

By: McCall

H.B. No. 2425

A BILL TO BE ENTITLED

1 AN ACT

2 relating to state fiscal matters; making an appropriation.

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

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

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

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

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

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

15 (4) a certification of the claimant's actual innocence  
16 of the crime for which the claimant was sentenced, which must be  
17 signed by the current prosecuting attorney of the county in which  
18 that sentence was rendered.

19 SECTION 2. Section 14(e), Article 42.12, Code of Criminal  
20 Procedure, is amended to read as follows:

21 (e) The clerk of a court that collects a fee under  
22 Subsection (c)(2) shall remit the fee to the comptroller not later  
23 than the last day of the month following the end of each calendar  
24 quarter in which the fee was collected, and the comptroller shall

1 deposit the fee into the general revenue fund. If no fee has been  
2 collected, no report need be filed. In requiring the payment of a  
3 fee under Subsection (c)(2), the judge shall consider fines, fees,  
4 and other necessary expenses for which the defendant is obligated  
5 in establishing the amount of the fee. The judge may not:

6 (1) establish the fee in an amount that is greater than  
7 25 percent of the defendant's gross income while the defendant is a  
8 participant in residential aftercare; or

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

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

14 (f) A community corrections and supervision department  
15 shall remit fees collected under Subsection (e) ~~[of this section]~~  
16 to the comptroller not later than the last day of the month  
17 following the end of each calendar quarter in which the fee was  
18 collected. The comptroller shall deposit the fee in the special  
19 revenue fund to the credit of the sexual assault program  
20 established under Section 44.0061, Health and Safety Code. If no  
21 fee has been collected, no report need be filed.

22 SECTION 4. Subchapter Z, Chapter 44, Education Code, is  
23 amended by adding Section 44.9011 to read as follows:

24 Sec. 44.9011. ENERGY SAVINGS PERFORMANCE CONTRACTS. (a)  
25 In this section, "energy savings performance contract" means a  
26 contract for energy or water conservation measures to reduce energy  
27 or water consumption or operating costs of school facilities in

1       which the estimated savings in utility costs resulting from the  
2       measures is guaranteed to offset their cost over a specified time  
3       period. The term includes a contract for the installation or  
4       implementation of:

5               (1) insulation of a building structure and systems  
6       within the building;

7               (2) storm windows or doors, caulking or weather  
8       stripping, multiglazed windows or doors, heat absorbing or heat  
9       reflective glazed and coated window or door systems, or other  
10      window or door system modifications that reduce energy consumption;

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

13              (4) heating, ventilating, or air conditioning system  
14      modifications or replacements that reduce energy or water  
15      consumption;

16              (5) lighting fixtures that increase energy  
17      efficiency;

18              (6) energy recovery systems;

19              (7) electric systems improvements;

20              (8) water-conserving fixtures, appliances, and  
21      equipment or the substitution of non-water-using fixtures,  
22      appliances, and equipment;

23              (9) water-conserving landscape irrigation equipment;

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

26               (A) landscape contouring, including the use of  
27      berms, swales, and terraces; and

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

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

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

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

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

(15) other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

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

(c) Each energy or water conservation measure must comply with current local, state, and federal construction, plumbing, and

(a), an energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of

1        nonpotable usage over which public water supply system officials do  
2        not have sanitary control, to be returned to the potable water  
3        supply.

4            (d) The board of trustees of a school district may enter  
5        into an energy savings performance contract only with a person who  
6        is experienced in the design, implementation, and installation of  
7        the energy or water conservation measures addressed by the  
8        contract.

9            (e) Before entering into an energy savings performance  
10       contract, the board of trustees of a school district must require  
11       the provider of the energy or water conservation measures to file  
12       with the board a payment and performance bond relating to the  
13       installation of the measures in accordance with Chapter 2253,  
14       Government Code. The board also may require a separate bond to  
15       cover the value of the guaranteed savings on the contract.

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

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

25        (g) An energy savings performance contract must require the  
26       provider of the energy or water conservation measures to guarantee  
27       the amount of savings to be realized by the school district under

1       the contract. If the term of the contract exceeds one year, then  
2       the school district's contractual obligations in any one year  
3       during the term of the contract beginning after the final date of  
4       installation may not exceed the total energy, water, wastewater,  
5       and operating cost savings, including electrical, gas, water,  
6       wastewater, or other utility cost savings and operating cost  
7       savings resulting from the measures as determined by the school  
8       district in this subsection, divided by the number of years in the  
9       contract term.

10       (h) An energy savings performance contract must be let  
11       according to the procedures established for professional services  
12       by Section 2254.004, Government Code. Notice of the request for  
13       qualifications shall be published in the manner provided for  
14       competitive bidding.

15       (i) Before entering into an energy savings performance  
16       contract, the board of trustees of a school district must require  
17       that the cost savings projected by an offeror be reviewed by a  
18       licensed engineer who is not an officer or employee of an offeror  
19       for the contract under review or otherwise associated with the  
20       contract or the offeror. An engineer who reviews a contract shall  
21       maintain the confidentiality of any proprietary information the  
22       engineer acquires while reviewing the contract. Sections 1001.053  
23       and 1001.407, Occupations Code, apply to work performed under the  
24       contract.

25       SECTION 5. Subchapter Z, Chapter 51, Education Code, is  
26       amended by adding Section 51.9271 to read as follows:

27       Sec. 51.9271. ENERGY SAVINGS PERFORMANCE CONTRACTS. (a)

1    In this section, "energy savings performance contract" means a  
2    contract for energy or water conservation measures to reduce energy  
3    or water consumption or operating costs of institutional facilities  
4    in which the estimated savings in utility costs resulting from the  
5    measures is guaranteed to offset their cost over a specified time  
6    period. The term includes a contract for the installation or  
7    implementation of:

8                (1) insulation of a building structure and systems  
9    within the building;

10               (2) storm windows or doors, caulking or weather  
11    stripping, multiglazed windows or doors, heat absorbing or heat  
12    reflective glazed and coated window or door systems, or other  
13    window or door system modifications that reduce energy consumption;

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

16               (4) heating, ventilating, or air conditioning system  
17    modifications or replacements that reduce energy or water  
18    consumption;

19               (5) lighting fixtures that increase energy  
20    efficiency;

21               (6) energy recovery systems;

22               (7) electric systems improvements;

23               (8) water-conserving fixtures, appliances, and  
24    equipment or the substitution of non-water-using fixtures,  
25    appliances, and equipment;

26               (9) water-conserving landscape irrigation equipment;

27               (10) landscaping measures that reduce watering

1       demands and capture and hold applied water and rainfall, including:

2               (A) landscape contouring, including the use of  
3       berms, swales, and terraces; and

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

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

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

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

15               (14) metering equipment needed to segregate water use  
16       in order to identify water conservation opportunities or verify  
17       water savings; or

18               (15) other energy or water conservation-related  
19       improvements or equipment, including improvements or equipment  
20       related to renewable energy or nonconventional water sources or  
21       water reuse.

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

25               (c) Each energy or water conservation measure must comply  
26       with current local, state, and federal construction, plumbing, and  
27       environmental codes and regulations. Notwithstanding Subsection

1       (a), an energy savings performance contract may not include  
2       improvements or equipment that allow or cause water from any  
3       condensing, cooling, or industrial process or any system of  
4       nonpotable usage over which public water supply system officials do  
5       not have sanitary control, to be returned to the potable water  
6       supply.

7               (d) The governing board of an institution of higher  
8       education may enter into an energy savings performance contract  
9       only with a person who is experienced in the design,  
10       implementation, and installation of the energy or water  
11       conservation measures addressed by the contract.

12               (e) Before entering into an energy savings performance  
13       contract, the governing board of an institution of higher education  
14       must require the provider of the energy or water conservation  
15       measures to file with the board a payment and performance bond in  
16       accordance with Chapter 2253, Government Code. The board also may  
17       require a separate bond to cover the value of the guaranteed savings  
18       on the contract.

