

FOURTH DAY

(CONTINUED)

FRIDAY, JULY 8, 2005

PROCEEDINGS

AFTER RECESS

The Senate met at 9:30 a.m. and was called to order by the President.

SENATORS ANNOUNCED PRESENT

Senators Eltife, Lindsay, and Madla, who had previously been recorded as "Absent-excused," were announced "Present."

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time, and referred to the committees indicated:

SB 8 by Duncan

Relating to certain retired and retirement-eligible education employees; making appropriations.

To Committee on State Affairs.

SB 74 by Van de Putte

Relating to the issuance of revenue bonds for The University of Texas at San Antonio.

To Committee on Finance.

SB 75 by Shapleigh

Relating to the use of certain human cells and tissue; providing penalties.

To Committee on Health and Human Services.

SB 76 by Shapleigh

Relating to authorizing certain nonprofit organizations organized by recognized Indian tribes to conduct bingo.

To Committee on State Affairs.

SB 77 by Jackson

Relating to the creation of municipal management districts by certain small municipalities; providing authority to impose an assessment or sales and use tax, and to issue bonds.

To Committee on Intergovernmental Relations.

PHYSICIAN OF THE DAY

Senator Zaffirini was recognized and presented Dr. Leo Cigarroa of Laredo as the Physician of the Day.

The Senate welcomed Dr. Cigarroa and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

CONCLUSION OF MORNING CALL

The President at 9:53 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 6 ON SECOND READING

Senator Ogden moved to suspend Senate Rule 7.12(a) and the regular order of business to take up for consideration **CSSB 6** at this time on its second reading:

CSSB 6, Appropriating money for the support of state government.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Carona, Ellis, Staples.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Ellis, Staples.

(Senator Armbrister in Chair) COMMITTEE SUBSTITUTE SENATE BILL 6 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 6** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Carona, Ellis, Staples.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 5 ON SECOND READING

Senator Ogden moved to suspend Senate Rule 7.12(a) and the regular order of business to take up for consideration **CSSB 5** at this time on its second reading:

CSSB 5, Relating to certain fiscal matters affecting governmental entities.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Carona, Ellis, Staples.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 5** by adding the following new SECTION and renumbering subsequent SECTIONS appropriately:

SECTION __. Section 1431.001(2), Government Code, is amended to read as follows:

(2) "Eligible countywide district" means a flood control district or a hospital district the boundaries of which are substantially coterminous with the boundaries of a county with a population of 800,000 ~~three million~~ or more.

The amendment was read.

POINT OF ORDER

Senator Ogden raised a point of order that Floor Amendment No. 1 was not germane to the body of the bill.

POINT OF ORDER WITHDRAWN

Senator Ogden withdrew the point of order.

Senator Barrientos withdrew Floor Amendment No. 1.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 5** by adding a new ARTICLE to the bill, appropriately numbered, to read:

ARTICLE ____ . INDIVIDUAL DEVELOPMENT ACCOUNTS

SECTION ____ .01 Chapter 403, Government Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. INDIVIDUAL DEVELOPMENT ACCOUNTS FOR
CERTAIN LOW-INCOME INDIVIDUALS AND HOUSEHOLDS

Sec. 403.501. DEFINITIONS. In this subchapter:

(1) "Financial institution" has the meaning assigned by Section 201.101, Finance Code.

(2) "Individual development account" means a deposit account established by a participant at a financial institution selected by a sponsoring organization.

(3) "Participant" means an individual or household that has entered into an agreement with a sponsoring organization to participate in the program.

(4) "Program" means the individual development account program established under this subchapter.

(5) "Service provider" means a person to whom a qualified expenditure from a participant's individual development account is made. The term includes:

(A) a public or private institution of higher education;

(B) a provider of occupational or vocational education, including a proprietary school;

(C) a mortgage lender;

(D) a title insurance company;

(E) the lessor or vendor of office supplies or equipment or retail space, office space, or other business space; and

(F) any other provider of goods or services used for the commencement of a business.

(6) "Sponsoring organization":

(A) means a nonprofit organization that is:

(i) exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code; and

(ii) selected by the comptroller to establish and administer individual development accounts under the program; and

(B) includes an Indian tribe, as defined by Section 4(12) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. Section 4103(12)), including any tribal subsidiary, division, or other wholly owned tribal entity of an Indian tribe.

