate with the federal government in the administration of programs under certain federal guidelines.

(d) Requires the department to 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) Authorizes the commissioner of protective services (DPS commissioner), rather than the department, if the department determines that a provision of state law governing the department conflicts with a provision of federal law, to 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. Amends Sections 40.004, 40.021, 40.022, 40.0226, 40.024, 40.025, 40.026, and 40.027, Human Resources Code, as follows:

Sec. 40.004. New heading: PUBLIC INTEREST INFORMATION AND PUBLIC ACCESS. (a)-(d) Applies standard Sunset language regarding public interest information and public access.

Sec. 40.021. New heading: PROTECTIVE SERVICES COUNCIL. (a) Provides that the Protective Services Council (council) is created to assist the DPS commissioner in developing rules and policies for the department.

(b) Sets forth the composition of and eligibility for council members.

(c) Requires the council to study and make recommendations to the DPS 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) Provides that Chapter 551 (Open Meetings), Government Code, applies to the council.

(e) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the council. Deletes requirement of the board to appoint without regard to race, color, disability, sex, religion, age, or national origin.

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

Sec. 40.022. New heading: APPOINTMENTS (a) and (b) Applies standard Sunset

language regarding appointments to the council.

Sec. 40.0226. New heading: TRAINING PROGRAM FOR COUNCIL MEMBERS. Applies standard Sunset language regarding a training program for council members.

Sec. 40.024. New heading: TERMS; VACANCY. (a) Provides that members of the council, rather than board, serve for staggered six-year terms, with the terms of three members, rather than two members, expiring February 1 of each odd-numbered year.

(b) Prohibits a member of the council from serving more than two consecutive full terms as a council member.

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

Sec. 40.025. New heading: REIMBURSEMENT FOR EXPENSES. Applies standard Sunset language regarding reimbursement for expenses of council members.

Sec. 40.026. New heading: PRESIDING OFFICER; OTHER OFFICERS. (a) - (c) Applies standard Sunset language regarding the presiding officer, officer, and other officers.

Sec. 40.027. New heading: COMMISSIONER. (a) Requires the governor, rather than the commissioner of health and human services, to appoint a DPS commissioner, who is to be selected according to education, training, experience, and demonstrated ability.

(b) Provides that the DPS commissioner serves for a term of one year.

(c) Requires the DPS commissioner, subject to the control of the commissioner of health and human services, to act as the department's chief administrative officer and as a liaison between the department and commission.

(d) Requires the DPS commissioner to administer this chapter and other laws relating to the department under operational policies established by the commissioner of health and human services and in accordance with the memorandum of understanding under Section 531.0055(k), Government Code, between the protective services commissioner and the commissioner of health and human services, as adopted by rule.

SECTION 1.13. Amends the Human Resources Code by adding Title 11, as follows:

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

CHAPTER 161. DEPARTMENT OF SUPPORTIVE SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 161.001. DEFINITIONS. Defines “commission,” “commissioner,” “council,” and “department.”

Sec. 161.002. AGENCY. Provides that the Department of Supportive Services (department) is an agency of the state.

Sec. 161.003. SUNSET PROVISION. Applies standard Sunset language to continue the department until September 1, 2009.

[Reserves Sections 161.004-161.020 for expansion.]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 161.021. SUPPORTIVE SERVICES COUNCIL. (a) Provides that the Supportive Services Council (council) is created to assist the commissioner of health and human services in developing rules and policies for the department.

(b) and (c) Applies standard Sunset language regarding the composition of and eligibility of council members.

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

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

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

Sec. 161.022. APPOINTMENTS. Updates standard Sunset language relating appointments to the council.

Sec. 161.023. TRAINING PROGRAM FOR COUNCIL MEMBERS. Updates standard Sunset language relating to a training program for council members.

Sec. 161.024. TERMS. (a) Sets forth the terms of council members.

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

Sec. 161.026. PRESIDING OFFICER; OTHER OFFICERS; MEETINGS. (a) - (c) Applies standard Sunset language regarding the presiding officer, other officers, and meetings.

Sec. 161.027. REIMBURSEMENT FOR EXPENSES. Applies standard Sunset language relating to a reimbursement for expenses to a council member.

Sec. 161.028. PUBLIC INTEREST INFORMATION AND COMPLAINTS. Updates standard Sunset language requiring information to be maintained on complaints.

Sec. 161.029. PUBLIC ACCESS AND TESTIMONY. Applies standard Sunset language providing for public testimony at meetings under the jurisdiction of the department.

Sec. 161.030. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. Applies standard Sunset language regarding the delineation of policymaking and management responsibilities.

Sec. 161.031. ANNUAL REPORT. (a) Requires the commissioner of supportive services (CSS commissioner) to file annually with the governor, the presiding officer of each house of the legislature, and the commissioner of health and human services a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year.

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

Sec. 161.032. OFFICES. Requires the department to maintain its central office in Austin. Authorizes the department to maintain offices in other areas of the state as necessary.

[Reserves Sections 161.033-161.050 for expansion.]

SUBCHAPTER C. PERSONNEL

Sec. 161.051. COMMISSIONER. (a) Requires the governor to appoint a commissioner of the department. Provides that the CSS commissioner is to be selected according to education, training, experience, and demonstrated ability.

(b) Provides that the CSS commissioner serves for a term of one year.

(c) Requires the CSS commissioner, subject to the control of the commissioner of health and human services, the CSS commissioner to act as the department's chief administrative officer and as a liaison between the department and commission.

(d) Requires the CSS commissioner to administer this chapter under operational policies established by the commissioner of health and human services and in accordance with the memorandum of understanding under Section 531.0055(k), Government Code, between the CSS commissioner and the commissioner of health and human services, as adopted by rule.

Sec. 161.052. PERSONNEL. (a) Authorizes the department to employ, compensate, and prescribe the duties of personnel necessary and suitable to administer this chapter.

(b) Requires the commissioner of health and human services to prepare and by rule adopt personnel standards.

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

(d) Requires the commissioner of health and human services, with the advice of the council, to develop and the department to implement policies that clearly define the responsibilities of the staff of the department.

Sec. 161.053. INFORMATION ABOUT QUALIFICATIONS AND STANDARDS OF CONDUCT. Applies standard Sunset language regarding information about qualifications and standards of conduct.

Sec. 161.054. MERIT PAY. Applies standard Sunset language regarding merit pay.

Sec. 161.055. CAREER LADDER. Applies standard Sunset language regarding a career ladder.

Sec. 161.056. EQUAL EMPLOYMENT OPPORTUNITY POLICY. Updates standard Sunset language requiring the commissioner to develop an equal employment opportunity program.

Sec. 161.057. STATE EMPLOYEE INCENTIVE PROGRAM. Applies standard Sunset language regarding a state employee incentive program.

[Reserves Sections 161.058-161.070 for expansion.]

SUBCHAPTER D. POWERS AND DUTIES OF DEPARTMENT

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

Sec. 161.072. INFORMATION REGARDING COMPLAINTS. Updates standard language requiring information to be maintained on complaints.

Sec. 161.073. RULES. Authorizes the commissioner of health and human services to

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 CSS commissioner and the commissioner of health and human services, as adopted by rule.

SECTION 1.14. APPOINTMENT OF COMMISSIONERS. (a) Requires the governor, as soon as possible, to appoint the commissioner of protective services, the commissioner of supportive services and the commissioner of health services.

(b) Requires the governor to 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) Requires the governor, as soon as possible, to appoint the members of the Health Services Council in accordance with Chapter 1001, Health and Safety Code, as added by this article. Provides that in making the initial appointments, the governor must 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) Requires the governor, as soon as possible, to appoint the members of the Protective Services Council in accordance with Chapter 40, Human Resources Code, as amended by this article. Provides that in making the initial appointments, the governor must 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) Requires the governor, as soon as possible, to appoint the members of the Supportive Services Council in accordance with Chapter 161, Human Resources Code, as added by this article. Provides that in making the initial appointments, the governor must 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) Requires the governor to appoint the members of the Health and Human Services Council in accordance with Chapter 531, Government Code, as amended by this article. Provides that in making the initial appointments, the governor must 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. Authorizes a state agency created under this article to perform, before the date specified in the transition plan required under Section 1.23 of this article, 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. Prohibits a state agency created under this article from operating 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. Requires the presiding officer of the council for each state agency created under this article and the presiding officer of the Protective Services Council to call the initial meeting of the council as soon as possible after the council members are appointed.

SECTION 1.18. TRANSFERS TO THE HEALTH AND HUMAN SERVICES COMMISSION. (a) Provides that on the date specified in the transition plan required under Section 1.23 of this Article, certain powers, duties, functions, programs, and activities are transferred to HHSC.

(b) - (e) Make conforming changes relating to the transfers to HHSC.

(f) Provides that all powers, duties, functions, programs, and activities relating to audits, including internal audits, transferred to HHSC under Subsection (a)(1) of this section, and all powers, duties, functions, programs, and activities relating to the Texas Department of

Human Services office of inspector general transferred to HHSC under Subsection (a)(2)(D) of this section, are required to be assumed by the HHSC's office of inspector general. Provides that notwithstanding any other provision of law, a reference in law to the Texas Department of Human Services office of inspector general means the HHSC's office of inspector general.

SECTION 1.19. TRANSFERS TO THE DEPARTMENT OF HEALTH SERVICES. (a) Provides that on the date specified in the transition plan required under Section 1.23 of this article, certain powers, duties, functions, programs, and activities, other than those related to rulemaking, 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 Health Services.

(b) - (e) Make conforming changes relating to the transfers to the Department of Health Services.

SECTION 1.20. TRANSFERS TO THE DEPARTMENT OF PROTECTIVE SERVICES. (a) On the date specified in the transition plan required under Section 1.23 of this article, certain 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 Protective Services

(b) - (e) Make conforming changes relating to the transfers to the Department of Protective Services.

SECTION 1.21. TRANSFERS TO THE DEPARTMENT OF SUPPORTIVE SERVICES. (a) Provides that on the date specified in the transition plan required under Section 1.23 of this article, certain 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 Supportive Services.

(b) - (e) Make conforming changes relating to the transfers to the Department of Supportive Services.

SECTION 1.22. FACILITATION OF TRANSFERS BY HEALTH AND HUMAN SERVICES TRANSITION COUNCIL. (a) Provides that the Health and Human Services Transition Council (council) is created to facilitate the transfer of powers, duties, functions, programs, and activities among the state's health and human services agencies and HHSC as provided by this article with a minimal negative effect on the delivery of those services in this state.

(b) Provides that the council is composed of 10 certain members.

(c) Provides that the commissioner of health and human services serves as presiding officer. Requires the members of the council to elect any other necessary officers.

(d) Requires the council to meet at the call of the presiding officer.

(e) Provides that a member of the council serves at the will of the appointing official.

(f) Prohibits a member of the council from receiving compensation for serving on the council but entitles the member to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided by the General Appropriations Act.

(g) Requires the council, with assistance from HHSC and the health and human services

agencies, to advise the ommissioner of health and human services concerning certain matters.

(h) Requires the council to fully consider all written and oral submissions made on any matter or issue under the council's jurisdiction.

(i) Provides that Chapter 551, Government Code, applies to the council.

(j) Provides that the council is abolished December 31, 2004.

SECTION 1.23. TRANSITION PLAN. (a) Provides that the transfer of powers, duties, functions, programs, and activities under Sections 1.18, 1.19, 1.20, and 1.21 of this article to HHSC, the Department of Health Services, the Department of Protective Services, and the Department of Supportive Services, respectively, must be accomplished in accordance with a schedule included in a transition plan developed by the commissioner of health and human services and submitted to the governor and the Legislative Budget Board not later than December 1, 2003. Requires the commissioner of health and human services to 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. Requires the transition plan to be made available to the public.