19               (f) The governing board of an institution of higher  
20       education may enter into an energy savings performance contract for  
21       a period of more than one year only if the board finds that the  
22       amount the institution would spend on the energy or water  
23       conservation measures will not exceed the amount to be saved in  
24       energy, water, wastewater, and operating costs over 15 years from  
25       the date of installation. If the term of the contract exceeds one  
26       year, then the institution's contractual obligations in any year  
27       during the term of the contract beginning after the final date of

1       installation may not exceed the total energy, water, wastewater,  
2       and operating cost savings, including electrical, gas, water,  
3       wastewater, or other utility cost savings and operating cost  
4       savings resulting from the measures, as determined by the board in  
5       this subsection, divided by the number of years in the contract term  
6       beginning after the final date of installation. The board shall  
7       consider all costs of the energy or water conservation measures,  
8       including costs of design, engineering, installation, maintenance,  
9       repairs, and debt service.

10       (g)   An energy savings performance contract may be financed:  
11                (1) under a lease-purchase contract that has a term  
12       not to exceed 15 years from the final date of installation and that  
13       meets federal tax requirements for tax-free municipal leasing or  
14       long-term financing, including a lease-purchase contract under the  
15       master equipment lease purchase program administered by the Texas  
16       Public Finance Authority under Chapter 1232;  
17                (2) with the proceeds of bonds; or  
18                (3) under a contract with the provider of the energy or  
19       water conservation measures that has a term not to exceed 15 years  
20       from the final date of installation.

21       (h)   An energy savings performance contract must require the  
22       provider of the energy or water conservation measures to guarantee  
23       the amount of the savings to be realized by the institution of  
24       higher education under the contract.

25       (i)   An energy savings performance contract must be let  
26       according to the procedures established for professional services  
27       by Section 2254.004, Government Code. Notice of the request for

1       qualifications shall be given in the manner provided by Section  
2       2156.002, Government Code. The Texas Higher Education Coordinating  
3       Board, in consultation with the state energy conservation office  
4       with regard to energy and water conservation measures, shall  
5       establish guidelines and an approval process for awarding energy  
6       savings performance contracts. The guidelines must require that  
7       the cost savings projected by an offeror be reviewed by a licensed  
8       engineer who is not an officer or employee of an offeror for the  
9       contract under review or otherwise associated with the contract.  
10      An engineer who reviews a contract shall maintain the  
11      confidentiality of any proprietary information the engineer  
12      acquires while reviewing the contract. A contract is not required  
13      to be reviewed or approved by the state energy conservation office.  
14      Sections 1001.053 and 1001.407, Occupations Code, apply to work  
15      performed under the contract.

16            (j) The legislature shall base an institution's  
17            appropriation for energy, water, and wastewater costs during a  
18            fiscal year on the sum of:

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

21                (2) if an energy savings performance contract is in  
22                effect, the institution's estimated net savings resulting from the  
23                contract during the contract term, divided by the number of years in  
24                the contract term.

25            SECTION 6. Section 403.020, Government Code, is amended to  
26            read as follows:

27            Sec. 403.020. PERFORMANCE REVIEW OF SCHOOL DISTRICTS AND

1        INSTITUTIONS OF HIGHER EDUCATION.        (a)        The comptroller may  
2        periodically review the effectiveness and efficiency of the budget  
3        [budgets] and operations of a school district [districts] or an  
4        institution of higher education.

5                (b) By a majority vote of its members, the board of trustees  
6        [A review] of a school district or the governing board of an  
7        institution of higher education may request [be initiated by] the  
8        comptroller [or by the request of] to review the [school] district  
9        or institution.        The comptroller may review the district or  
10        institution without receiving a request for the review.        [A review  
11        may be initiated by a school district only by resolution adopted by  
12        a majority of the members of the board of trustees of the district.]

13                (c) [(-b)] The comptroller may require a [If a review is  
14        initiated by the school district, the] school district or an  
15        institution of higher education to [shall] pay a maximum of 25  
16        percent of the cost incurred in conducting a [the] review under this  
17        section if the district or institution requested the review.

18                (d) [(-e)] The comptroller shall:

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

21                (2) file the report with:

22                (A) the commissioner of education, if a school  
23        district was reviewed; or

24                (B) the commissioner of higher education, if an  
25        institution of higher education was reviewed;

26                (3) [(-2)] file the report with the [school] district  
27        or institution reviewed, the governor, the lieutenant governor, the

1 speaker of the house of representatives, and the chairs of the  
2 standing committees of the senate and of the house of  
3 representatives with jurisdiction over public education[~~, and the~~  
4 ~~commissioner of education~~]; and

5 (4) [←3] make the entire report and a summary of the  
6 report available to the public on the Internet.

7 (e) In this section, "governing board" and "institution of  
8 higher education" have the meanings assigned by Section 61.003,  
9 Education Code.

10 SECTION 7. Section 403.027(g), Government Code, is amended  
11 to read as follows:

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

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

19 (b) The comptroller may not issue a replacement warrant if:  
20 (1) the comptroller has paid the original warrant,  
21 unless the comptroller:

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

24 (B) is satisfied that the state agency on whose  
25 behalf the original warrant was issued has taken reasonable steps  
26 to obtain a refund of the payment;

27 (2) the period during which the comptroller may pay

1 the original warrant has expired under Section 404.046 or other  
2 applicable law;

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

5 (4) a payment law prohibits the comptroller [~~is~~  
6 ~~prohibited by Section 403.055 or 481.0841, or by Section 57.48,~~  
7 ~~Education Code,~~] from issuing a warrant to the payee of the  
8 replacement warrant.

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

10 (1) Section 403.055;

11 (2) Section 57.48, Education Code;

12 (3) Section 231.007, Family Code; or

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

16 SECTION 9. Subsections (a) and (b), Section 403.092,  
17 Government Code, are amended to read as follows:

18 (a) To allow efficient management of the cash flow of the  
19 general revenue fund and to avoid a temporary cash deficiency in  
20 that fund, the comptroller may transfer available [~~surplus~~] cash,  
21 except constitutionally dedicated revenues, between funds that are  
22 managed by or in the custody of the comptroller [~~state treasury~~].  
23 As soon as practicable, the comptroller shall return the available  
24 [~~surplus~~] cash to the fund from which it was transferred. The  
25 comptroller shall preserve the [~~fund~~] equity of the fund from which  
26 the cash was transferred and [~~shall~~] allocate earned [~~the~~  
27 ~~depository~~] interest as if the transfer had not been made.

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

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

13 (1) direct security repurchase agreements;

14 (2) reverse security repurchase agreements;

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

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

19 (5) bankers' acceptances that:

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

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

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

26 (6) commercial paper that:

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

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

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

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

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

19 (11) mutual funds secured by obligations that are  
20 described by Subdivisions (1) through (6), including pooled funds  
21 established by the Texas Treasury Safekeeping Trust Company and  
22 operated like a mutual fund and whose portfolios consist only of  
23 dollar-denominated securities; and

24 (12) foreign currency for the sole purpose of  
25 facilitating investment by state agencies that have the authority  
26 to invest in foreign securities.

27 (1) The comptroller may lend securities under procedures

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

6           SECTION 11. Section 404.102, Government Code, is amended to  
7       read as follows:

8           Sec. 404.102. CREATION OF TRUST COMPANY. (a) The  
9       comptroller may incorporate a special purpose trust company called  
10      the Texas Treasury Safekeeping Trust Company. The purposes of the  
11      trust company are to provide a means for the comptroller to obtain  
12      direct access to services provided by the Federal Reserve System  
13      and to enable the comptroller to manage, disburse, transfer,  
14      safekeep, and invest funds and securities more efficiently and  
15      economically by utilizing established and reasonable financial  
16      practices, including the pooling of funds and the lending of  
17      securities to the extent practical or necessary. The comptroller  
18      may deposit funds and securities with the trust company to achieve  
19      its purpose.

20           (b) The trust company may establish government investment  
21      pools, consisting of state agency funds not required to be  
22      deposited in the state treasury and local government funds that are  
23      placed into the pools for investment or reinvestment by the trust  
24      company. A state agency or local government may place funds into  
25      the pools for investment or reinvestment as authorized by  
26      Subsection (a) or other law. In this subsection, "local  
27      government" and "state agency" have the meanings assigned by

1       Section 2256.002.

2           (c) The trust company is a special-purpose trust company  
3 with necessary and implied powers to accomplish its purpose and is  
4 subject to regulation only as provided by this subchapter. The  
5 trust company may not engage in commercial banking activity.