Sec. 403.502. ESTABLISHMENT OF PROGRAM; RULES. (a) The comptroller by rule shall develop and implement a program under which:

(1) individual development accounts are facilitated and administered by sponsoring organizations for eligible low-income individuals and households to provide those individuals and households with an opportunity to accumulate assets and to facilitate and mobilize savings; and

(2) sponsoring organizations are provided grant funds for use in administering the program and matching qualified expenditures made by program participants. At least 85 percent of the grant funds must be used by the sponsoring organization for matching qualified expenditures.

(b) The comptroller shall contract with sponsoring organizations to facilitate the establishment of and to administer the individual development accounts in accordance with the rules adopted by the comptroller. The comptroller's rules promulgated to implement this subchapter shall include guidelines for contract monitoring, reporting, and termination of grant recipients.

(c) In adopting rules under the program, the comptroller shall state the selection criteria for sponsoring organizations. The comptroller shall give priority to organizations that have demonstrated:

(1) a capacity to administer individual account programs; and

(2) a commitment to serve areas of the state that currently do not have individual development account programs available.

Sec. 403.503. PARTICIPANT ELIGIBILITY. (a) The comptroller by rule shall establish eligibility criteria for participants in the program.

(b) The eligibility criteria established by the comptroller must:

(1) require an eligible individual or member of an eligible household, other than an eligible individual or member of an eligible household receiving supplemental security income or other public disability payments, to agree to make regular contributions to the individual's or household's individual development account from the individual's or household's earned income;

(2) provide that the annual income of an eligible individual or household may not exceed 200 percent of the poverty level according to the federal Office of Management and Budget poverty index;

(3) establish the rate at which a participant's contributions to the individual development account may be matched, not to exceed the match rate established by the federal Assets for Independence Act (Pub. L. No. 105-285); and

(4) establish limits on the amount of matching funds a participant is eligible to receive, not to exceed the limit on federal matching funds established by the federal Assets for Independence Act.

Sec. 403.504. CONTRIBUTIONS AND EXPENDITURES BY PARTICIPANT. (a) A participant may contribute to the participant's individual development account.

(b) A participant's contributions to the participant's individual development account shall accrue interest.

(c) A participant may withdraw money from the participant's account only to pay for the following qualified expenditures:

(1) postsecondary educational or training expenses for the adult account holder and dependent children;

(2) the expenses of purchasing or financing a home for the adult account holder for the first time;

(3) the expenses of a self-employment enterprise; and

(4) start-up business expenses for the adult account holder.

Sec. 403.505. DUTIES OF SPONSORING ORGANIZATIONS. (a) The comptroller shall promulgate rules that establish the duties of sponsoring organizations that shall include recruiting requirements, standards for determination of eligibility of participants, education of participants, operations and account management, solicitation of matching funds and such other subjects as may be deemed necessary by the comptroller to carry out the purposes and objectives of this subchapter.

(b) Each sponsoring organization shall provide to the comptroller any information necessary to evaluate the sponsoring organization's performance in fulfilling the duties outlined in Subsection (a).

Sec. 403.506. MATCHING FUNDS; LIMITATIONS ON AMOUNT AND AVAILABILITY. (a) At the time a participant in the program makes a withdrawal for a qualified expenditure described by Section 403.504(c) from the participant's individual development account, the participant shall receive matching funds from the sponsoring organization, payable directly to the service provider.

(b) If federal Assets for Independence Act money is used as matching funds, the amount of federal matching funds spent for each individual development account may not exceed the limits established by the federal Assets for Independence Act. If money other than federal Assets for Independence Act money is used as matching funds, the comptroller by rule may set a different limit on the amount of matching funds that may be spent for each account.

(c) This subchapter may not be construed to create an entitlement of a participant to receive matching funds. The number of participants who receive matching funds under the program in any year is limited by the amount of funds available for that purpose in that year.

Sec. 403.507. TERMINATION OF ACCOUNT FOR UNQUALIFIED WITHDRAWALS. (a) The comptroller by rule shall establish guidelines to ensure that a participant does not withdraw funds in the individual development account, except for a qualified expenditure described by Section 403.504(c). These guidelines shall:

(1) include a requirement that a sponsoring organization approve a participant's request to make a withdrawal from an individual development account in writing;

(2) provide that no participant may withdraw funds from an individual development account earlier than six months after the date on which the participant first deposits funds in the account; and

(3) require a participant to reimburse the individual development account for any funds withdrawn for a purpose other than for a qualified expenditure described by Section 403.504(c).

(b) The sponsoring organization shall instruct the financial institution to terminate the participant's account if the participant does not comply with the guidelines established under Subsection (a).

(c) A participant whose individual development account is terminated under this section is entitled to withdraw from the participant's account the amount of money the participant contributed to the account and any interest that has accrued on that amount.