(b) Requires HHSC not later than November 1, 2003, to hold a public hearing and accept public comment regarding the transition plan required to be developed by the commissioner of health and human services under Subsection (a) of this section.

(c) Requires the commissioner of health and human services in developing the transition plan, to 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. Provides that 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) Requires HHSC, the Department of Protective Services, and each health and human services agency created under this article to implement the powers, duties, functions, programs, and activities assigned to the agency under this article in accordance with a work plan designed by HHSC to ensure that the transfer and provision of health and human services in this state are accomplished in a careful and deliberative manner.

(b) Requires a work plan designed by HHSC under this section to include certain phases.

SECTION 1.26. ABOLITION OF STATE AGENCIES AND ENTITIES. (a) Provides for the abolition of certain state agencies and entities on the date on which their respective powers, duties, functions, programs, and activities are transferred under this article.

(b) Provides that 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. Provides that a reference in law to the Department of Protective and Regulatory Services means the Department of Protective Services.

SECTION 1.28. REPEAL. Repealer:

(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) Effective date: September 1, 2003, except as provided by Subsection (b) of this section.

(b) Provides that the Department of Health Services and the Department of Supportive Services are created on the date the governor 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. Amends Section 531.001, Government Code, by adding Subdivision (1-a) to define "child health plan program."

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

Sec. 531.017. PURCHASING DIVISION. (a) Requires HHSC to establish a purchasing division for the management of administrative activities related to the purchasing functions of HHSC and the health and human services agencies.

(b) Requires the purchasing division to seek to achieve targeted cost reductions, increase process efficiencies, improve technological support and customer services, and enhance purchasing support for each health and human services agency; and if cost-effective, contract with private entities to perform purchasing functions for HHSC and the health and human services agencies.

(b) Requires HHSC not later than January 1, 2004, to develop and implement a plan to consolidate the purchasing functions of HHSC and health and human services agencies in a purchasing division under Section 531.017, Government Code, as added by this section.

SECTION 2.03. Amends Section 531.021, Government Code, by adding Subsection (c) to require HHSC in its adoption of reasonable rules and standards under Subsection (b)(2) to include financial performance standards that, in the event of a proposed rate reduction, provide private ICF-MR facilities and home and community-based services providers with flexibility in determining how to use medical assistance payments to provide services in the most cost-effective manner.

SECTION 2.04. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0335 as follows:

Sec. 531.0335. PROHIBITION ON PUNITIVE ACTION FOR FAILURE TO IMMUNIZE. (a) Defines "person responsible for a child's care, custody, or welfare" and "punitive action."

(b) Requires the commissioner of health and human services by rule to 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) Provides that 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. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.0392, as follows:

Sec. 531.0392. RECOVERY OF CERTAIN THIRD-PARTY REIMBURSEMENTS UNDER MEDICAID. (a) Defines "dually eligible individual."

(b) Requires HHSC to 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. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.063, as follows:

Sec. 531.063. CALL CENTER. (a) Requires HHSC, by rule, to establish a call center 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.

(b) Requires HHSC to contract with at least one but not more than four private entities for the operation of a call center required by this section unless HHSC determines that contracting for the operation of the center would not be cost-effective.

(c) Requires call centers to provide translation services as required by federal law for clients unable to speak, hear, or comprehend the English language.

(d) Requires HHSC to develop consumer service and performance standards for the operation of a call center required by this section. Requires the standards to address a certain aspects of a call center.

(e) Requires HHSC to make available to the public the standards developed under Subsection (d).

(f) Requires HHSC to develop:

(1) mechanisms for measuring consumer service satisfaction; and

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

(g) Authorizes HHSC to inspect a call center and analyze its consumer service performance through use of a consumer service evaluator who poses as a consumer of the call center.

(h) Requires the commissioner of health and human services notwithstanding Subsection (a), to 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. Provides that 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) Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.065, as follows:

Sec. 531.065. CONSOLIDATION AND COORDINATION OF HEALTH INSURANCE

PREMIUM PAYMENT REIMBURSEMENT PROGRAMS. (a) Requires HHSC to 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) Authorizes HHSC if cost-effective, to contract with a private entity to assist HHSC in developing and implementing a plan required by this section.

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

(c) Requires HHSC not later than January 1, 2004, to 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. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.067 as follows:

Sec. 531.067. PUBLIC ASSISTANCE HEALTH BENEFIT REVIEW AND DESIGN COMMITTEE. (a) Requires HHSC to appoint a Public Assistance Health Benefit Review and Design Committee (committee). Provides that the committee consists of nine representatives of health care providers participating in the Medicaid program or the child health plan program, or both. Requires the committee membership to include at least three representatives from each program.

(b) Requires the commissioner of health and human services to designate one member to serve as presiding officer for a term of two years.

(c) Requires the committee to meet at the call of the presiding officer.

(d) Requires the committee to review and provide recommendations to HHSC regarding health benefits and coverages provided under the state Medicaid program, the child health plan program, and any other income-based health care program administered by HHSC or a health and human services agency. Requires the committee in performing its duties under this subsection, to review prescription drug benefits provided under each of the programs; and review procedures for addressing high utilization of benefits by recipients.

(e) Requires HHSC to provide administrative support and resources as necessary for the committee to perform its duties under this section.

(f) Provides that Section 2110.008 does not apply to the committee.

(g) Authorizes HHSC, in performing the duties under this section, to design and implement a program to improve and monitor clinical and functional outcomes of a recipient of services under the state child health plan or medical assistance program. Authorizes the program to use financial, clinical, and other criteria based on pharmacy, medical services, and other claims data related to the child health plan or the state medical assistance program. Requires HHSC to report to the committee on the fiscal impact, including any savings associated with the strategies utilized under this section.

SECTION 2.09. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.068, as follows:

Sec. 531.068. MEDICAID OR OTHER HEALTH BENEFIT COVERAGE. Provides that 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 HHSC or a health and human services agency, HHSC 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. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.069, as follows:

Sec. 531.069. PERIODIC REVIEW OF VENDOR DRUG PROGRAM. (a) Requires HHSC to 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) Requires HHSC, in making the determination required by Subsection (a), to consider the value of any prescription drug rebates received by the state.

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

Sec. 531.070. SUPPLEMENTAL REBATES. Defines “labeler," "manufacturer," and "wholesaler."

(b) Defines for purposes of this section "supplemental rebates."

(c) Authorizes HHSC to enter into a written agreement with a manufacturer to accept certain program benefits in lieu of supplemental rebates, as such term is defined herein, only if certain conditions exist.

(d) Provides that for the purposes of this section, a program benefit may mean disease management programs authorized under this title, drug product donation programs, drug utilization control programs, prescriber and beneficiary counseling and education, fraud and abuse initiatives, and other services or administrative investments with guaranteed savings to a program operated by a health and human services agency.

(e) Requires such program investments other than as required to satisfy the provisions of this section, to be deemed an alternative to, and not the equivalent of, supplemental rebates and to be treated in the state's submissions to the federal government (including, as appropriate, waiver requests and quarterly Medicaid claims) so as to maximize the availability of federal matching payments.

(f) Provides that agreements by HHSC to accept program benefits as defined by this section: may not prohibit HHSC from entering into similar agreements related to different drug classes with other entities; shall be limited to a time period expressly determined by HHSC; and may only cover products that have received approval by the Federal Drug Administration at the time of the agreement, and new products approved after the agreement may be incorporated only under an amendment to the agreement.

(g) Authorizes HHSC, for the purposes of this section, to consider a monetary contribution or donation to the arrangements described in Subsection (b) for the purpose of offsetting expenditures to other state health care programs, but which funding shall not be used to offset expenditures for covered outpatient drugs as defined by 42 U.S.C. Section 1396r-8(k)(2) under the vendor drug program. Prohibits an arrangement under this subsection from yielding less than the amount the state would have benefited under a supplemental rebate. Authorizes HHSC to consider an arrangement under this section as satisfying the requirements related

to Section 531.072(b).

(h) Requires HHSC, subject to Subsection (i), to negotiate with manufacturers and labelers, including generic manufacturers and labelers, to obtain supplemental rebates for prescription drugs sold in this state.

(i) Authorizes HHSC to by contract authorize a private entity to negotiate with manufacturers and labelers on behalf of HHSC.

(j) Authorizes a manufacturer or labeler that sells prescription drugs in this state to voluntarily negotiate with HHSC and enter into an agreement to provide supplemental rebates for prescription drugs provided under certain programs.

(k) Requires HHSC, in negotiating terms for a supplemental rebate amount, to consider certain factors.

(l) Requires HHSC to provide a written report to the legislature and the governor each year. Requires the report to cover certain information.

(m) Requires HHSC in negotiating terms for a supplemental rebate, to utilize 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) Requires HHSC, not later than January 1, 2004, to implement Section 531.070, Government Code, as added by this section.

SECTION 2.12. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.071, as follows:

Sec. 531.071. CONFIDENTIALITY OF INFORMATION REGARDING DRUG REBATES, PRICING, AND NEGOTIATIONS. (a) Provides that notwithstanding any other state law, information obtained or maintained by HHSC 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, Government Code.

(b) Provides that information that is confidential under Subsection (a) includes information described by Subsection (a) that is obtained or maintained by HHSC 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.

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

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

Sec. 531.072. PREFERRED DRUG LISTS FOR MEDICAID AND CHILD HEALTH PLAN PROGRAMS. (a) Requires HHSC, 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.

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

(c) Requires HHSC, in making a decision regarding the placement of a drug on

each of the preferred drug lists, to consider certain factors.

(d) Requires HHSC to provide for the distribution of current copies of the preferred drug lists to all appropriate health care providers in this state by posting the list on the Internet. Requires HHSC, in addition, to mail copies of the lists to any health care provider on request of that provider.

(e) Defines "labeler" and "manufacturer." Requires HHSC to ensure that: a manufacturer or labeler may submit written evidence supporting the inclusion of a drug on the preferred drug lists before a supplemental agreement is reached with HHSC; and any drug that has been approved or has had any of its particular uses approved by the United States Food and Drug Administration under a priority review classification will be reviewed by the Pharmaceutical and Therapeutics Committee (PT committee) at the next regularly scheduled meeting of the PT committee. Requires HHSC, on receiving notice from a manufacturer or labeler of the availability of a new product, to the extent possible, to schedule a review for the product at the next regularly scheduled meeting of the PT committee.

(f) Authorizes a recipient of drug benefits under the Medicaid vendor drug program to appeal a denial of prior authorization under Section 531.073 of a covered drug or covered dosage through the Medicaid fair hearing process.

(b) Requires HHSC, not later than March 1, 2004, to adopt the preferred drug lists as required by Section 531.072, Government Code, as added by this section.

SECTION 2.14. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.073, as follows:

Sec. 531.073. PRIOR AUTHORIZATION FOR CERTAIN PRESCRIPTION DRUGS. (a) Requires HHSC, in its rules and standards governing the Medicaid vendor drug program and the child 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. Requires HHSC to require that the prior authorization be obtained by the prescribing physician.

(a-1) Requires HHSC to delay requiring a prior authorization for drugs listed in Subsection (a-2) until HHSC has completed a study evaluating the impact of a requirement of prior authorization on the recipients of certain drug classes.

(a-2) Provides that drugs subject to the study in Subsection (a-1) include drugs used in the treatment of: cancer and cancer-supportive care; end-stage renal disease; chronic nonmalignant pain; hemophilia; and multiple sclerosis.