6           SECTION 12. Section 404.123(b), Government Code, is amended  
7 to read as follows:

8           (b) The committee may impose a limit on the sum of:  
9                (1) the total amount of the notes outstanding; and  
10               (2) the total outstanding liability of the general  
11 revenue fund under Section 403.092 [~~may not at any time exceed 25~~  
12 ~~percent of the taxes and revenues to be credited to the general~~  
13 ~~revenue fund for the fiscal year as determined by the comptroller,~~  
14 ~~based on the certification made by the comptroller in the enactment~~  
15 ~~of the General Appropriations Act applicable to that fiscal year~~].

16           SECTION 13. Chapter 447, Government Code, as amended by  
17 Chapters 573, 1158, and 1398, 77th Legislature, Regular Session,  
18 2001, is reenacted to read as follows:

19           CHAPTER 447. STATE ENERGY CONSERVATION OFFICE.

20           Sec. 447.001. GOVERNANCE AND GENERAL AUTHORITY. The state  
21 energy conservation office:

22               (1) is under the direction and control of the  
23 comptroller;

24               (2) shall promote the policies enumerated in this  
25 chapter; and

26               (3) may act in any capacity authorized by state or  
27 federal law.

1                   Sec. 447.002. INFORMATION; PROCEDURES AND RULES; MEASURES  
2 AND PROGRAMS. (a) The state energy conservation office shall  
3 develop and provide energy and water conservation information for  
4 the state.

5                   (b) The state energy conservation office may establish  
6 procedures and adopt rules relating to the development and  
7 implementation of energy and water conservation measures and  
8 programs applicable to state buildings and facilities.

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

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

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

15                   (d) To the extent that the governor receives money  
16 appropriated for energy efficiency programs, the governor, through  
17 the state energy conservation office, shall implement programs that  
18 the state energy conservation office identifies as encouraging  
19 energy or water conservation by state government.

20                   (e) A state agency shall implement an energy conservation  
21 measure or program in accordance with plans developed under Section  
22 447.009.

23                   (f) The state energy conservation office shall coordinate  
24 all water conservation-related activities with the Texas Water  
25 Development Board. The board shall assist the office in the  
26 development of all proposed water conservation and reuse  
27 requirements and provide training and expertise to the office

1 regarding water conservation issues.

2           Sec. 447.003. LIAISON TO FEDERAL GOVERNMENT. The state  
3 energy conservation office is the state liaison to the federal  
4 government for the implementation and administration of federal  
5 programs relating to state agency energy matters. The office shall  
6 administer state programs established under:

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

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

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

13           Sec. 447.004. DESIGN STANDARDS. (a) The state energy  
14 conservation office shall establish and publish mandatory energy  
15 and water conservation design standards for each new state building  
16 or major renovation project, including a new building or major  
17 renovation project of a state-supported institution of higher  
18 education. The office shall define "major renovation project" for  
19 purposes of this section and shall review and update the standards  
20 biennially.

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

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

26           (2) be stated in terms of energy and water consumption  
27 levels;

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## 9 (1) insulation

10 (2) lighting;

11 (3) ventilation;

12 (4) climate control;

13 (5) water-conserving fixtures, appliances, and  
14 equipment or the substitution of non-water-using fixtures,  
15 appliances, and equipment;

16 (6) water-conserving landscape irrigation equipment;

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

19 (A) landscape contouring, including the use of  
20 berms, swales, and terraces; and

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

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

26 (9) equipment for recycling or reusing water  
27 originating on the premises or from other sources, including

1 treated municipal effluent;

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

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

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

10 (13) any other item that the state energy conservation  
11 office considers appropriate.

12 (d) A state agency or an institution of higher education  
13 shall submit a copy of its design and construction manuals to the  
14 state energy conservation office as the office considers necessary  
15 to demonstrate compliance by the agency or institution with the  
16 standards established under this section.

17 (e) A state agency or an institution of higher education may  
18 not begin construction of a new state building or a major renovation  
19 project before the design architect or engineer for the  
20 construction or renovation has:

21 (1) certified to the agency or institution that the  
22 construction or renovation complies with the standards established  
23 under this section; and

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

26 Sec. 447.005. ENERGY AND WATER EFFICIENCY PROJECTS.

27 Subject to applicable state and federal laws or guidelines, the

1 state energy conservation office may:

2 (1) implement an energy or water efficiency project at  
3 a state agency; or

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

6 Sec. 447.006. ADDITIONAL ENERGY AND WATER SERVICES. (a)

7 The state energy conservation office may provide additional energy  
8 and water services, including:

9 (1) training of designated state employees in energy  
10 and water management, energy-accounting techniques,  
11 water-accounting techniques, and energy efficient and water  
12 efficient design and construction;

13 (2) technical assistance regarding energy efficient  
14 and water efficient capital improvements, energy efficient and  
15 water efficient building design, and cogeneration and thermal  
16 storage investments;

17 (3) technical assistance to the state auditor or a  
18 state agency regarding energy and water management performance  
19 audits and the monitoring of utility bills to detect billing  
20 errors;

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

24 (5) other energy-related and water-related assistance  
25 that the office considers appropriate, if the assistance is  
26 requested by a state agency, an institution of higher education, a  
27 consortium of institutions of higher education, or another

1 governmental entity created by state law.

2 (b) Using available state, federal, or oil overcharge  
3 funds, the state energy conservation office may provide technical  
4 assistance to a state agency or an institution of higher education  
5 in analyzing or negotiating rates for electricity or natural gas  
6 supplies from a locally certificated electric supplier, a natural  
7 gas supplier, or a state-owned energy resource, including a  
8 transportation charge for natural gas.

9 (c) A state agency or an institution of higher education may  
10 request the assistance of the state energy conservation office  
11 before negotiating or contracting for the supply or transportation  
12 of natural gas or electricity.

13 (d) A state agency or an institution of higher education  
14 with expertise in rate analysis, negotiation, or any other matter  
15 related to the procurement of electricity and natural gas supplies  
16 from a locally certificated electric supplier, a natural gas  
17 supplier, or a state-owned energy resource may assist the state  
18 energy conservation office whenever practicable. The attorney  
19 general on request shall assist the office and other state agencies  
20 and institutions of higher education in negotiating rates for  
21 electricity and other terms of electric utility service.

22 (e) Using available funds from any source, the state energy  
23 conservation office may assist a state agency, an institution of  
24 higher education, a consortium of institutions of higher education,  
25 or another governmental entity created by state law to further the  
26 goals and pursue the policies of the state in energy research as may  
27 be determined by the governor or the legislature. The office may

1 assist a state agency in implementing current federal energy  
2 policy.

3 (f) The state energy conservation office on request may  
4 negotiate rates for electricity and other terms of electric utility  
5 service for a state agency or an institution of higher education.  
6 The office also may negotiate the rates and the other terms of  
7 service for a group of agencies or institutions in a single  
8 contract.

9 (g) The state energy conservation office may analyze the  
10 rates for electricity charged to and the amount of electricity used  
11 by state agencies and institutions of higher education to determine  
12 ways the state could obtain lower rates and use less electricity.  
13 Each state agency, including the Public Utility Commission of  
14 Texas, and institution of higher education shall assist the office  
15 in obtaining the information the office needs to perform its  
16 analysis.

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

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

24 (c) Each state agency or institution of higher education  
25 shall review and audit utility billings and contracts to detect  
26 billing errors. Any contract with a private person to conduct the  
27 review or audit must comply with all applicable provisions of

1 Subchapter A, Chapter 2254, regarding professional services  
2 contracts. The contract may not be awarded on a contingent fee  
3 basis unless the governor determines that the contract is  
4 necessary, reasonable, and prudent.