Sec. 403.508. FUNDING. (a) The legislature may appropriate money for the purposes of this subchapter.

(b) The comptroller may accept gifts, grants, and donations from any public or private source for the purposes of this subchapter.

Sec. 403.509. INTERAGENCY CONTRACTS. The comptroller may contract with the governor's office of faith-based initiatives to administer the individual development accounts program of this subchapter.

Sec. 403.510. AGENCY COOPERATION. To the extent allowed by law, the Health and Human Services Commission shall provide information to the comptroller as necessary to implement this subchapter.

SECTION _____.02 The comptroller shall develop and implement the individual development account program established under Subchapter O, Chapter 403, Government Code, as added by this Article, as soon as practicable but not later than the 180th day after the effective date of this Act.

The amendment was read.

Senator Barrientos withdrew Floor Amendment No. 2.

Senator Averitt, on behalf of Senator Shapiro, offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 5** by inserting a new appropriately numbered ARTICLE to read as follows:

ARTICLE ____

DRIVER AND TRAFFIC SAFETY EDUCATION

SECTION __.01. Section 1001.001, Education Code, is amended by amending Subdivisions (2), (3), (4), and (5) and adding Subdivision (13-a) to read as follows:

(2) "Approved driving safety course" means a driving safety course approved by the department [~~commissioner~~].

(3) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of education~~].

(4) "Course provider" means an enterprise that:

(A) maintains a place of business or solicits business in this state;

(B) is operated by an individual, association, partnership, or corporation; and

(C) has received an approval for a driving safety course from the department [~~commissioner~~] or has been designated by a person who has received that approval to conduct business and represent the person in this state.

(5) "Department" means the Texas Department of Licensing and Regulation [~~Public Safety~~].

(13-a) "Executive director" means the executive director of the department.

SECTION __.02. Section 1001.002(c), Education Code, is amended to read as follows:

(c) A driver education course is exempt from this chapter, other than Section 1001.055, if the course is:

(1) conducted by a vocational driver training school operated to train or prepare a person for a field of endeavor in a business, trade, technical, or industrial occupation;

(2) conducted by a school or training program that offers only instruction of purely avocational or recreational subjects as determined by the department [~~commissioner~~];

(3) sponsored by an employer to train its own employees without charging tuition;

(4) sponsored by a recognized trade, business, or professional organization with a closed membership to instruct the members of the organization; or

(5) conducted by a school regulated and approved under another law of this state.

SECTION __.03. Sections 1001.003 and 1001.004, Education Code, are amended to read as follows:

Sec. 1001.003. LEGISLATIVE INTENT REGARDING SMALL BUSINESSES. It is the intent of the legislature that commission [~~agency~~] rules that affect driver training schools that qualify as small businesses be adopted and administered so as to have the least possible adverse economic effect on the schools.

Sec. 1001.004. COST OF ADMINISTERING CHAPTER. The cost of administering this chapter shall be included in the state budget allowance for the department [~~agency~~].

SECTION __.04. Sections 1001.051 and 1001.052, Education Code, are amended to read as follows:

Sec. 1001.051. JURISDICTION OVER SCHOOLS. The department ~~[agency]~~ has jurisdiction over and control of driver training schools regulated under this chapter.

Sec. 1001.052. RULES. The commission ~~[agency]~~ shall adopt ~~[and administer]~~ comprehensive rules governing driving safety courses, including rules to ensure the integrity of approved driving safety courses and enhance program quality.

SECTION __.05. The heading to Section 1001.053, Education Code, is amended to read as follows:

Sec. 1001.053. POWERS AND DUTIES OF DEPARTMENT ~~[COMMISSIONER]~~.

SECTION __.06. Section 1001.053(a), Education Code, is amended to read as follows:

(a) The department ~~[commissioner]~~ shall:

(1) administer ~~[the policies of]~~ this chapter;

(2) enforce minimum standards for driver training schools under this chapter; and

(3) ~~[adopt and]~~ enforce rules adopted by the commission necessary to administer this chapter~~[- and~~

~~[(4) visit a driver training school or course provider and reexamine the school or course provider for compliance with this chapter].~~

SECTION __.07. The heading to Section 1001.054, Education Code, is amended to read as follows:

Sec. 1001.054. RULES RESTRICTING ADVERTISING ~~[OR COMPETITIVE BIDDING]~~.

SECTION __.08. Section 1001.054(c), Education Code, is amended to read as follows:

(c) The commission ~~[commissioner]~~ by rule may restrict advertising by a branch location of a driver training school so that the location adequately identifies the primary location of the school in a solicitation.