(b) Requires HHSC to 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, requires the procedures to ensure that: a prior authorization requirement is not imposed for a drug before the drug has been considered at a meeting of the PT committee established under Section 531.074; 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 a 72-hour supply of the drug prescribed will be provided in an emergency or if HHSC does not provide a response within the time required by Subdivision (2).

(c) Requires HHSC to 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 HHSC or for a person who becomes eligible under the child health plan program, the Medicaid program, or another state program administered by HHSC 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 HHSC has expired, whichever occurs first.

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

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

(f) Requires HHSC to 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) Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.074, as follows:

Sec. 531.074. PHARMACEUTICAL AND THERAPEUTICS COMMITTEE. (a) Provides that the Pharmaceutical and Therapeutics Committee (PT committee) is established 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.

(b) Provides that the PT committee consists of certain members appointed by the governor.

(c) Requires the governor in making appointments to the PT committee under Subsection (b), to ensure that the committee includes physicians and pharmacists who meet certain requirements.

(d) Provides that a member of the PT committee is appointed for a two-year term and may serve more than one term.

(e) Requires the governor to appoint a physician to be the presiding officer of the PT committee. The presiding officer serves at the pleasure of the governor.

(f) Requires the PT committee to meet at least monthly during the six-month period following establishment of the committee to enable the committee to develop recommendations for the initial preferred drug lists. Requires the PT committee after that period, to meet at least quarterly and at other times at the call of the presiding officer or a majority of the PT committee members.

(g) Prohibits a member of the PT committee from receiving compensation for serving on the PT committee but entitles the member to reimbursement for reasonable and necessary travel expenses incurred by the member while conducting the business of the PT committee, as provided by the General Appropriations Act.

(h) Requires the PT committee, in developing its recommendations for the preferred drug lists, to consider the clinical efficacy, safety, cost-effectiveness, and any program benefit associated with a product.

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

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

(k) Requires HHSC to provide administrative support and resources as necessary for the PT committee to perform its duties.

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

(b) Requires the governor, not later than November 1, 2003, to appoint members to the PT committee established under Section 531.074, Government Code, as added by this section.

(c) Requires the PT committee established under Section 531.074, Government Code, as added by this section, not later than January 1, 2004, to submit recommendations for the preferred drug lists the PT committee is required to develop under that section to HHSC.

SECTION 2.16. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.075, as follows:

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

SECTION 2.17. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.076, as follows:

Sec. 531.076. UP TO SIX-BED FACILITY MODEL AUTHORIZED. (a) Requires HHSC 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.

(b) Requires the plan described in this section to provide for retaining a three-bed facility model and a planned, organized transition from the four-bed facility model to the six-bed facility model, which shall include certain factors.

(c) Requires the plan to be developed with the assistance of a work group which shall include members of the staff of HHSC, representatives of public providers, private providers, and advocates. Requires the plan to be submitted to the Governor's Office of Budget and Planning, the House Appropriations Committee, and the Senate Finance Committee not later than September 1, 2004.

SECTION 2.18. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.077, as follows:

Sec. 531.077. MEDICAID PROGRAM. (a) Requires the commissioner of health and

human services to ensure that the state Medicaid program implements 42 U.S.C. Section 1396p(b)(1).

(b) Provides that the Medicaid account is an account in the general revenue fund. Requires any funds recovered by implementing 42 U.S.C. Section 1396p(b)(1) to be deposited in the Medicaid account. Authorizes money in the account to be appropriated only to fund long-term care, including community-based care and facility-based care.

SECTION 2.19. (a) Amends Section 531.101, Government Code, as follows:

Sec. 531.101. AWARD FOR REPORTING MEDICAID FRAUD, ABUSE, OR OVERCHARGES. (a) Authorizes HHSC to 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 HHSC determines that the disclosure results in the recovery of an administrative penalty imposed under Section 32.039, Human Resources Code. Prohibits HHSC from granting an award to an individual in connection with a report if HHSC or the attorney general had independent knowledge of the activity reported by the individual. Deletes text regarding overcharge or in the termination of the fraudulent activity or abuse of funds.

(b) Requires HHSC to determine the amount of an award. Prohibits the award from exceeding five percent of the amount of the administrative penalty imposed under Section 32.039, Human Resources Code, rather than requiring it to be equal to not less than 10 percent of the savings to this state that resulted from the individual's disclosure. Requires HHSC, in determining the amount of the award, to consider how important the disclosure is in ensuring the fiscal integrity of the program. Authorizes HHSC to also consider whether the individual participated in the fraud, abuse, or overcharge.

Deletes existing text to Subsections (c) and (d) and redesignates Subsection (e) as (c).

(b) Provides that 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. Provides that 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 2.20. (a) Section 531.102, Government Code, as follows:

Sec. 531.102. New heading: OFFICE OF INSPECTOR GENERAL. (a) Provides that HHSC, through HHSC's office of inspector general (office) rather than through 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. Authorizes HHSC to obtain any information or technology necessary to enable the office to meet its responsibilities under this subchapter or other law.

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

(b) Requires HHSC, in consultation with the inspector general, to set clear objectives, priorities, and performance standards for the office that emphasize: coordinating investigative efforts to aggressively recover money; allocating resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money; and maximizing opportunities for referral of cases to the office of the attorney general in accordance with Section 531.103.

(c) Requires HHSC to train office staff to enable the staff to pursue priority Medicaid and other health and human services rather than welfare fraud and abuse cases as necessary.

(d) Authorizes HHSC to require employees of health and human services agencies to provide assistance to the office rather than to HHSC in connection with the office's rather than HHSC'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) Requires HHSC, in consultation with the inspector general, by rule to set specific claims criteria that, when met, require the office to begin an investigation.

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

(2) Requires the office to take certain action, as appropriate, 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, not later than the 30th day after the completion of the integrity review.

(g)(1) Requires the office, in addition to other instances authorized under state or federal law, to impose without prior notice a hold on payment of claims for reimbursement submitted by a provider to compel production of records or when requested by the state's Medicaid fraud control unit, as applicable. Requires the office to notify the provider of the hold on payment not later than the fifth working day after the date the payment hold is imposed.

(2) Requires the office to, in consultation with the state's Medicaid fraud control unit, establish guidelines under which holds on payment or program exclusions: may permissively be imposed on a provider or are required to automatically be imposed on a provider.

(3) Requires the office, 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, to immediately refer the case to the state's Medicaid fraud control unit. Provides, however, 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.

(h) Authorizes the office, in addition to performing functions and duties otherwise provided by law, to take certain actions.

(i) Provides that notwithstanding any other provision of law, a reference in law or rule to HHSC's office of investigations and enforcement means the office of inspector general established under this section.

(b) Requires the governor as soon as possible after the effective date of this section, to appoint a person to serve as inspector general in accordance with Section 531.102, Government Code, as amended by this section. Provides that the initial term of the person appointed in accordance with this subsection expires February 1, 2005.

SECTION 2.21. Amends Subchapter C, Chapter 531, Government Code, by adding Section 531.1021 as follows:

Sec. 531.1021. SUBPOENAS. (a) Authorizes the office of inspector general to request that the commissioner of health and human services or the commissioner's designee approve the issuance by the office of a subpoena in connection with an investigation conducted by the office. Authorizes the office, if the request is approved, to 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) Authorizes a subpoena to be served personally or by certified mail.

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

(d) Requires the court on finding that good cause exists for issuing the subpoena, to order the person to comply with the subpoena. Authorizes the court to punish a person who fails to obey the court order.

(e) Requires the office to 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) Provides that the reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103.

(g) Provides that 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 2.22. (a) Amends Section 531.103, Government Code, as follows:

Sec. 531.103. INTERAGENCY COORDINATION. (a) Requires HHSC, acting through its office of inspector general, and the office of the attorney general to 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 HHSC 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. Requires the memorandum of understanding to require certain actions from certain entities.

(b) Provides that an exchange of information under this section between the office of the attorney general and HHSC, 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) Requires HHSC and the office of the attorney general to jointly prepare and submit a semiannual report to the governor, lieutenant governor, 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 HHSC or a health and human services agency. Makes a nonsubstantive change.

(d) No change to this subsection.

(e) Requires the memorandum of understanding required by this section, in addition to the provisions required by Subsection (a), to 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 to include procedures to facilitate the referral of cases directly to the office of the attorney general. Deletes existing text relating to requiring HHSC to refer a case of suspected fraud, waste, or abuse under the state Medicaid program to certain persons under certain conditions and the subsequent actions to be taken.

(f) Authorizes a district attorney, county attorney, city attorney, or private collection agency to collect and retain costs associated with a 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) Requires the office of the attorney general and HHSC to amend the memorandum of understanding required by Section 531.103, Government Code, as necessary to comply with that section, as amended by this section, not later than December 1, 2003.

SECTION 2.23. Amends Section 531.104(b), Government Code, to require the memorandum of understanding to specify the type, scope, and format of the investigative support provided to the attorney general under this section. Deletes language stating that the commission is not required to provide investigative support in more than 100 open investigations in a fiscal year.

SECTION 2.24. (a) Amends Subchapter C, Chapter 531, Government Code, by adding Section 531.1063, as follows:

Sec. 531.1063. MEDICAID FRAUD PILOT PROGRAM. (a) Requires HHSC, with cooperation from TDHS, to 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) Requires the program to be designed to reduce the number of fraud cases arising from authentication fraud and abuse; the total amount of Medicaid expenditures; and the number of fraudulent participants.

(c) Requires the program to include: 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; a secure finger-imaging system that is HIPPA compliant 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, with fingerprint images collected as part of the program to only be placed on the smart card; and a monitoring system.

(d) Requires the program and all associated hardware and software to easily integrate into participant settings and 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, to ensure reliability.

(e) Authorizes HHSCto extend the program to additional counties if it determines that expansion would be cost-effective.

(b) Requires HHSC to begin implementation of the program required by Section 531.1063, Government Code, as added by this section, not later than January 1, 2004.

(c) Requires HHSC to report to certain persons regarding the program required by Section 531.1063, Government Code, as added by this section, not later than February 1, 2005. Requires the report to include an identification and evaluation of the benefits of the program and recommendations regarding expanding the program statewide.

SECTION 2.24A. Amends Section 531.107(b), Government Code, to include a representative of TDH, appointed by the commissioner of public health, to the task force.

SECTION 2.25. (a) Amends Subchapter C, Chapter 531, Government Code, by adding Section 531.113, as follows:

Sec. 531.113. MANAGED CARE ORGANIZATIONS: SPECIAL INVESTIGATIVE UNITS OR CONTRACTS. (a) Requires 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, to perform certain functions.

(b) Requires each managed care organization subject to this section to adopt a plan to prevent and reduce fraud and abuse and annually file that plan with HHSC's office of inspector general for approval. Requires the plan to include certain information.

(c) Requires the managed care organization to file with HHSC's office of inspector general certain information, 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).

(d) Authorizes HHSC's office of inspector general to review the records of a managed care organization to determine compliance with this section.

(e) Requires the commissioner of health and human services to adopt rules as necessary to accomplish the purposes of this section.

(b) Requires a managed care organization subject to Section 531.113, Government Code, as added by this section, to comply with the requirements of that section not later than September 1, 2004.

SECTION 2.26. (a) Amends Subchapter C, Chapter 531, Government Code, by adding Section 531.114, as follows:

Sec. 531.114. FINANCIAL ASSISTANCE FRAUD. (a) Prohibits a person from intentionally making a statement that the person knows is false or misleading, misrepresenting, concealing, or withholding a fact, or knowingly misrepresenting a statement as being true, 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.