5 Sec. 447.008. ENERGY SAVING AND WATER SAVING DEVICES OR  
6 MEASURES. (a) On approval by the state energy conservation office,  
7 a state agency that reduces its energy or water expenses may use any  
8 funds saved by the agency from appropriated utility funds for the  
9 purchase of an energy-saving or water-saving device or measure.  
10 For purposes of this section, "energy-saving or water-saving device  
11 or measure" means a device or measure that directly reduces:

12 (1) energy or water costs; or  
13 (2) the energy or water consumption of equipment,  
14 including a lighting, heating, ventilation, air conditioning  
15 system, or other water using system, without materially altering  
16 the quality of the equipment.

17 (b) A state agency, in accordance with the recommendations  
18 of an energy or water audit, may purchase energy-saving and  
19 water-saving devices or measures from appropriated utility funds if  
20 the savings in utility funds projected by the audit will offset the  
21 purchase. The agency shall retain in its files a copy of the  
22 recommendation and repayment schedule as evidence of the projected  
23 savings.

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

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

10 (4) assistance to state agencies other than  
11 institutions of higher education in meeting the requirements of  
12 Section 447.002, including assistance in scheduling and assigning  
13 priorities to implementation plans to ensure that state agencies  
14 adopt qualified cost-effective efficiency measures and programs  
15 for all state facilities not later than September 1, 2006.

16 (b) A state agency or an institution of higher education  
17 shall develop the plan described in Subsection (a)(1) and submit  
18 the plan to the state energy conservation office upon request. The  
19 agency or institution shall use the plan in preparing its five-year  
20 construction and major renovation plans. After other energy-saving  
21 or water-saving alternatives are considered, district heating and  
22 cooling or on-site generation of electricity may be considered in  
23 planning for reliable, efficient, and cost-effective utility  
24 services.

25 (c) The state energy conservation office shall prepare  
26 guidelines for preparation of the plan described in Subsection  
27 (a)(3). A state agency or an institution of higher education that

1 occupies a state-owned building shall prepare and implement a  
2 five-year energy and water management plan and shall submit that  
3 plan to the office upon request. The agency or institution shall  
4 update its plan biennially. A state agency or an institution of  
5 higher education that occupies a building not owned by the state  
6 shall cooperate with the office in addressing the energy or water  
7 management of that building.

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

13 SECTION 14. Section 659.253, Government Code, is amended to  
14 read as follows:

15 Sec. 659.253. TRANSFER WITHIN AGENCY FROM EXEMPT TO  
16 CLASSIFIED POSITION. (a) Except as provided in Subsection (b), a  
17 [A] state employee who transfers [moves] within a state agency from  
18 [a] an exempt position [exempt from the state's position  
19 classification plan] to a classified position is entitled to [will  
20 receive an annual salary in the [proper] salary group to which the  
21 classified position is allocated.

22 (b) During the fiscal biennium in which a state employee  
23 transfers within a state agency from an exempt position to a  
24 classified position, the employee's annual salary rate after the  
25 transfer may not [+] exceed:

26 (1) the rate for the salary step equal to the rate  
27 received by the employee when holding the [employee's current]

1 exempt position [salary] or the rate for the next higher salary  
2 step, if the classified position is allocated to [moving to a  
3 position in] a salary group that is divided into steps; or

4 (2) the rate received by the employee when holding the  
5 [employee's current] exempt position [salary] or the maximum rate  
6 of the [new] salary group to which the classified position is  
7 allocated, whichever is lower, if the classified position is  
8 allocated to [moving to a position in] a salary group that is not  
9 divided into steps.

10 [(b) Except as provided by this section, a state agency that  
11 at any time during a state fiscal biennium pays a state employee an  
12 exempt salary specifically established in the General  
13 Appropriations Act may not subsequently during the state fiscal  
14 biennium pay the employee a greater salary under Salary Schedule A,  
15 B, or C of the General Appropriations Act.]

16 (c) A merit salary increase for [state agency that pays] a  
17 state employee who transfers to a classified position from an  
18 exempt position for which the [an exempt] salary is specifically  
19 established in the General Appropriations Act [and that then  
20 transfers the employee to a position in which the employee is paid  
21 under Salary Schedule A, B, or C of the General Appropriations Act]  
22 may not take effect if:

23 (1) the employee has spent [grant a merit salary  
24 increase to the employee until at least] less than six months in the  
25 classified position [after the date that the agency begins to pay  
26 the employee under Salary Schedule A, B, or C of the General  
27 Appropriations Act]; or

1                   (2) the increase would cause the salary limitation  
2 specified in Subsection (b) to be exceeded.

3                   (d) The Legislative Budget Board and the governor together  
4 may approve an exception to the salary limitation specified in  
5 limitations prescribed by Subsection (b) [this section] for a  
6 state employee:

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

9                   (2) if the employee's job responsibilities with the  
10 [state] agency have changed substantially during the [state fiscal]  
11 biennium.

12                   (e) In this section:

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

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

17                   SECTION 15. (a) Subchapter K, Chapter 659, Government Code,  
18 is amended by adding Section 659.2531 to read as follows:

19                   Sec. 659.2531. TRANSFER WITHIN AGENCY AMONG CLASSIFIED  
20 POSITIONS ALLOCATED TO SAME SALARY GROUP. (a) In this section:

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

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

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

26                   (B) have different position titles as listed in  
27 the General Appropriations Act.

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

3           (1) the rate for the salary step that is one step  
4 higher than the salary step at which the employee was paid  
5 immediately before the transfer, if the classified position to  
6 which the employee transfers is allocated to a salary group that is  
7 divided into steps; or

8           (2) 103.4 percent of the employee's annual salary rate  
9 immediately before the transfer, if the classified position to  
10 which the employee transfers is allocated to a salary group that is  
11 not divided into steps.

12           (c) A state employee's annual salary rate immediately after  
13 a transfer may not exceed the maximum rate of the appropriate salary  
14 group.

15           (b) The changes in law made by Subsection (a) of this  
16 section apply only to a transfer that takes effect on or after the  
17 effective date of that subsection. A transfer that takes effect  
18 before the effective date of that subsection is governed by the law  
19 in effect on the effective date of the transfer, and the prior law  
20 is continued in effect for that purpose. In this subsection:

21           (1) "Classified position" has the meaning assigned by  
22 Section 659.2531, Government Code, as added by Subsection (a) of  
23 this section.

24           (2) "State agency" has the meaning assigned by Section  
25 659.252, Government Code.

26           (3) "Transfer" has the meaning assigned by Section  
27 659.2531, Government Code, as added by Subsection (a) of this

1 section.

2 SECTION 16. (a) Section 659.255, Government Code, is  
3 amended to read as follows:

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

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

8 (2) "Classified position" means ~~[applies only to]~~ a  
9 position ~~[positions]~~ classified under the state's position  
10 classification plan.

11 (3) "Merit salary increase" means an increase in  
12 compensation to:

13 (A) a higher step rate in the same classified  
14 salary group, if the compensation is determined under Salary  
15 Schedule A of the General Appropriations Act; or

16 (B) a higher rate within the range of the same  
17 classified salary group, if the compensation is determined under  
18 Salary Schedule B of the General Appropriations Act.

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

1 ~~B of the General Appropriations Act, a merit increase involves an~~  
2 ~~increase in an employee's salary to a higher rate within the range~~  
3 ~~of the same salary group. Merit increases including one-time merit~~  
4 ~~payments are subject to the restrictions prescribed by Subsections~~  
5 ~~(c)-(e).]~~

6 ~~[c]~~ The comptroller shall prescribe accounting and  
7 reporting procedures as necessary to ensure the availability of  
8 information reflecting each state agency's use of merit salary  
9 increases [~~, including~~] and one-time merit payments.

10 (c) Each state agency shall establish:

11 (1) criteria for determining the eligibility of a  
12 classified employee to receive a merit salary increase or a  
13 one-time merit payment from the agency; and

14 (2) requirements for substantiating the eligibility  
15 of each classified employee who receives a merit salary increase or  
16 one-time merit payment from the agency.