(b) Requires HHSC to take certain actions, if after an investigation it determines that a person violated Subsection (a).

(c) Provides that 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). Authorizes a person who a hearing officer determines violated Subsection (a) to 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) Provides that a person determined under Subsection (c) to have violated Subsection (a) is not eligible for financial assistance: before the first anniversary of the date of that determination, if the person has no previous violations; and permanently, if the person was previously determined to have committed a violation.

(e) Provides that 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) Provides that 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) Requires HHSC to adopt rules as necessary to implement this section.

(b) Makes application of Section 531.114, Government Code, as added by this section, prospective.

SECTION 2.27. Amends Subchapter C, Chapter 531, Government Code, by adding Section 531.115, as follows:

Sec. 531.115. FEDERAL FELONY MATCH. Requires HHSC to 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. Amends Subchapter C, Chapter 531, Government Code, by adding Section 531.116, as follows:

Sec. 531.116. COMPLIANCE WITH LAW PROHIBITING SOLICITATION. Provides that 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. Amends Subchapter A, Chapter 533, Government Code, by adding Section 533.0025, as follows:

Sec. 533.0025. DELIVERY OF SERVICES. (a) Provides that in this section, "medical assistance" has the meaning assigned by Section 32.003, Human Resources Code.

(b) Requires HHSC, except as otherwise provided by this section and notwithstanding any other law, to provide medical assistance for acute care through the most cost-effective model of Medicaid managed care as determined by HHSC. Authorizes HHSC to provide medical assistance for acute care in a certain part of this state or to a certain population of recipients using certain health care models, if HHSC determines that it is more cost-effective.

(c) Requires the commissioner of health and human services to consider certain information in determining whether a model or arrangement described by Subsection (b) is more cost-effective.

(d) Requires HHSC, if it 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, to provide medical assistance for acute care through a traditional fee-for-service arrangement.

(e) Prohibits HHSC, notwithstanding Subsection (b)(1), from providing medical assistance using a health maintenance organization model, including Medicaid Star + Plus pilot programs, in Cameron County, Hidalgo County, Webb County, or Maverick County.

SECTION 2.30. Amends Subchapter A, Chapter 533, Government Code, by adding Section 533.0132, as follows:

Sec. 533.0132. STATE TAXES. Requires HHSC to 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. Amends Sections 403.105(a) and (c), Government Code, as follows:

(a) Makes a conforming change.

(c) Includes the provision of coordinated essential public health services administered by TDH as a service for which available earnings of the fund may be appropriated to TDH. Makes conforming changes.

SECTION 2.32. Amends the heading to Section 403.105, Government Code, to read as follows:

Sec. 403.105. PERMANENT FUND FOR HEALTH AND TOBACCO EDUCATION AND ENFORCEMENT.

SECTION 2.33. Amends Section 403.1055(c), Government Code, to include among the purposes for which available earnings of the fund may be appropriated to TDH provisions of 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. (a) Provides that effective September 1, 2003, Section 466.408(b), Government Code, is amended require that if a claim is not made for lottery prize money on or before the 180th day after the date on which the winner was selected, the prize money be used in a certain order of priority.

(b) Effective September 1, 2005, Section 466.408(b), Government Code, is reenacted as follows:

(b) Requires the prize money to be deposited to the credit of the TDH state-owned multicategorical teaching hospital account or the tertiary care facility account in a certain manner if a claim is not made for prize money on or before the 180th day after the date on which the winner was selected.

(c) Provides that it is the intent of the legislature that HHSC, to the extent possible, is required to take all action necessary to provide the highest level of possible financial support to providing community care services and support for the aging, as appropriate to reflect the legislature's priority for those programs reflected in the General Appropriations Act.

SECTION 2.35. Amends Section 533.005, Government Code, by adding Subdivision (11) to require a managed care organization to pay an out-of-network provider for emergency and all poststabilization services at a certain rate.

SECTION 2.36. Amends Section 533.012(a), Government Code, to require each managed care organization contracting with HHSC under this chapter to submit to HHSC 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 HHSC to determine the actual cost of administering the managed care plan. Makes conforming changes.

SECTION 2.37. Amends the heading to Subchapter C, Chapter 531, Government Code, to read as follows:

SUBCHAPTER C. MEDICAID AND OTHER HEALTH AND HUMAN SERVICES FRAUD, ABUSE, OR OVERCHARGES

SECTION 2.37A. Amends Subchapter C, Chapter 531, Government Code, by adding Section 531.1011, as follows:

Sec. 531.1011. DEFINITIONS. Defines "fraud," "hold on payment," "practitioner," "program exclusion," and "provider."

SECTION 2.38. (a) Amends Subchapter B, Chapter 12, Health and Safety Code, by adding Sections 12.0111 and 12.0112, as follows:

Sec. 12.0111. LICENSING FEES. (a) Provides that this section applies in relation to each licensing program administered by the Texas Department of Health (TDH) or administered by a regulatory board or other agency that is under the jurisdiction of TDH or administratively attached to TDH. Provides that in this section and Section 12.0112, "license" includes a permit, certificate, or registration.

(b) Requires TDH to charge a fee for issuing or renewing a license that is in an amount designed to allow TDH to recover from its license holders all of TDH's direct and indirect costs in administering and enforcing the applicable licensing program, notwithstanding other law.

(c) Requires each regulatory board or other agency that is under the jurisdiction of TDH or administratively attached to TDH and that issues licenses to charge a fee for issuing or renewing a license that is in an amount designed to allow TDH and the regulatory board or agency to recover from the license holders all of the direct and indirect costs to TDH and to the regulatory board or agency in administering and enforcing the applicable licensing program, notwithstanding other law

(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 a person regulated under Chapter 773.

Sec. 12.0112. TERM OF LICENSE. Provides that, notwithstanding other law, the term of each license issued by TDH, or by a regulatory board or other agency that is under the jurisdiction of TDH or administratively attached to TDH, is two years.

(b) Provides that 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 TDH, or by a regulatory board or other agency that is under the jurisdiction of TDH or administratively attached to TDH, on or after January 1, 2004.

(c) Provides that 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 2.39. Amends Sections 62.055(a), (d), and (e), Health and Safety Code, as follows:

(a) Deletes “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" as an entity HHSC is authorized to contract with in administering the child health plan.

(d) and (e) Make conforming changes.

SECTION 2.40. (a) Amends Subchapter B, Chapter 62, Health and Safety Code, by adding Section 62.0582, as follows:

Sec. 62.0582. THIRD-PARTY BILLING VENDORS. (a) Prohibits a third-party billing vendor from submitting a claim with HHSC for payment on behalf of a health plan provider under the program unless the vendor has entered into a contract with HHSC authorizing that activity.

(b) Requires the contract to contain provisions comparable to the provisions contained in contracts between HHSC and health plan providers, with an emphasis on provisions designed to prevent fraud or abuse under the program, to the extent practical. Requires, at a minimum, the contract to require the third-party billing vendor to follow certain requirements.

(c) Requires HHSC 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. Requires the notice to include detailed information regarding the claim submitted on behalf of the provider and require the provider to review the claim for accuracy and notify the commission promptly regarding any errors.

(d) Requires HHSC to take all action necessary, including any modifications of HHSC'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) Requires HHSC to audit each third-party billing vendor subject to this section at least annually to prevent fraud and abuse under the program.

(b) Provides that Section 62.0582, Health and Safety Code, as added by this section, takes effect January 1, 2004.

SECTION 2.41. Amends Section 62.002(4), Health and Safety Code, to redefine "net family income."

SECTION 2.42. Amends Sections 62.101(b) and (c), Health and Safety Code, as follows:

(b) Requires HHSC to 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 net family income is at or below 165, rather than 200, percent of the federal poverty level is eligible for health benefits coverage under the program, unless different income eligibility levels are prescribed by the General Appropriations Act.

(c) Requires the commissioner of health and human services to take certain actions, in the event that appropriated money is insufficient to sustain enrollment at the authorized eligibility level or enrollment exceeds the number of children authorized to be enrolled in the child health plan under the General Appropriations Act.

SECTION 2.43. Amends Section 62.1015(b), Health and Safety Code, to provide that a child enrolled in the child health plan under this section 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 2.44. Amends Section 62.102, Health and Safety Code, as follows:

Sec. 62.102. CONTINUOUS COVERAGE. Requires HHSC to 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 the end of a period, not to exceed 180 days, rather than 12 months, following the date of the eligibility determination or the individual's 19th birthday.

SECTION 2.45. Amends Section 62.151, Health and Safety Code, by amending Subsection (b) and adding Subsections (e) and (f), as follows:

(b) Replaces "the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code" with "Chapter 1551, Insurance Code" relating to health maintenance organizations. Deletes language requiring the child health plan to provide certain benefits.

(e) Requires HHSC, in developing the covered benefits, to seek input from the Public Assistance Health Benefit Review and Design Committee established under Section 531.067, Government Code.

(f) Authorizes HHSC, if it determines the policy to be cost-effective, to ensure that an enrolled child does not, unless authorized by HHSC in consultation with the child's attending physician or advanced practice nurse, receive under the child health plan more than four different outpatient brand-name prescription drugs during a month or more than a 34-day supply of a brand-name prescription drug at any one time.

SECTION 2.46. Amends Section 62.153, Health and Safety Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Provides an exception.

(d) Authorizes cost-sharing provisions adopted under this section to be determined based on the maximum level authorized under federal law and applied to income levels in a manner that minimizes administrative costs.

SECTION 2.47. (a) Amends the heading to Section 62.154, Health and Safety Code, to read as follows:

Sec. 62.154. WAITING PERIOD; CROWD OUT.

(b) Amends Sections 62.154(a), (b), and (d), Health and Safety Code, as follows:

(a) Makes a nonsubstantive change.

(b) Provides that a child is not subject to a waiting period adopted under Subsection (a) if 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 HHSC. Makes conforming changes.

(d) Requires the waiting period required by Subsection (a) to extend for a period of 90 days after the date on which the applicant is enrolled under the child health plan, rather than was covered under a health benefits plan. Deletes "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 2.48. Amends Sections 62.155(c) and (d), Health and Safety Code, as follows:

(c) Authorizes HHSC to give preference to a person who provides similar coverage under the Medicaid program in selecting a health plan provider, but not through the Texas Healthy Kids Corporation and requires HHSC to provide for a choice of not more than, rather than at least, two health plan providers in each service, rather than metropolitan area.

(d) Makes conforming changes.

SECTION 2.49. Amends Subchapter D, Chapter 62, Health and Safety Code, by adding Section 62.158, as follows:

Sec. 62.158. STATE TAXES. Requires HHSC to 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 2.50. Amends Section 142.003(a), Health and Safety Code, to include in the list of persons that need not be licensed under this chapter a person who provides 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 MHMR.

SECTION 2.51. Amends Section 142.009(j), Health and Safety Code, to remove Subsection (i) as an exception.

SECTION 2.52. (a) Amends Section 242.047, Health and Safety Code, as follows:

Sec. 242.047. New heading: ACCREDITATION REVIEW TO SATISFY INSPECTION OR CERTIFICATION REQUIREMENTS. (a) Requires TDHS to 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 certain conditions apply.

(b) Requires TDHS to coordinate its licensing and certification activities with HHSC.

(c) Requires TDHS and HHSC to sign a memorandum of agreement to implement this section. Requires the memorandum to 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 Texas Board of Human Services.

(d) Provides that except as specifically provided by this section, this section does not limit TDHS 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) Provides that this section does not require a nursing home to obtain accreditation from HHSC.

(b) Requires TDHS, not later than October 1, 2003, to take certain actions.

(c) Requires TDHS, not later than December 1, 2003, to report its progress under Subsection (b) of this section to the governor and to the presiding officer of each house of the legislature.

SECTION 2.53. (a) Amends Section 242.063(d), Health and Safety Code, to require, rather than authorizes, a suit for a temporary restraining order or other injunctive relief to be brought in the county in which the alleged violation occurs. Deletes text relating to Chapter 15, Civil Practice and Remedies Code, or Section 65.023, Civil Practice and Remedies Code as providing exceptions to this subchapter. Deletes existing text relating to requiring a suit for a temporary restraining order or other injunctive relief to be brought in Travis County.

(b) Repealer: Section 242.063(e), Health and Safety Code.

(c) Makes application of the changes in law made by this section to Section 242.063(d), Health and Safety Code, prospective.

SECTION 2.54. Amends Section 242.065(b), Health and Safety Code, to require the trier of fact to consider certain information, in determining the amount of a penalty to be awarded under this section.

SECTION 2.55. (a) Amends Section 242.070, Health and Safety Code, as follows:

Sec. 242.070. APPLICATION OF OTHER LAW. Prohibits TDHS from assessing more than one monetary penalty under this chapter and Chapter 32, Human Resources Code, for a violation arising out of the same act or failure to act, except as provided by Section 242.0665(c). Authorizes TDHS to assess the greater of a monetary penalty under this chapter or, rather than and, a monetary penalty under Chapter 32, Human Resources Code, for the same act or failure to act.

(b) Makes application of the change in law made by this section to Section 242.070, Health and Safety Code, prospective.

SECTION 2.56. Section 242.601(a), Health and Safety Code, to require an institution to establish medication administration procedures. Deletes existing text relating to establishing medication administration procedures to ensure certain conditions are met.

SECTION 2.57. Amends Section 242.603(a), Health and Safety Code, to require an institution to store medications under appropriate conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security. Deletes existing text relating to the storage procedures for certain poisons and medications.

SECTION 2.58. (a) Amends Section 245.004(a), Health and Safety Code, to provide that certain facilities need not be licensed under this chapter.

(b) Requires 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, to obtain that license not later than January 1, 2004.

SECTION 2.59. (a) Amends Section 252.202(a), Health and Safety Code, to provide that a quality assurance fee is imposed on each facility for which a license fee must be paid under Section 252.034, 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 MHMR. Provides that the fee is a certain amount, payable monthly, and is in addition to other fees imposed under this chapter.

(b) Requires each facility owned by MHMR, not later than January 1, 2004, to 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.

SECTION 2.60. Amends Section 252.203, Health and Safety Code, to delete certain beds on hold from the formula for determining the number of patient days.

SECTION 2.61. Amends Section 252.204(b), Health and Safety Code, to require each facility to take certain actions by certain dates.

SECTION 2.62. Amends Sections 252.207(a) and (c), Health and Safety Code, as follows:

(a) Authorizes, rather than requires HHSC, subject to legislative appropriation and state and federal law, to use money in the quality assurance fund, together with any federal money available to match that money for certain purposes.

(c) Requires HHSC, if money in the quality assurance fund is used to increase a reimbursement rate in the Medicaid program, to 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 provides incentives to increase direct care staffing and direct care wages and benefits. Deletes existing text relating to the formula devised under Subsection (b).

SECTION 2.63. Amends Section 253.008, Health and Safety Code, as follows:

Sec. 253.008. VERIFICATION OF EMPLOYABILITY. (a) Requires an agency licensed under Chapter 142, or a person exempt from licensing under Section 142.003(a)(19), before hiring an employee, to 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, rather than the 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). Makes nonsubstantive changes.

(b) Makes conforming and nonsubstantive changes.

SECTION 2.64. Amends Section 253.009(a), Health and Safety Code, to make conforming and nonsubstantive changes.

SECTION 2.65. (a) Amends Chapter 285, Health and Safety Code, by adding Subchapter M as follows:

SUBCHAPTER M. PROVISION OF SERVICES

Sec. 285.201. PROVISION OF MEDICAL AND HOSPITAL CARE. Provides that 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. Provides that 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 sections effective date: upon passage or September 1, 2003.

SECTION 2.66. Amends Section 431.021(w), Health and Safety Code, to provide that the act of or the causing of the acceptance by a person, except as provided under Subchapter M of this chapter and Section 562.1085, Occupations Code, 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 is unlawful and prohibited.

SECTION 2.67. (a) Amends Section 461.018(b), Health and Safety Code, to require the Texas Commission on Alcohol and Drug Abuse to include certain information.

(b) Repealer: Section 466.251(b) (Tickets), Government Code, and Section 2001.417(b) (Toll-Free Help), Occupations Code.

SECTION 2.68. Amends Section 533.034, Health and Safety Code, as follows:

Sec. 533.034. AUTHORITY TO CONTRACT FOR COMMUNITY-BASED SERVICES. (a) Creates this subsection from existing text.

(b) Authorizes MHMR to 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 MHMR and monitored by MHMR or by a designated local authority in accordance with standards adopted by MHMR. Provides that this subsection expires September 1, 2005.

SECTION 2.69. Amends Section 533.035, Health and Safety Code, by amending Subsection (c) and by adding Subsections (e), (f), and (g), as follows:

(c) Deletes language requiring a local health and mental retardation authority to consider public input in determining whether to become a provider of a service or to contract that service to another organization. Makes a conforming change.

(e) Authorizes a local mental health and mental retardation authority to serve as a provider of services only as a provider of last resort, in assembling a network of service providers, and only if the authority demonstrates to MHMR that 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 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) Requires MHMR to review the appropriateness of a local mental health and mental retardation authority's status as a service provider at least annually.

(g) Requires MHMR, together with local mental health and mental retardation authorities and other interested persons, 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. Requires the transfer of services to private providers to occur on or before August 31, 2004. Requires the plan to provide certain criteria.

SECTION 2.70. Amends Subchapter B, Chapter 533, Health and Safety Code, by adding Section 533.0354, as follows:

Sec. 533.0354. DISEASE MANAGEMENT PRACTICES AND JAIL DIVERSION MEASURES OF LOCAL MENTAL HEALTH AUTHORITIES. (a) Requires a local mental health authority to provide 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. Requires the local mental health authority to engage an individual with certain treatment services.

(b) Requires MHMR to 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) Requires MHMR to enter into performance contracts between MHMR 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) Requires MHMR to study the implementation of disease management practices, including the jail diversion measures, and to 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. Requires the report to be delivered not later than December 31, 2004, and to include specific information on certain items.

(e) Authorizes MHMR to use the fiscal year ending August 31, 2004, as a transition period for implementing the requirements of Subsections (a)-(c).

SECTION 2.71. Amends Subchapter B, Chapter 533, Health and Safety Code, by adding Section 533.0355, as follows:

Sec. 533.0355. ALLOCATION OF DUTIES UNDER CERTAIN MEDICAID WAIVER PROGRAMS. (a) Defines "waiver program."

(b) Requires a provider of services under the waiver program to perform certain functions.

(c) Requires a local mental retardation authority to perform certain functions.

(d) Requires MHMR 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). Provides that administrative functions performed by MHMR include any surveying, certification, and utilization review functions required under the waiver program.

(e) Requires MHMR 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. Requires the review to include a comparison of fees paid before the implementation of this section with fees paid after the implementation of this section. Authorizes MHMR to adjust fees paid based on that review.

(f) Requires MHMR 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.

(g) Authorizes MHMR to adopt rules governing the functions of a local mental retardation authority or service provider under this section.

SECTION 2.72. (a) Amends Subchapter B, Chapter 533, Health and Safety Code, by adding Section 533.049, as follows:

Sec. 533.049. PRIVATIZATION OF STATE SCHOOL. (a) Authorizes MHMR, after August 31, 2004, and before September 1, 2005, to contract with a private service provider to operate a state school under certain circumstances.

(b) Requires MHMR, on or before April 1, 2004, to report to the commissioner of health and human services whether MHMR has received a proposal by a private service provider to operate a state school. Requires the report to 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 MHMR, and an analysis of the

projected savings under a proposed contract with the provider. Requires the savings analysis to include all MHMR costs to operate the state school, including costs, such as employee benefits, that are not appropriated to MHMR.

(c) Requires MHMR, the Governor's Office of Budget and Planning, and the Legislative Budget Board to identify sources of funding to be transferred to MHMR to fund the contract, if MHMR contracts with a private service provider to operate a state school.

(d) Authorizes MHMR to renew a contract under this section. Provides that the conditions listed in Subsections (a)(1)-(3) apply to the renewal of the contract.

(b) Provides that Section 533.049, Health and Safety Code, as added by this section, takes effect September 1, 2004.

SECTION 2.73. (a) Amends Subchapter B, Chapter 533, Health and Safety Code, by adding Section 533.050, as follows:

Sec. 533.050. PRIVATIZATION OF STATE MENTAL HOSPITAL. (a) Authorizes MHMR, after August 31, 2004, and before September 1, 2005, to contract with a private service provider to operate a state mental hospital owned by MHMR under certain conditions.

(b) Requires MHMR, on or before April 1, 2004, to report to HHSC whether MHMR has received a proposal by a private service provider to operate a state mental hospital. Requires the report to 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 MHMR, and an analysis of the projected savings under a proposed contract with the provider. Requires the savings analysis to include all MHMR costs to operate the hospital, including costs, such as employee benefits, that are not appropriated to MHMR.

(c) Requires, if MHMR contracts with a private service provider to operate a state mental hospital, MHMR, the Governor's Office of Budget and Planning, and the Legislative Budget Board to identify sources of funding to be transferred to MHMR to fund the contract.

(d) Authorizes MHMR to renew a contract under this section. Provides that the conditions listed in Subsections (a)(1)-(3) apply to the renewal of the contract.

(b) Provides that Section 533.050, Health and Safety Code, as added by this section, takes effect September 1, 2004.

SECTION 2.74. (a) Amends Subchapter C, Chapter 533, Health and Safety Code, by adding Sections 533.061 and 533.0611, as follows:

Sec. 533.061. REQUIRED CONTRACT PROVISIONS. (a) Requires MHMR to include in a contract with an ICF-MR program provider a provision stating that the contract terminates if MHMR imposes a vendor hold on payments made to the facility under the medical assistance program under Chapter 32, Human Resources Code, three times during an 18-month period.

(b) Requires MHMR to ensure that each provision of a contract with an intermediate care facility for the mentally retarded (ICF-MR) program provider is consistent with MHMR and TDHS rules that govern the program.

Sec. 533.0611. SANCTIONS. Requires, if TDHS recommends that a vendor hold be imposed on payments made to an ICF-MR program provider or that the contract with the

ICF-MR program provider be terminated, MHMR to immediately impose the vendor hold or terminate the contract, as appropriate, without conducting a further investigation or providing the program provider an opportunity to take corrective action.

(b) Provides that a rule adopted by MHMR before September 1, 2003, relating to the imposition of a vendor hold on payments made to an ICF-MR program provider or the cancellation of a contract with an ICF-MR program provider after the imposition of vendor holds, is repealed on September 1, 2003.

(c) Makes application of this Act prospective for Section 533.061, Health and Safety Code, as added by this section.

SECTION 2.75. Amends Section 533.084, Health and Safety Code, by adding Subsections (b-1) and (b-2), as follows:

(b-1) Provides that, notwithstanding Subsection (b) or any other law, the proceeds from the disposal of any surplus real property by MHMR that occurs before September 1, 2005, are not required to be deposited to the credit of MHMR in the Texas capital trust fund established under Chapter 2201, Government Code, and may be appropriated for any general governmental purpose.