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

20 (e) A state agency may award a merit salary increase to a  
21 state employee with respect to a particular classified position  
22 held by the employee if [~~For an employee to be eligible for a merit~~  
23 ~~salary increase or a one-time merit payment, the following~~  
24 ~~additional criteria must be met]~~]:

25 (1) the employee's job performance and productivity in  
26 that position are consistently above that normally expected or  
27 required;

1           (2) [(-1)] the employee has [~~must have~~] been employed  
2 by the [~~state~~] agency in that position for at least six continuous  
3 months before [~~prior to~~] the effective date [~~award~~] of the increase  
4 [~~or payment~~];

5           (3) [(-2)] the effective date of the increase is at  
6 least six months [~~must have elapsed since~~] after the effective date  
7 of the employee's last promotion[~~, enhanced compensation award~~  
8 ~~authorized by the General Appropriations Act, one-time merit~~  
9 ~~payment,~~] or merit salary increase relating to that position [~~at~~  
10 ~~the agency~~];

11           (4) the effective date of the increase is at least six  
12 months after the date of the agency's last payment to the employee  
13 of an enhanced compensation award authorized by the General  
14 Appropriations Act or a one-time merit payment relating to that  
15 position; and

16           (5) [(-3)] the agency has complied with Subsection (c)  
17 [~~agency criteria for granting merit salary increases or one-time~~  
18 ~~merit payments must include specific criteria and documentation to~~  
19 ~~substantiate the granting of a merit increase or one-time merit~~  
20 ~~payment~~].

21           (f) A state agency may make a one-time merit payment to a  
22 state employee with respect to a particular classified position  
23 held by the employee if:

24           (1) the employee's job performance and productivity in  
25 that position are consistently above that normally expected or  
26 required;

27           (2) the employee has been employed by the agency in

1       that position for at least six continuous months before the date of  
2       the payment;

3               (3) the date of the payment is at least six months  
4       after the effective date of the employee's last promotion or merit  
5       salary increase relating to that position;

6               (4) the date of the payment is at least six months  
7       after the date of the agency's last payment to the employee of an  
8       enhanced compensation award authorized by the General  
9       Appropriations Act or a one-time merit payment relating to that  
10      position; and

11               (5) the agency has complied with Subsection (c).

12       (b) The changes in law made by Subsection (a) of this  
13      section apply only to a merit salary increase that takes effect on  
14      or after the effective date of that subsection. A merit salary  
15      increase that takes effect before the effective date of that  
16      subsection is governed by the law in effect on the date the increase  
17      takes effect, and the prior law is continued in effect for that  
18      purpose. In this subsection, "merit salary increase" has the  
19      meaning assigned by Section 659.255, Government Code, as amended by  
20      Subsection (a) of this section.

21       (c) The changes in law made by Subsection (a) of this  
22      section apply only to a one-time merit payment that is made on or  
23      after the effective date of that subsection. A one-time merit  
24      payment that is made before the effective date of that subsection is  
25      governed by the law in effect on the date the payment is made, and  
26      the prior law is continued in effect for that purpose.

27       SECTION 17. Subchapter K, Chapter 659, Government Code, is

1 amended by adding Section 659.262 to read as follows:

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

4        SECTION 18. Section 832.002, Government Code, is amended to  
5 read as follows:

6        Sec. 832.002. MEMBERSHIP FEE. (a) Each member of the  
7 retirement system annually shall pay the system a membership fee of  
8 \$10. A contributing member shall pay the fee with the member's  
9 first contribution to the retirement system in each fiscal year in  
10 the manner provided by Section 835.101 for payment of the member's  
11 contribution to the retirement system.

12        (b) If the membership fee is not paid with the member's  
13 first contribution of the year to the retirement system, the board  
14 of trustees may deduct the amount of the fee from that contribution  
15 or from any benefit to which the member becomes entitled.

16        SECTION 19. Subsections (a) and (b), Section 2101.0115,  
17 Government Code, are amended to read as follows:

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

19                (1) the governor;  
20                (2) ~~[the comptroller,]~~  
21                ~~(3)~~ the Legislative Reference Library;  
22                (3) ~~(4)~~ the state auditor; and  
23                (4) ~~(5)~~ the Legislative Budget Board.

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

1 SECTION 20. Section 2113.205(b), Government Code, is  
2 amended to read as follows:

3 (b) The comptroller may authorize a [A] state agency to  
4 [may] use money appropriated for a particular fiscal year to pay the  
5 entire cost or amount of a service, regardless of whether the  
6 service is provided over more than one fiscal year. In this  
7 subsection, "service" includes an Internet connection, a  
8 periodical subscription, a maintenance contract, a post office box  
9 rental, insurance, and [or] a surety or honesty bond[, regardless  
10 of whether it covers more than one fiscal year].

11 SECTION 21. Section 2162.001, Government Code, is amended  
12 to read as follows:

13 Sec. 2162.001. DEFINITIONS [DEFINITION]. In this  
14 chapter [¶]:

15 (1) "Council" ["council"] means the State Council on  
16 Competitive Government.

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

20 SECTION 22. Section 2162.102, Government Code, is amended  
21 by adding Subsection (d) to read as follows:

22 (d) To the extent the council deems feasible, a local  
23 government may voluntarily participate in a contract awarded by the  
24 council or a state agency under this chapter. A local government  
25 that purchases a good or a service under a contract awarded under  
26 this chapter is considered to have satisfied any state law  
27 requiring the local government to seek competitive bids for the

1 purchase.

2 SECTION 23. Subchapter I, Chapter 2166, Government Code, is  
3 amended by adding Section 2166.4061 to read as follows:

4 Sec. 2166.4061. ENERGY SAVINGS PERFORMANCE CONTRACTS. (a)

5 In this section, "energy savings performance contract" means a  
6 contract for energy or water conservation measures to reduce energy  
7 or water consumption or operating costs of governmental facilities  
8 in which the estimated savings in utility costs resulting from the  
9 measures is guaranteed to offset their cost over a specified time  
10 period. The term includes a contract for the installation or  
11 implementation of:

12 (1) insulation of a building structure and systems  
13 within the building;

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

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

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

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

25 (6) energy recovery systems;

26 (7) electric systems improvements;

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

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

3                (9) water-conserving landscape irrigation equipment;

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

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

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

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

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

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

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

22               (15) other energy or water conservation-related  
23    improvements or equipment, including improvements or equipment  
24    related to renewable energy or nonconventional water sources or  
25    water reuse.

26               (b) Notwithstanding any other provision of this chapter, a  
27    state agency, without the consent of the commission, may enter into

1   an energy savings performance contract in accordance with this  
2   section.

3           (c) Each energy or water conservation measure adopted under  
4   this section must comply with current local, state, and federal  
5   construction, plumbing, and environmental codes and regulations.  
6   Notwithstanding Subsection (a), an energy savings performance  
7   contract may not include improvements or equipment that allow or  
8   cause water from any condensing, cooling, or industrial process or  
9   any system of nonpotable usage over which the public water supply  
10   system officials do not have sanitary control to be returned to the  
11   potable water supply.

12           (d) A state agency may enter into an energy savings  
13   performance contract only with a person who is experienced in the  
14   design, implementation, and installation of the energy or water  
15   conservation measures addressed by the contract.

16           (e) Before entering into an energy savings performance  
17   contract, a state agency must require the provider of the energy or  
18   water conservation measures to file with the agency a payment and  
19   performance bond relating to the installation of the measures in  
20   accordance with Chapter 2253. The agency also may require a  
21   separate bond to cover the value of the guaranteed savings on the  
22   contract.

23           (f) A state agency may enter into an energy savings  
24   performance contract for a period of more than one year only if the  
25   agency finds that the amount the agency would spend on the energy or  
26   water conservation measures will not exceed the amount to be saved  
27   in energy, water, wastewater, and operating costs over 15 years

1       from the date of installation.