(b-2) Provides that Subsection (b-1) and this subsection expire September 1, 2005.

SECTION 2.76. Amends Subchapter D, Chapter 533, Health and Safety Code, by adding Section 533.0844, as follows:

Sec. 533.0844. MENTAL HEALTH COMMUNITY SERVICES ACCOUNT. (a) Provides that the mental health community services account is an account in the general revenue fund to be appropriated only for the provision of mental health services by or under contract with MHMR.

(b) Requires MHMR to 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) Requires interest earned on the mental health community services account to be credited to the account. Provides that the account is exempt from the application of Section 403.095 (Use of Dedicated Revenue), Government Code.

SECTION 2.77. Amends Subchapter D, Chapter 533, Health and Safety Code, by adding Section 533.0846, as follows:

Sec. 533.0846. MENTAL RETARDATION COMMUNITY SERVICES ACCOUNT. (a) Provides that the mental retardation community services account is an account in the general revenue fund to be appropriated only for the provision of mental retardation services by or under contract with MHMR.

(b) Requires MHMR to 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) Requires that interest earned on the mental retardation community services account be credited to the account. Provides that the account is exempt from the application of Section 403.095, Government Code.

SECTION 2.78. Amends Section 534.001(b), Health and Safety Code, to make a nonsubstantive change.

SECTION 2.78A. Amends Section 535.002(b), Health and Safety Code, to change “authorities”

to “authority” and “the sole providers” to “a provider.”

SECTION 2.79. Amends Chapter 22, Human Resources Code, by adding Section 22.040, as follows:

Sec. 22.040. THIRD-PARTY INFORMATION. Authorizes TDHS, notwithstanding any other provision of this code, to 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. Provides that third-party information includes information obtained from certain sources.

SECTION 2.80. (a) Amends Section 31.0031, Human Resources Code, by amending Subsection (g) and adding Subsection (h), as follows:

(g) Defines “payee” and makes a nonsubstantive change.

(h) Requires TDHS to require each payee to sign a bill of responsibilities that defines the responsibilities of the state and of the payee. Requires the responsibility agreement to require that a payee comply with the requirements of Subsections (d)(1), (2), (5), (6), and (7).

SECTION 2.81. (a) Amends Sections 31.0032, 31.0033, and 31.0034, Human Resources Code, as follows:

Sec. 31.0032. New heading: PAYMENT OF ASSISTANCE AFTER PERFORMANCE. (a) Prohibits, except as provided by Section 31.0033 and notwithstanding any other law, a person for whom TDHS has made a determination of eligibility for financial assistance and for whom an initial payment of that assistance has been made from receiving any subsequent monthly payments of assistance for the person or the person's family until the person cooperates with the requirements of the responsibility agreement under Section 31.0031. Authorizes the person and the person's family to receive a financial assistance payment each month only if the person cooperated with those requirements during the previous month. Deletes language regarding investigations and penalties relating to the agreement.

(b) Requires TDHS to immediately notify the caretaker relative, second parent, or payee receiving the financial assistance if TDHS 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.

(c) Authorizes HHSC, 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. Prohibits medical assistance to the person's family from being denied for the individual's failure to cooperate. Provides that 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.

(d) Creates this subsection from existing text to provide that this section does not prohibit the Texas Workforce Commission (TWC), HHSC, or any health and human services agency, as defined by Section 531.001, Government Code, rather than TDHS, from providing medical assistance, child care, or any other 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.

(e) Requires TDHS by rule to establish procedures to determine whether a person

has cooperated with the requirements of the responsibility agreement during each one-month period.

Sec. 31.0033. New heading: GOOD CAUSE HEARING FOR FAILURE TO COOPERATE. (a) Authorizes, if TDHS or Title IV-D agency determines that a person has failed to cooperate with the requirements of the responsibility agreement under Section 31.0031 during a one-month period, a person determined to have failed to cooperate or, if different, the person receiving the financial assistance to request a hearing to show good cause for failure to cooperate not later than the 13th day after the date on which notice is received under Section 31.0032. Prohibits TDHS, 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 notice is received under Section 31.0032, from withholding or reducing the payment of financial assistance until the 31st day after TDHS receives the request, provided TDHS completes the hearing before the 31st day, or the date the hearing is completed. Authorizes, on a showing of good cause for failure to cooperate, a person to receive a financial assistance payment for the month in which the person failed to cooperate.

(c) Prohibits TDHS, if TDHS finds that good cause for the person's failure to cooperate was not shown at a hearing, from making a financial assistance payment in any amount to the person for the person or the person's family for the month in which the person failed to cooperate.

(d) Replaces “noncompliance” with “failure to cooperate.”

(e) Provides 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.

Sec. 31.0034. ANNUAL REPORT. Includes in the information to be included in TDHS’s annual report 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. Removes reference to “sanctions” and replaces “comply” with “cooperate.” Makes nonsubstantive changes.

(b) Amends Subchapter A, Chapter 31, Human Resources Code, by adding Section 31.00331, as follows:

Sec. 31.00331. PENALTY FOR FAILURE TO COOPERATE. (a) Prohibits 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 from receiving a financial assistance payment for the person or the person's family for that month.

(b) Requires TDHS, when TDHS is notified by TWC that a client failed to cooperate with work requirements, to suspend the case for 13 days to allow the client to appeal that finding. Requires the case to be denied if the client fails to request an appeal within that 13-day period. Requires the case to be denied immediately, if the client requests an appeal and the appeal is denied. Requires, if the appeal is upheld, the case be reinstated, if the appeal is upheld.

(c) Provides 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. Authorizes the person to reapply for financial assistance, but requires cooperation with the requirements of the responsibility agreement for a one-month period before receiving an assistance

payment for that month.

(c) Makes application of this Act prospective for the changes in law made by this section applying to a person receiving financial assistance under Chapter 31, Human Resources Code.

SECTION 2.82. Amends Subchapter A, Chapter 31, Human Resources Code, by adding Section 31.0038, as follows:

Sec. 31.0038. TEMPORARY EXCLUSION OF NEW SPOUSE'S INCOME. (a) Prohibits income earned by an individual who marries an individual receiving financial assistance at the time of the marriage from being considered by TDHS during the six-month period following the date of the marriage for purposes of determining the amount of financial assistance granted to an individual under this chapter for the support of dependent children or whether the family meets household income and resource requirements for financial assistance under this chapter, subject to the limitations prescribed by Subsection (b).

(b) provides that 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 2.83. Amends Sections 31.012(b) and (c), Human Resources Code, as follows:

(b) Makes a conforming change.

(c) Deletes language referring to a single person who is the caretaker of a child and the requirement that the person participate in a program under this section.

SECTION 2.84. Amends Subchapter A, Chapter 31, Human Resources Code, by adding Section 31.015, as follows:

Sec. 31.015. HEALTHY MARRIAGE DEVELOPMENT PROGRAM. (a) Requires TDHS, subject to available federal funding, to develop and implement a healthy marriage development program for recipients of financial assistance under this chapter.

(b) Requires the healthy marriage development program to promote and provide three instructional courses on certain topics.

(c) Requires TDHS to 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) Authorizes TDHS to provide the courses or contract with any person, including a community or faith-based organization, for the provision of the courses. Requires TDHS to provide all participants with an option of attending courses in a non-faith-based organization.

(e) Requires TDHS to develop rules as necessary for the administration of the healthy marriage development program.

(f) Requires TDHS to ensure that the courses provided by TDHS and courses provided through contracts with other organizations will be sensitive to the needs of individuals from different religions, races, and genders.

SECTION 2.85. (a) Amends Section 32.021, Human Resources Code, by adding Subsections (q), (r), and (s), as follows:

(q) Requires TDHS to 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. Requires TDHS to consider the recommendations made by the nursing facility quality assurance team under Section 32.060 in establishing the standards. Requires TDHS to include certain provisions in each contract.

(r) Prohibits TDHS from awarding 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). Requires TDHS to 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) Requires TDHS, not later than November 15 of each even-numbered year, to submit a report to the legislature regarding nursing facilities that contract with TDHS to provide medical assistance under this chapter and other nursing facilities with which TDHS was prohibited to contract as provided by Subsection (r). Authorizes TDHS to 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. Requires the report to include certain information.

(b) Makes application of this Act prospective to May 1, 2004 for Section 32.021(q), Human Resources Code, as added by this section.

SECTION 2.86. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.0212, as follows:

Sec. 32.0212. DELIVERY OF MEDICAL ASSISTANCE. Requires TDHS to provide medical assistance for acute care through the Medicaid managed care system implemented under Chapter 533, Government Code, notwithstanding any other law and subject to Section 533.0025, Government Code.

SECTION 2.87. (a) Amends Section 32.024, Human Resources Code, by adding Subsections (t-1), (z), and (z-1), as follows:

(t-1) Prohibits TDHS, 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.

(z) Authorizes TDHS, in its rules and standards governing the vendor drug program, to the extent allowed by federal law and if TDHS determines the policy to be cost-effective, to ensure that a recipient of prescription drug benefits under the medical assistance program does not, unless authorized by TDHS in consultation with the recipient's attending physician or advanced practice nurse, receive certain amounts of prescription drugs under the medical assistance program.

(z-1) Provides that Subsection (z) does not affect any other limit on prescription medications otherwise prescribed by department rule.

(b) Makes application of this Act prospective for Section 32.024(z), Human Resources Code, as added by this section.

SECTION 2.88. Amends Section 32.026(e), Human Resources Code, to require TDHS 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 correspondence instead of through a personal appearance at a TDHS office.

SECTION 2.89. Amends Section 32.0261, Human Resources Code, as follows:

Sec. 32.0261. CONTINUOUS ELIGIBILITY. Replaces “first anniversary of the” with “six months from” in relation to the date on which a child's eligibility was determined.

SECTION 2.90. Amends Section 32.0315(a), Human Resources Code, to make this section subject to appropriated state funds.

SECTION 2.91. Amends Section 10(c), Chapter 584, Acts of the 77th Legislature, Regular Session, 2001, to change the date of June 1, 2003, to June 1, 2004 in relation to the effective date of the rules.

SECTION 2.92. Amends Section 32.028, Human Resources Code, by amending Subsection (g) and adding Subsection (i), as follows:

(g) Requires HHSC, subject to Subsection (i), 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.

(i) Requires HHSC to ensure that rules governing the incentives program described by Subsection (g)(1) provide that participation in the program by a nursing home is voluntary, do not impose on a nursing home not participating in the program a minimum spending requirement for direct care staff wages and benefits and 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.

SECTION 2.93. Amends Section 32.028, Human Resources Code, by adding Subsections (j), (k), and (l), as follows:

(j) Requires HHSC to 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 reporting the drug's prescription number and date of original issue verifying whether the drug's expiration date or the drug's recommended shelf life exceeds 120 days determining the source of payment and preparing credit records.

(k) Requires HHSC to 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. Provides that, 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) Requires HHSC to establish a task force to develop the rules necessary to implement Subsections (j) and (k). Requires the task force to include representatives of nursing facilities and long-term care facilities.

SECTION 2.94. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.0291, as follows:

Sec. 32.0291. PREPAYMENT REVIEWS AND POSTPAYMENT HOLDS. (a) Authorizes TDHS, notwithstanding any other law, to: perform a prepayment review of a claim for reimbursement under the medical assistance program to determine whether the claim involves fraud or abuse; and 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) Authorizes TDHS, notwithstanding any other law, to impose a postpayment hold on payment of future claims submitted by a provider if TDHS has reliable

evidence that the provider has committed fraud or wilful misrepresentation regarding a claim for reimbursement under the medical assistance program. Requires TDHS to notify the provider of the postpayment hold not later than the fifth working day after the date the hold is imposed.