2           (g) An energy savings performance contract with respect to  
3       existing buildings or facilities may be financed:

4               (1) under a lease-purchase contract that has a term  
5       not to exceed 15 years from the final date of installation and that  
6       meets federal tax requirements for tax-free municipal leasing or  
7       long-term financing, including a lease-purchase contract under the  
8       master equipment lease purchase program administered by the Texas  
9       Public Finance Authority under Chapter 1232;

10               (2) with the proceeds of bonds; or

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

14           (h) An energy savings performance contract must require the  
15       provider of the energy or water conservation measures to guarantee  
16       the amount of the savings to be realized by the state agency under  
17       the contract. If the term of the contract exceeds one year, then  
18       the agency's contractual obligations, including costs of design,  
19       engineering, installation, and anticipated debt service, in any one  
20       year during the term of the contract beginning after the final date  
21       of installation may not exceed the total energy, water, wastewater,  
22       and operating cost savings, including electrical, gas, water, or  
23       wastewater, or other utility cost savings and operating cost  
24       savings resulting from the measures as determined by the agency in  
25       this subsection, divided by the number of years in the contract  
26       term.

27               (i) An energy savings performance contract must be let

1    according to the procedures established for professional services  
2    by Section 2254.004. Notice of the request for qualifications  
3    shall be given in the manner provided by Section 2156.002. The  
4    state energy conservation office shall establish guidelines and an  
5    approval process for awarding energy savings performance  
6    contracts. The guidelines must require that the cost savings  
7    projected by an offeror be reviewed by a licensed engineer who is  
8    not an officer or employee of an offeror for the contract under  
9    review or otherwise associated with the contract. An engineer who  
10   reviews a contract shall maintain the confidentiality of any  
11   proprietary information the engineer acquires while reviewing the  
12   contract. An energy savings performance contract may not be  
13   entered into unless the contract has been approved by the state  
14   energy conservation office. Sections 1001.053 and 1001.407,  
15   Occupations Code, apply to work performed under the contract.

16        (j) The legislature shall base an agency's appropriation  
17   for energy, water, and wastewater costs during a fiscal year on the  
18   sum of:

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

21            (2) if a contract under this section is in effect, the  
22   agency's estimated net savings resulting from the contract during  
23   the contract term, divided by the number of years in the contract  
24   term.

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

27            (b) The rate of the interest that [Interest] accrues on an

1   overdue payment [~~at~~] is the rate [~~of one percent each month~~] in  
2   effect on September 1 of the fiscal year in which the payment  
3   becomes overdue. The rate in effect on September 1 is equal to the  
4   sum of:

5                   (1) one percent; and  
6                   (2) the prime rate as published in *The Wall Street*  
7   Journal on the first day of July of the preceding fiscal year that  
8   does not fall on a Saturday or Sunday.

9                   (b) The rate of interest that accrues on a payment that  
10   becomes overdue on or after September 1, 2004, is the rate  
11   determined under Section 2251.025(b), Government Code, as amended  
12   by Subsection (a) of this section. The rate of interest that  
13   accrues on a payment that becomes overdue before September 1, 2004,  
14   is the rate determined under the law in effect before the effective  
15   date of this section, and the prior law is continued in effect for  
16   that purpose.

17                SECTION 25. (a) Section 2252.903(e), Government Code, is  
18   amended by adding Subdivision (4) to read as follows:

19                (4) "Written contract" does not include any contract  
20   the payments for which must be made through the comptroller's  
21   issuance of warrants or initiation of electronic funds transfers  
22   under Section 404.046, 404.069, or 2103.003.

23                (b) The changes in law made by Subsection (a) of this  
24   section apply only to a written contract that is entered into on or  
25   after the effective date of that subsection. A written contract  
26   that is entered into before the effective date of that subsection is  
27   governed by the law in effect on the date the contract is entered

1 into, and the prior law is continued in effect for that purpose. In  
2 this subsection, "written contract" has the meaning assigned by  
3 Section 2252.903, Government Code, as amended by Subsection (a) of  
4 this section.

5 SECTION 26. Section 2305.012, Government Code, is amended  
6 to read as follows:

7 Sec. 2305.012. STAFF; ASSISTANCE. (a) The energy office  
8 shall ~~provide staff to~~ implement and administer this chapter.

9 (b) The energy office or the governor through the energy  
10 office may ~~also~~ enlist the assistance of a private entity or a  
11 state agency, department, commission, or other entity to:

12 (1) evaluate or review a proposal;

13 (2) audit a program participant or a supervising state  
14 agency;

15 (3) perform administrative duties under this chapter;

16 or

17 (4) develop eligibility or evaluation criteria.

18 SECTION 27. Section 2305.032, Government Code, is amended  
19 to read as follows:

20 Sec. 2305.032. LOANSTAR REVOLVING LOAN PROGRAM. (a) The  
21 energy office under the loanstar revolving loan program may  
22 ~~approve and finance projects that~~ provide loans that finance  
23 public facility energy and water efficiency measures ~~[to eligible~~  
24 ~~applicants for energy saving capital improvements. Projects~~  
25 ~~approved by the energy office should benefit:~~

26 ~~[(1) a state agency or institution of higher~~  
27 ~~education;~~

1                   [~~(2) a public school,~~  
2                   [~~(3) a political subdivision of the state,~~  
3                   [~~(4) a small to medium-sized business; and~~  
4                   [~~(5) a public or nonprofit hospital or health care~~  
5                   ~~facility~~].

6                   (b) The energy office shall determine the terms under which  
7                   a loan may be made under this section and shall set the interest  
8                   rate for a loan at a low rate that the energy office determines is  
9                   sufficient to recover the cost of administering the loan program.

10                  (c) [~~At least 85 percent of the loans made under this~~  
11                  ~~section shall be awarded to state agencies, institutions of higher~~  
12                  ~~education, public schools, or political subdivisions.~~]

13                  [~~(d)~~] Any borrower that receives a loan under this section  
14                  shall repay the principal of and interest on the loan from the value  
15                  of energy savings that accrues as the result of the energy  
16                  conservation measure implemented with the borrowed money.

17                  (d) [~~(e)~~] An institution that receives a loan under this  
18                  section shall repay the loan from the amount budgeted for the  
19                  agency's or institution's energy costs. Until the loan is repaid,  
20                  the legislature may not reduce the amount budgeted for those energy  
21                  costs to reflect the value of energy savings that accrues as a  
22                  result of the energy conservation measure implemented with the  
23                  borrowed money.

24                  (e) [~~(f)~~] The energy office shall allocate at least \$95  
25                  million, including loan commitments and cash on hand, to the  
26                  loanstar program and shall administer the funds under its control  
27                  in a manner that assures that funds available to the loanstar

1 program equal or exceed \$95 million at all times.

2 SECTION 28. Section 2305.033, Government Code, is amended  
3 to read as follows:

4 Sec. 2305.033. STATE ENERGY PROGRAM. (a) The energy office  
5 is the supervising state agency for the state energy program.

6 (b) In accordance with Part D [~~B~~], title III, Energy Policy  
7 and Conservation Act (42 U.S.C. Sec. 6321 et seq.), the energy  
8 office, under the program, shall distribute funds for projects that  
9 save measurable quantities of energy.

10 (c) ~~A project under Subsection (b) must be implemented  
11 primarily by institutions or private sector energy consumers.~~

12 ~~(d)~~ A proposal under Subsection (b) must:

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

14 (2) improve the efficient use of energy through  
15 activities that result in quantifiable energy savings, such as  
16 ~~[including]~~:

17 (A) energy audits of buildings;

18 (B) technical assistance in reducing energy  
19 bills;

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

23 (D) other technical assistance to programs for  
24 which funds are appropriated.

25 SECTION 29. Section 2305.034, Government Code, is amended  
26 to read as follows:

27 Sec. 2305.034. STATE AGENCIES PROGRAM. The energy office

1 is the supervising agency for the state agencies program that may  
2 distribute funds through Chapter 447. Projects funded under this  
3 section may include:

4 (1) energy manager training;

5 (2) energy savings performance contracting services,

6 including: [described by Section 51.927, Education Code,]

7 (A) education and training;

8 (B) contract review and approval;

9 (C) third party contract review;

10 (D) development and dissemination of guidelines;

11 and

12 (E) identification of contract financing

13 sources;

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

16 (4) projects for state building design standards  
17 compliance;

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

20 (6) projects to develop and maintain the state's  
21 utility database; and

22 (7) other appropriate energy and information  
23 applications.

24 SECTION 30. Section 2305.039(b), Government Code, is  
25 amended to read as follows:

26 (b) A project may:

27 (1) assist a service provider in providing services

1 such as:

2 (A) ~~traffic light synchronization;~~

3 ~~[(B) fleet management;~~

4 ~~[(C)] computerized transit routing that is~~  
5 ~~energy efficient;~~

6 ~~[(D) car-care clinics;]~~

7 ~~(B) commuting solutions [vanpooling or~~  
8 ~~ridesharing efforts;~~ and

9 ~~(C) (F) public education related to mass~~  
10 transit; and

11 ~~(G) driver training in energy conservation~~  
12 ~~awareness; and]~~

13 ~~(H) transportation services for the elderly or~~  
14 ~~persons with a disability; and]~~

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

17 SECTION 31. Section 2306.783(a), Government Code, is  
18 amended to read as follows:

19 (a) The Texas Interagency Council for the Homeless is  
20 composed of:

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

23 (A) the Texas Department of Health;

24 (B) the Texas Department of Human Services;

25 (C) the Texas Department of Mental Health and  
26 Mental Retardation;

27 (D) the Texas Department of Criminal Justice;

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- (E) the Texas Department on Aging;
- (F) the Texas Rehabilitation Commission;
- (G) the Texas Education Agency;
- (H) the Texas Commission on Alcohol and Drug Abuse;

(I) the Department of Protective and Regulatory Services;

(J) the Health and Human Services Commission;

(K) the Texas Workforce Commission;

(L) the Texas Youth Commission; and

(M) the Texas Veterans Commission;

(2) [one representative from the office of the  
comptroller appointed by the comptroller,]

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

(3) [~~(4)~~] three members representing service providers to the homeless, one each appointed by the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 32. The heading to Chapter 302, Local Government Code, is amended to read as follows:

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

SECTION 33. Section 302.001, Local Government Code, is amended to read as follows:

Sec. 302.001. DEFINITIONS [DEFINITION]. In this

1 chapter [~~7~~]:

2                   (1) "Energy savings performance contract" means a  
3 contract for energy or water conservation measures to reduce energy  
4 or water consumption or operating costs of local government  
5 facilities in which the estimated savings in utility costs  
6 resulting from the measures is guaranteed to offset their cost over  
7 a specified time period. The term includes a contract for the  
8 installation or implementation of:

9                   (A) insulation of a building structure and  
10 systems within the building;

11                   (B) storm windows or doors, caulking or weather  
12 stripping, multiglazed windows or doors, heat absorbing or heat  
13 reflective glazed and coated window or door systems, or other  
14 window or door system modifications that reduce energy consumption;

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

17                   (D) heating, ventilating, or air conditioning  
18 system modifications or replacements that reduce energy or water  
19 consumption;

20                   (E) lighting fixtures that increase energy  
21 efficiency;

22                   (F) energy recovery systems;

23                   (G) electric systems improvements;

24                   (H) water-conserving fixtures, appliances, and  
25 equipment or the substitution of non-water-using fixtures,  
26 appliances, and equipment;

27                   (I) water-conserving landscape irrigation

1       equipment;

2               (J) landscaping measures that reduce watering

3       demands and capture and hold applied water and rainfall, including:

4               (i) landscape contouring, including the use

5       of berms, swales, and terraces; and

6               (ii) the use of soil amendments that

7       increase the water-holding capacity of the soil, including compost;

8               (K) rainwater harvesting equipment and equipment

9       to make use of water collected as part of a storm-water system

10       installed for water quality control;

11               (L) equipment for recycling or reuse of water

12       originating on the premises or from other sources, including

13       treated municipal effluent;

14               (M) equipment needed to capture water from

15       nonconventional, alternate sources, including air conditioning

16       condensate or graywater, for nonpotable uses;

17               (N) metering equipment needed to segregate water

18       use in order to identify water conservation opportunities or verify

19       water savings; or

20               (O) other energy or water conservation-related

21       improvements or equipment, including improvements or equipment

22       relating to renewable energy or nonconventional water sources or

23       water reuse.

24               (2) "Local ["local] government" means a county,

25       municipality, or other political subdivision of this state. The

26       term [local government] does not include a school district

27       authorized to enter into [a] an energy savings performance contract

1 [for energy or water conservation measures] under Section 44.9011  
2 [44.901], Education Code.

3 SECTION 34. Section 302.002, Local Government Code, is  
4 amended to read as follows:

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

11 (b) [A contract authorized under this chapter includes a  
12 ~~contract for the installation or implementation of~~.

13 [ (1) ~~insulation of the building structure and systems~~  
14 ~~within the building~~;

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

19 [ (3) ~~automatic energy control systems, including~~  
20 ~~computer software and technical data licenses~~;

21 [ (4) ~~heating, ventilating, or air conditioning system~~  
22 ~~modifications or replacements that reduce energy or water~~  
23 ~~consumption~~;

24 [ (5) ~~lighting fixtures that increase energy~~  
25 ~~efficiency~~;

26 [ (6) ~~energy recovery systems~~;

27 [ (7) ~~electric systems improvements~~;

1                   [~~(8) water-conserving fixtures, appliances, and~~  
2 ~~equipment or the substitution of non-water-using fixtures,~~  
3 ~~appliances, and equipment,~~

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

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

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

9                   [~~(B) the use of soil amendments that increase the~~  
10 ~~water holding capacity of the soil, including compost;~~

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

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

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

20                   [~~(14) metering equipment needed to segregate water use~~  
21 ~~in order to identify water conservation opportunities or verify~~  
22 ~~water savings; or~~

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

27                   [~~(c) Each [All] energy or water conservation measure~~

1    adopted under this section [~~measures~~] must comply with current  
2    local, state, and federal construction, plumbing, and  
3    environmental codes and regulations. Notwithstanding Section  
4    302.001(1) [~~anything to the contrary in Subsection (b)~~], an energy  
5    savings performance [~~a~~] contract [~~for energy or water conservation~~  
6    ~~measures~~] may [~~shall~~] not include improvements or equipment that  
7    allow or cause water from any condensing, cooling, or industrial  
8    process or any system of nonpotable usage over which public water  
9    supply system officials do not have sanitary control to be returned  
10   to the potable water supply.

11            SECTION 35. Chapter 302, Local Government Code, is amended  
12   by adding Section 302.0031 to read as follows:

13            Sec. 302.0031. PAYMENT AND PERFORMANCE BOND.  
14   Notwithstanding any other law, before entering into an energy  
15   savings performance contract, the governing body of a local  
16   government shall require the provider of the energy or water  
17   conservation measures to file with the governing body a payment and  
18   performance bond relating to the installation of the measures in  
19   accordance with Chapter 2253, Government Code. The governing body  
20   also may require a separate bond to cover the value of the  
21   guaranteed savings under the contract.

22            SECTION 36. Section 302.004, Local Government Code, is  
23   amended to read as follows:

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

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5 (2) with the proceeds of bonds; or

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

23 SECTION 37. Chapter 302, Local Government Code, is amended  
24 by adding Section 302.006 to read as follows:

25                   Sec. 302.006. BIDDING PROCEDURES; AWARD OF CONTRACT. (a)  
26                   An energy savings performance contract may be let according to the  
27                   procedures established for professional services by Section

1    2254.004, Government Code. Notice of the request for  
2    qualifications shall be published in the manner provided for  
3    competitive bidding.

4            (b) Prior to entering into an energy savings performance  
5    contract, the governing body must require that the cost savings  
6    projected by an offeror be reviewed by a licensed engineer who is  
7    not an officer or employee of an offeror for the contract under  
8    review or otherwise associated with the contract. An engineer who  
9    reviews a contract shall maintain the confidentiality of any  
10   proprietary information the engineer acquires while reviewing the  
11   contract. Sections 1001.053 and 1001.407, Occupations Code, apply  
12   to work performed under the contract.

13           SECTION 38. (a) Section 74.103, Property Code, is amended  
14   by adding Subsection (d) to read as follows:

15           (d) If a holder's records are unavailable or incomplete for  
16   any portion of the required retention period, then the comptroller  
17   may determine the liability of the holder using the best  
18   information available to the comptroller.