SECTION 2.95. Amends Section 32.032, Human Resources Code, as follows:

Sec. 32.032. New heading: PREVENTION AND DETECTION OF FRAUD AND ABUSE. Makes conforming changes.

SECTION 2.96. Amends Section 32.0321, Human Resources Code, as follows:

Sec. 32.0321. SURETY BOND. (a) Requires TDHS by rule to require a provider of medical assistance to file with TDHS a surety bond in a reasonable amount if TDHS 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) Makes a conforming change.

(c) Authorizes TDHS, subject to Subsection (d) or (e), by rule to require each provider of medical assistance that establishes a resident's trust fund account to post a surety bond to secure any shortages in the account. Requires the bond to be payable to TDHS 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) Prohibits TDHS 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.

(e) Prohibits TDHS 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.

SECTION 2.97. (a) Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.0423, as follows:

Sec. 32.0423. RECOVERY OF REIMBURSEMENTS FROM HEALTH COVERAGE PROVIDERS. Requires, to the extent allowed by federal law, a health care service provider to 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) Makes application of this Act prospective for Section 32.0423, Human Resources Code, as added by this section.

SECTION 2.98. (a) Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.0462, as follows:

Sec. 32.0462. MEDICATIONS AND MEDICAL SUPPLIES. Authorizes TDHS to 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 TDHS

determines it is more cost-effective than obtaining those medications and medical supplies through a prescription.

(b) Requires HHSC, not later than January 1, 2004, to 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. Requires the report to be updated not later than January 1, 2005.

SECTION 2.99. Amends Section 32.050, Human Resources Code, by adding Subsection (d) to require 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 seek reimbursement from Medicare before billing the medical assistance program for services provided to an individual identified under Subsection (a) and as directed by TDHS, appeal Medicare claim denials for payment services provided to an individual identified under Subsection (a).

SECTION 2.100. (a) Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.060, as follows:

Sec. 32.060. NURSING FACILITY QUALITY ASSURANCE TEAM. (a) Provides that the nursing facility quality assurance team (team) is established to make recommendations to TDHS designed to promote high-quality care for residents of nursing facilities.

(b) Provides that the team is composed of nine particular members appointed by the governor.

(c) Requires the governor to designate a member of the team to serve as presiding officer. Requires the members of the team to elect any other necessary officers.

(d) Requires the team to meet at the call of the presiding officer.

(e) Provides that a member of the team serves at the will of the governor.

(f) Prohibits a member of the team from receiving compensation for serving on the team but entitles the to reimbursement for travel expenses incurred by the member while conducting the business of the team as provided by the General Appropriations Act.

(g) Requires the team to develop and recommend clearly defined minimum standards to be considered for inclusion in contracts between TDHS and nursing facilities for the delivery of medical assistance under this chapter that are designed to: 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 encourage nursing facilities to provide the highest quality of care to those residents; and to develop and recommend improvements to consumers' access to information regarding the quality of care provided by nursing facilities that contract with TDHS to provide medical assistance, including certain improvements.

(h) Requires the team, in developing minimum standards for contracts as required by Subsection (g)(1), to perform certain tasks.

(i) Requires TDHS to ensure the accuracy of information provided to the team for use by the team in performing the team's duties under this section. Requires HHSC to provide administrative support and resources to the team and request additional administrative support and resources from health and human services

agencies as necessary.

(b) Requires the governor to appoint the members of the team established under Section 32.060, Human Resources Code, as added by this section, not later than January 1, 2004.

(c) Requires the team to 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) Requires team to 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 2.101. Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.061, as follows:

Sec. 32.061. COMMUNITY ATTENDANT SERVICES PROGRAM. Requires any home and community-based services that TDHS 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 to be provided through the community attendant services program.

SECTION 2.102. (a) Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.063, as follows:

Sec. 32.063. THIRD-PARTY BILLING VENDORS. (a) Prohibits a third-party billing vendor from submitting a claim with TDHS for reimbursement on behalf of a provider of medical services under the medical assistance program unless the vendor has entered into a contract with TDHS authorizing that activity.

(b) Requires, to the extent practical, the contract to contain provisions comparable to the provisions contained in contracts between TDHS and providers of medical services, with an emphasis on provisions designed to prevent fraud or abuse under the medical assistance program. Requires, at a minimum, the contract to require the third-party billing vendor to perform certain functions.

(c) Requires TDHS, 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. Requires the notice to include detailed information regarding the claim submitted on behalf of the provider and require the provider to review the claim for accuracy and notify TDHS promptly regarding any errors.

(d) Requires TDHS to take all action necessary, including any modifications of TDHS' claims processing system, to enable TDHS 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) Requires TDHS to audit each third-party billing vendor subject to this section at least annually to prevent fraud and abuse under the medical assistance program.

(b) Provides that Section 32.063, Human Resources Code, as added by this section, takes effect January 1, 2004.

SECTION 2.103. (a) Amends Subchapter B, Chapter 32, Human Resources Code, by adding Section 32.064, as follows:

Sec. 32.064. COST SHARING. (a) Requires HHSC, 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, to adopt provisions requiring recipients of medical assistance to share the cost of medical assistance, including provisions requiring recipients to pay certain costs.

(b) Requires cost-sharing provisions adopted under this section to ensure that families with higher levels of income are required to pay progressively higher percentages of the cost of the medical assistance, subject to Subsection (d).

(c) Requires HHSC to specify the manner in which the premium is paid, if cost-sharing provisions imposed under Subsection (a) include requirements that recipients pay a portion of the plan premium. Authorizes HHSC to require that the premium be paid to HHSC, an agency operating part of the medical assistance program, or the Medicaid managed care plan.

(d) Authorizes cost-sharing provisions adopted under this section to be determined based on the maximum level authorized under federal law and applied to income levels in a manner that minimizes administrative costs.

(b) Makes application of this Act prospective for Section 32.064, Human Resources Code.

SECTION 2.104. Amends Section 48.401(1), Human Resources Code, to redefine “agency."

SECTION 2.105. Amends Section 73.0051, Human Resources Code, by adding Subsection (l) to authorize the Interagency Council on Early Childhood Intervention by rule to 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 2.106. (a) Amends Sections 91.027(a) and (b), Human Resources Code, as follows:

(a) Requires HHSC, 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, to operate, rather than develop, a Blindness Education, Screening, and Treatment Program to provide certain services.

(b) Requires HHSC to include transition services along with other services. Deletes language requiring HHSC to implement the program only to the extent that funds are available under Section 521.421(f), Transportation Code.

(b) Requires the Texas Commission for the Blind to 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 2.107. (a) Amends Section 111.052, Human Resources Code, as follows:

Sec. 111.052. GENERAL FUNCTIONS. (a) Deletes “an extended rehabilitation services program” as a program established to provide rehabilitative services.

(b) Includes assessing 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 to the authority of HHSC. Deletes “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" from HHSC's authority.

(b) Repealer: Sections 111.002(7) (Definitions), 111.0525(a) (Coordination with State Agencies), and 111.073(Transition Planning), Human Resources Code.

SECTION 2.108. Amends Section 111.060, Human Resources Code, by adding Subsection (d) to authorize any money in the comprehensive rehabilitation fund to be used for general governmental purposes under certain conditions.

SECTION 2.109. (a) Provides that Subchapter I, Chapter 264, Family Code, is transferred to Chapter 33, Education Code, redesignated as Subchapter E, Chapter 33, Education Code, and amended as follows:

SUBCHAPTER E. COMMUNITIES IN SCHOOLS PROGRAM

Sec. 33.151. DEFINITIONS. Defines "department," "communities in schools program," "delinquent conduct," and "student at risk of dropping out of school."

Sec. 33.152. STATEWIDE OPERATION OF PROGRAM. Includes "as that chapter existed on August 31, 1999" in reference to Chapter 305, Labor Code. Replaces "department" with "agency."

Sec. 33.153. STATE DIRECTOR. Requires the commissioner of education, rather than the executive director of the department, to designate a state director for the Communities In Schools program.

Sec. 33.154. DUTIES OF STATE DIRECTOR. No changes to this section.

Sec. 33.155. New heading: DEPARTMENT COOPERATION; MEMORANDUM OF UNDERSTANDING.

(b) Deletes the term "mutually" as a modifier to "agree" in reference to a memorandum of understanding. Makes conforming and nonsubstantive changes.

Sec. 33.156. FUNDING; EXPANSION OF PARTICIPATION. (a) Makes a conforming change.

Sec. 33.157. PARTICIPATION IN PROGRAM. Requires an elementary or secondary school receiving funding under Section 33.156 to 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 Texas Education Agency. Makes a conforming change.

Sec. 33.158. DONATIONS TO PROGRAM. Makes conforming changes.

(b) Amends Section 302.062(g), Labor Code, to make conforming changes.

(c) Provides that on September 1, 2003:

(1) all powers, duties, functions, and activities relating to the Communities In Schools (CIS) program assigned to or performed by the Department of Protective Services (DPS) immediately before September 1, 2003, are transferred to the Texas Education Agency (TEA);

(2) all funds, rights, obligations, and contracts of the DPS related to the CIS program are transferred to the TEA for the CIS program;

(3) all property and records in the custody of the DPS related to the CIS program and all funds appropriated by the legislature for the CIS program are transferred to the TEA for the CIS program; and

(4) all employees of the DPS who primarily perform duties related to the CIS program become employees of the TEA, to be assigned duties related to the CIS program.

(d) Provides that for the 2003 and 2004 state fiscal years, all full-time equivalent positions (FTEs) authorized by the General Appropriations Act for the CIS program are transferred to the TEA 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) Provides that a reference in law or administrative rule to the DPS that relates to the CIS program means the TEA. Provides that a reference in law or administrative rule to the executive director of the DPS that relates to the CIS program means the commissioner of education.

(f) Provides that a rule of the DPS relating to the CIS program continues in effect as a rule of the commissioner of education until superseded by rule of the commissioner of education. Provides that the secretary of state is authorized to adopt rules as necessary to expedite the implementation of this subsection.

(g) Provides that the transfer of the CIS 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) Makes application of this Act prospective.

SECTION 2.110. (a) Amends Sections 2(a) and (c), Article 4.11, Insurance Code, to redefine "carrier" and "gross premiums."

(b) Provides that the change in law made by this section applies only to a tax report originally due on or after January 1, 2004.

(c) Provides that the change in law made by this section expires December 31, 2007.

SECTION 2.111. (a) Amends Article 4.17(a), Insurance Code, to delete references to "this state" in relation to gross premiums. Deletes "for the purpose of providing welfare benefits to designated welfare recipients or for insurance contracted for by this state or the United States."

(b) Provides that the change in law made by this section applies only to a tax report originally due on or after January 1, 2004.

(c) Provides that the change in law made by this section expires December 31, 2007.

SECTION 2.112. (a) Amends Section 20A.33(d), Texas Health Maintenance Organization Act (Article 20A.33, Vernon's Texas Insurance Code), to make conforming changes.

(b) Provides that the change in law made by this section applies only to a tax report originally due on or after January 1, 2004.

(c) Provides that the change in law made by this section expires December 31, 2007.

SECTION 2.113. Amends Section 2, Article 21.52K, Insurance Code, by amending Subsections (c) and (d) and adding Subsection (g), as follows:

(c) Includes on receipt of “request” in relation to enrolling in the plan. Makes conforming changes.

(d) Makes conforming changes.