19           (b) The changes in law made by Subsection (a) of this  
20   section apply only to an examination begun on or after the effective  
21   date of that subsection. An examination begun before the effective  
22   date of that subsection is governed by the law in effect on the date  
23   the examination begins, and the prior law is continued in effect for  
24   that purpose. In this subsection, "examination" means an  
25   examination of records by the comptroller under Subchapter H,  
26   Chapter 74, Property Code.

27           SECTION 39. Section 74.501, Property Code, is amended by

1 adding Subsection (d) to read as follows:

2        (d)(1) Upon receipt of a claim form and all necessary  
3 documentation and as may be appropriate under the circumstances,  
4 the comptroller may approve the claim of:

5                (A) the reported owner of the property;

6                (B) if the reported owner died testate:

7                        (i) the appropriate legal beneficiaries of  
8 the owner as provided in the last will and testament of the owner  
9 that has been accepted into probate or filed as a muniment of title;

10 or

11                        (ii) the executor of the owner's last will  
12 and testament who holds current letters testamentary;

13                (C) if the reported owner died intestate:

14                        (i) the legal heirs of the owner as provided  
15 by Section 38, Probate Code; or

16                        (ii) the court appointed administrator of  
17 the owner's estate;

18                (D) the legal heirs of the reported owner as  
19 established by an affidavit of heirship order signed by the judge of  
20 the county probate court or by the county judge;

21                (E) if the reported owner is a minor child or an  
22 adult who has been adjudged incompetent by a court of law, the  
23 parent or legal guardian of that child or adult;

24                (F) if the reported owner is a corporation:

25                        (i) the president or chairman of the board  
26 of directors of the corporation, on behalf of the corporation; or

27                        (ii) any person who has legal authority to

1       act on behalf of the corporation;

2                   (G) if the reported owner is a corporation that  
3       has been dissolved or liquidated:

4                   (i) the sole surviving shareholder of the  
5       corporation, if there is only one surviving shareholder;

6                   (ii) the surviving shareholders of the  
7       corporation in proportion to their ownership of the corporation, if  
8       there is more than one surviving shareholder;

9                   (iii) the corporation's bankruptcy trustee;

10       or

11                   (iv) the court ordered receiver for the  
12       corporation; or

13                   (H) any other person that is entitled to receive  
14       the unclaimed property under other law or comptroller policy.

15                   (2) The comptroller may not pay:

16                   (A) a creditor, a judgment creditor, a  
17       lienholder, or an assignee of the reported owner or of the owner's  
18       heirs; or

19                   (B) any person holding a power of attorney from  
20       the reported owner or the owner's heirs.

21                   SECTION 40. Section 112.058(a), Tax Code, is amended to  
22       read as follows:

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

26                   (1) An officer who receives payments made under  
27       protest as required by Section 112.051 ~~[of this code]~~ shall each day

1 send to the comptroller the payments, a list of the persons making  
2 the payments, and a written statement that the payments were made  
3 under protest.

4 (2) The comptroller shall, immediately on receipt,  
5 credit the payments to each fund to which the tax or fee paid under  
6 protest is allocated by law.

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

9 (4) A payment under protest bears pro rata interest.  
10 The pro rata interest is the amount of interest that would be due if  
11 the amount had been placed in the suspense account of the  
12 comptroller.

13 SECTION 41. Section 256.003, Transportation Code, is  
14 amended to read as follows:

15 Sec. 256.003. USE OF REVENUES FROM COUNTY AND ROAD DISTRICT  
16 HIGHWAY FUND. (a) A county may use the money it receives under  
17 Section 256.002 only for:

18 (1) purchasing right-of-way for lateral roads,  
19 farm-to-market roads, or state highways;

20 (2) constructing and maintaining lateral roads,  
21 including the hiring of labor and the purchase of materials,  
22 supplies, and equipment; or

23 (3) paying the principal, interest, and sinking fund  
24 requirements maturing during the fiscal year on bonds, warrants, or  
25 other legal obligations incurred to finance activities described in  
26 Subdivisions (1) and (2).

27 ~~[(b) On or before October 1 of each year the county judge of~~

1 ~~each county shall file with the comptroller a sworn report that~~  
2 ~~includes:~~

3 ~~[(1) an account of how the money allocated to the~~  
4 ~~county under Section 256.002 during the preceding year was spent;~~

5 ~~[(2) a description, including location, of any new~~  
6 ~~roads constructed in whole or part with that money; and~~

7 ~~[(3) any other information related to the~~  
8 ~~administration of Section 256.002 and this section that the~~  
9 ~~comptroller requires.~~

10 ~~[(c) A county officer or employee shall provide to the~~  
11 ~~comptroller on request any information necessary to determine the~~  
12 ~~legality of the use of funds allocated under Section 256.002.]~~

13 (b) ~~[(d)]~~ A county may require that bids for construction  
14 funded in whole or part by money received under Section 256.002 be  
15 submitted to the commission in the manner provided for bids for  
16 construction of a state highway.

17 (c) ~~[(e)]~~ On the request of a county, the commission shall  
18 provide technical and engineering assistance in making surveys,  
19 preparing plans and specifications, preparing project proposals,  
20 and supervising construction. The county shall pay the costs of  
21 providing the assistance.

22 SECTION 42. Section 256.009, Transportation Code, is  
23 amended to read as follows:

24 Sec. 256.009. REPORT TO COMPTROLLER. (a) Not later than  
25 January 30 of each year, the county auditor or, if the county does  
26 not have a county auditor, the official having the duties of the  
27 county auditor shall file a report with the comptroller ~~[stating]~~

1       that includes:

2               (1) an account of how the money allocated to the county

3       under Section 256.002 during the preceding year was spent;

4               (2) a description, including location, of any new  
5       roads constructed in whole or part with that money;

6               (3) any other information related to the  
7       administration of Sections 256.002 and 256.003 that the comptroller  
8       requires; and

9               (4) the total amount of expenditures for county road  
10       and bridge construction, maintenance, rehabilitation, right-of-way  
11       acquisition, and utility construction and other appropriate road  
12       expenditures of county funds in the preceding county fiscal year  
13       that are required by the constitution or other law to be spent on  
14       public roads or highways. [The report must be in a form prescribed  
15       by the comptroller.]

16               (b) A county officer or employee shall provide to the  
17       comptroller on request any information necessary to determine the  
18       legality of the use of funds allocated under Section 256.002.

19               (c) The report must be in a form prescribed by the  
20       comptroller.

21               (d) The comptroller may distribute money under Section  
22       256.002(a) to a county only if the most recent report required by  
23       Subsection (a) has been filed.

24       SECTION 43. (a) The following laws are repealed:

25               (1) Sections 44.901 and 51.927, Education Code.

26               (2) Subchapter O, Chapter 403, Government Code.

27               (3) Sections 2166.406, 2305.025, 2305.073, 2305.074,

1 and 2305.076, Government Code.

2 (4) Sections 302.003 and 302.005, Local Government  
3 Code.

4 (b) The following laws are repealed:

5 (1) Section 395.103, Finance Code.

6 (2) Subsections (b) and (c), Section 112.058, Tax  
7 Code.

8 SECTION 44. (a) Except as provided in Subsection (c) of this  
9 section, for the fiscal year ending August 31, 2003, the  
10 comptroller is appropriated from the general revenue fund the  
11 amount needed to return any available cash that was transferred to  
12 that fund from a fund outside the state treasury and to maintain the  
13 equity of the fund from which the transfer was made, as required by  
14 Section 403.092, Government Code, as amended by this Act.

15 (b) For the fiscal biennium beginning September 1, 2003, the  
16 comptroller is appropriated from the general revenue fund the  
17 amount needed to return any available cash that was transferred to  
18 that fund from a fund outside the state treasury and to maintain the  
19 equity of the fund from which the transfer was made, as required by  
20 Section 403.092, Government Code, as amended by this Act.

21 (c) Subsection (a) of this section has no effect if it would  
22 take effect September 1, 2003.

23 SECTION 45. (a) Except as provided in Subsections (b) and  
24 (c) of this section:

25 (1) this Act takes effect immediately if it receives a  
26 vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution; and

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(2) if this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

6 (c) Section 24 of this Act takes effect July 1, 2004.