(g) Requires the issuer of a group health benefit plan to 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 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 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 2.114. (a) Amends Article 21.53F, Insurance Code, as added by Chapter 683, Acts of the 75th Legislature, Regular Session, 1997, by adding Section 9, as follows:

Sec. 9. OFFER OF COVERAGE REQUIRED; CERTAIN THERAPIES FOR CHILDREN WITH DEVELOPMENTAL DELAYS. (a) Provides that for purposes of this section, rehabilitative and habilitative therapies include certain evaluations and services.

(b) Requires the issuer of a health benefit plan to offer coverage that complies with this section. Authorizes the individual or group policy or contract holder to reject coverage required to be offered under this subsection.

(c) Prohibits a health benefit plan that provides coverage for rehabilitative and habilitative therapies under this section from prohibiting or restricting 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) Requires rehabilitative and habilitative therapies described by Subsection (c) of this section be covered in the amount, duration, scope, and service setting established in the child's individualized family service plan.

(e) Prohibits, under the coverage required to be offered under this section, a health benefit plan issuer from performing certain actions.

(b) Makes application of this section prospective to January 1, 2004.

SECTION 2.115. Amends Article 27.05, Insurance Code, as follows:

Art. 27.05. EXEMPTION FROM PREMIUM TAX. Provides that a health benefit plan be approved under Article 27.03 of this code.

SECTION 2.116. Amends Chapter 27, Insurance Code, by adding Article 27.07, as follows:

Art. 27.07. INAPPLICABILITY TO CERTAIN PLANS. Provides that this chapter does not apply to a health benefit plan provided under the state Medicaid program or the state child health plan.

SECTION 2.117. Amends Subchapter C, Chapter 562, Occupations Code, by adding Sections 562.1085 and 562.1086, as follows:

Sec. 562.1085. UNUSED DRUGS RETURNED BY CERTAIN PHARMACISTS. (a) Authorizes a pharmacist who practices in or serves as a consultant for a health care facility in this state to 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. Requires the unused drugs to be approved by the federal Food and Drug Administration and meet certain other requirements.

(b) Requires a pharmacist for the pharmacy to examine a drug returned under this section to ensure the integrity of the drug product. Prohibits a health care facility from returning certain drugs.

(c) Authorizes the pharmacy to restock and redistribute unused drugs returned under this section.

(d) Requires the pharmacy to reimburse or credit the state Medicaid program for an unused drug returned under this section.

(e) Requires the Texas State Board of Pharmacy (TSBP) to adopt the rules, policies, and procedures necessary to administer this section, including rules that require a health care facility to inform HHSC of medicines returned to a pharmacy under this section.

Sec. 562.1086. LIMITATION ON LIABILITY. (a) Provides that 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 wilful or wanton acts of negligence, conscious indifference or reckless disregard for the safety of others or intentional conduct.

(b) Provides that 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) Provides that this section does not apply if harm results from the failure to fully and completely comply with the requirements of Section 562.1085.

(d) Provides that 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 2.118. Amends Section 455.0015, Transportation Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Provides that the legislature likewise recognizes the potential cost savings and other benefits for utilizing existing private sector transportation resources. Provides that the Texas Department of Transportation (TxDOT) 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) Requires the TDH and HHSC to contract with TxDOT for TxDOT to assume all responsibilities of TDH and HHSC relating to the provision of transportation services for clients of eligible programs.

(d) Authorizes TxDOT to contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services.

SECTION 2.119. Amends Section 40.002, Human Resources Code, by adding Subsection (f), to authorize HHSC to contract with TxDOT for TxDOT to assume all responsibilities of HHSC relating to the provision of transportation services for clients of eligible programs.

SECTION 2.120. Amends Section 22.001, Human Resources Code, by adding Subsection (e), to

require HHSC to contract with TxDOT for TxDOT to assume all responsibilities of HHSC relating to the provision of transportation services for clients of eligible programs.

SECTION 2.121. Amends Section 91.021, Human Resources Code, by adding Subsection (g) to require HHSC to contract with TxDOT for TxDOT to assume all responsibilities of HHSC relating to the provision of transportation services for clients of eligible programs.

SECTION 2.122. Amends Section 101.0256, Human Resources Code, as follows:

Sec. 101.0256. COORDINATED ACCESS TO LOCAL SERVICES. (a) Creates this subsection from existing text.

(b) Makes a conforming change.

SECTION 2.123. Amends Section 111.0525, Human Resources Code, by adding Subsection (d), to make a conforming change.

SECTION 2.124. Amends Section 461.012(a), Health and Safety Code, as follows:

(a) Includes to "contract with TxDOT for TxDOT to assume all responsibilities of HHSC relating to the provision of transportation services for clients of eligible programs" as a required duty of HHSC. Makes a nonsubstantive change.

SECTION 2.125. Amends Section 533.012, Health and Safety Code, as follows:

Sec. 533.012. COOPERATION OF STATE AGENCIES. (a) Creates this subsection from existing text.

(b) Requires MHMR to contract with TxDOT for TxDOT to assume all responsibilities of MHMR relating to the provision of transportation services for clients of eligible programs.

SECTION 2.126. (a) Amends Section 1551.159, Insurance Code, as effective June 1, 2003, by amending Subsection (a) and adding Subsection (h), as follows:

(a) Replaces "the program established by the state to implement Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended" with "the state child health plan established under Chapter 62, Health and Safety Code" in relation to a child's insurance coverage.

(h) Provides that 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) Makes application of this section prospective as applies to a child enrolled in dependent child coverage under the state employees group benefits program.

SECTION 2.127. Amends Section 31.03, Penal Code, by adding Subsection (j) to provide that 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 2.128. Amends Section 32.45, Penal Code, by adding Subsection (d) to provide that 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 2.129. Amends Section 32.46, Penal Code, by adding Subsection (e) to provide that 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 2.130. Amends Section 37.10, Penal Code, by adding Subsection (i) to provide that 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 2.131. Amends Section 57.046, Utilities Code, by adding Subsection (c) to authorize the Telecommunications Infrastructure Fund Board to use money in the account to award grants to HHSC for technology initiatives of Public Utility Commission, in addition to the purposes for which the qualifying entities account may be used.

SECTION 2.132. Amends Articles 59.01(1) and (2), Code of Criminal Procedure, to redefine "attorney representing the state" and "contraband."

SECTION 2.133. Amends Article 59.06, Code of Criminal Procedure, by adding Subsection (p) to require the attorney representing the state to transfer to HHSC all forfeited property defined as contraband under Article 59.01(2)(B)(vii), 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 is otherwise authorized to be entitled by law. Authorizes the attorney representing the state to, if approved by the commission, sell the property and deliver to the commission the proceeds from the sale, minus costs attributable to the sale, if the forfeited property consists of property other than money or negotiable instruments. Requires the sale to be conducted in a manner that is reasonably expected to result in receiving the fair market value for the property.

SECTION 2.134. STUDY. (a) Requires the Medicaid and Public Assistance Fraud Oversight Task Force, with the participation of the TDH's bureau of vital statistics and other agencies designated by the comptroller, to 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) Requires, 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, to 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.

[Reserves SECTION 2.135 for expansion.]

SECTION 2.136. STUDY: REVENUE ENHANCEMENT RELATED TO MEDICAID VENDOR DRUG REBATE. (a) Provides that 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) Requires HHSC to 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) Requires the study to include certain information.

(d) Requires the study to 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 2.137. LEGISLATIVE INTENT REGARDING PROVISION OF HEALTH AND HUMAN SERVICE TRANSPORTATION THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION. Sets forth legislative intent.

SECTION 2.138. (a) Provides that a change in law made by this article to Section 242.047, Health and Safety Code, that requires TDH 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: applies only to a nursing home that participates in the medical assistance program under Chapter 32, Human Resources Code, before September 1, 2003; and may be implemented only as a pilot program.

(b) Provides that a pilot program operated in accordance with this section expires September 1, 2007.

SECTION 2.139. (a) Requires the TSBP to adopt the rules required by Section 562.1085, Occupations Code, as added by this Act, not later than December 1, 2003.

(b) Provides that, 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 2.140. Requires HHSC to 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 2.141. TRANSFER OF MEDICAL TRANSPORTATION PROGRAM. (a) Provides that on September 1, 2004, or on an earlier date specified by HHSC, certain actions will occur relating to the transfer to HHSC.

(b) Requires HHSC to take all action necessary to provide for the transfer of the medical transportation program to HHSC as soon as possible after the effective date of this section but not later than September 1, 2004.

SECTION 2.142. CONSOLIDATION OF CERTAIN DIVISIONS AND ACTIVITIES. (a) Requires HHSC to consolidate the Medicaid post-payment third-party recovery divisions or activities of TDHS, the Medicaid vendor drug program, and the state's Medicaid claims administrator with the Medicaid post-payment third-party recovery function, not later than March 1, 2004.

(b) Requires HHSC to use HHSC's Medicaid post-payment third-party recovery contractor for the consolidated division.

(c) Requires HHSC to update its computer system to facilitate the consolidation.

SECTION 2.143. ABOLITION OF ADVISORY COMMITTEES. (a) Provides that, 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 a health and human services agency is abolished on the effective date of this section unless the committee: is required by federal law; or 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 HHSC.

(b) Requires the commissioner of health and human services to certify which advisory committees are exempt from abolition under Subsection (a) of this section and publish that certification in the Texas Register.

(c) Requires 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 to 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 HHSC.

SECTION 2.144. Authorizes community mental health centers to coordinate with local community health 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. Authorizes community mental health centers to form a referral relationship with community health centers, FQHC, disproportionate share hospitals, and/or other eligible entities for the purpose of obtaining federal 340B pricing for pharmaceuticals. Authorizes community mental health centers to form a referral relationship with community health centers, FQHC, disproportionate share hospitals, and/or other eligible entities for the purpose of taking advantage of 340B or other lower cost drug programs regardless of any statewide preferred drug list or vendor drug program which may be adopted.

SECTION 2.145. CHILD HEALTH PLAN PROGRAM WAIVER. Requires HHSC to request and actively pursue any necessary 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 under Chapter 62, Health and Safety Code, while retaining the appropriate federal match rate and the child's entitlement to Medicaid coverage, not later than October 1, 2003. Requires the waiver to, on at least an annual basis, allow families eligible for Medicaid who have previously opted to enroll their children in the child health plan program under Chapter 62, Health and Safety Code, to return those children to the Medicaid program.

SECTION 2.146. STATE CHILD HEALTH PLAN AMENDMENT. (a) Provides that in this section, "group plan" means the group health benefit plan under the health insurance premium payment reimbursement program established under Section 62.059, Health and Safety Code.

(b) Requires HHSC, as soon as possible after the effective date of this section, to 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 2.147. STATE MEDICAID PLAN AMENDMENT. (a) Provides that 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) Requires HHSC, as soon as possible after the effective date of this section, to 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 2.148. REPEAL. (a) Repealer: 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.

(b) Provides that an advisory committee established under Section 62.057, Health and Safety Code, is abolished on the effective date of this section.

SECTION 2.149. Provides that 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 2.150. FEDERAL AUTHORIZATION OR WAIVER. Authorizes a state agency to delay implementing a provision of this Act until a requested federal waiver or authorization necessary to implement that provision is granted.

SECTION 2.151. Requires any funds that are used by TxDOT to implement the transportation services provided in Sections 2.118, 2.119, 2.120, 2.121, 2.122, 2.123, 2.124, and 2.125 of this Act be accounted for and budgeted separately from other funds appropriated to TxDOT for any other public transportation program or budget strategy.

SECTION 2.152. EFFECTIVE DATE. Effective date: September 1, 2003, except as otherwise provided by this article.