SECTION __.09. Section 1001.055, Education Code, is amended to read as follows:

Sec. 1001.055. DRIVER EDUCATION CERTIFICATES. (a) The department ~~[agency]~~ shall print and supply to each licensed or exempt driver education school driver education certificates to be used for certifying completion of an approved driver education course to satisfy the requirements of Section 521.204(a)(2), Transportation Code. The certificates must be numbered serially.

(b) The commission ~~[agency]~~ by rule shall provide for the design and distribution of the certificates in a manner that, to the greatest extent possible, prevents the unauthorized reproduction or misuse of the certificates.

(c) The department ~~[agency]~~ may charge a fee of not more than \$4 for each certificate.

SECTION __.10. Subsections (b), (c), (e) and (g), Section 1001.056, Education Code, as amended by H.B. 468, 79th Legislature, Regular Session, are amended to read as follows:

(b) The department [~~agency~~] shall provide each licensed course provider with course completion certificate numbers to enable the provider to print and issue [~~agency-approved~~] department-approved uniform certificates of course completion. The certificates must be serial.

(c) The department [~~agency~~] by rule shall provide for the design of the certificates and the distribution of certificate numbers in a manner that, to the greatest extent possible, prevents the unauthorized production or the misuse of the certificates or certificate numbers.

(e) The department [~~agency~~] may charge a fee of not more than \$4 for each course completion certificate number. A course provider that supplies a certificate to an operator shall collect from the operator a fee equal to the amount of the fee paid to the agency for the certificate number.

(g) A course provider shall issue a duplicate certificate by United States mail or commercial delivery. The department [~~commissioner~~] by rule shall determine the amount of the fee for issuance of a duplicate certificate under this subsection.

SECTION __.11. Section 1001.057, Education Code, is amended to read as follows:

Sec. 1001.057. ELECTRONIC TRANSMISSION OF DRIVING SAFETY COURSE INFORMATION. The department [~~agency~~] shall investigate options to develop and implement procedures to electronically transmit information relating to driving safety courses to municipal and justice courts.

SECTION __.12. Subchapter B, Chapter 1001, Education Code, is amended by adding Section 1001.058 to read as follows:

Sec. 1001.058. DESIGNATION OF PERSON TO ADMINISTER CHAPTER.
The executive director may designate a person knowledgeable in the administration of regulating driver training schools to administer this chapter for the department.

SECTION __.13. Sections 1001.101 and 1001.102, Education Code, are amended to read as follows:

Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND TEXTBOOKS. The commission [~~commissioner~~] by rule shall establish the curriculum and designate the textbooks to be used in a driver education course.

Sec. 1001.102. ALCOHOL AWARENESS INFORMATION. (a) The commission [~~agency~~] by rule shall require that information relating to alcohol awareness and the effect of alcohol on the effective operation of a motor vehicle be included in the curriculum of any driver education course or driving safety course.

(b) In developing rules under this section, the commission [~~agency~~] shall consult with the Department of Public Safety [~~department~~].

SECTION __.14. Sections 1001.103(b), (d), and (e), Education Code, are amended to read as follows:

(b) The department [~~agency~~] shall develop standards for a separate school certification and approve curricula for drug and alcohol driving awareness programs that include one or more courses. Except as provided by commission [~~agency~~] rule, a program must be offered in the same manner as a driving safety course.

(d) In accordance with Section 461.013(b), Health and Safety Code, the department [agency] and the Department of State Health Services [Texas Commission on Alcohol and Drug Abuse] shall enter into a memorandum of understanding for the interagency approval of the required curricula.

(e) The commission [Notwithstanding Section 1001.056, Subchapter D, and Sections 1001.213 and 1001.303, the commissioner] may establish fees in connection with the programs under this section. The fees must be in amounts reasonable and necessary to administer the department's [agency's] duties under this section.

SECTION __.15. Sections 1001.104 and 1001.105, Education Code, are amended to read as follows:

Sec. 1001.104. HOSPITAL AND REHABILITATION FACILITIES. (a) The department [agency] shall enter into a memorandum of understanding with the Texas Department of Assistive and Rehabilitative Services [Rehabilitation Commission] and the Department of Public Safety [department] for the interagency development of curricula and licensing criteria for hospital and rehabilitation facilities that teach driver education.

(b) The department [agency] shall administer comprehensive rules governing driver education courses adopted by mutual agreement among the commission [agency], the Texas Department of Assistive and Rehabilitative Services [Rehabilitation Commission], and the Department of Public Safety [department].

Sec. 1001.105. TEXAS DEPARTMENT OF INSURANCE. The commission [agency] shall enter into a memorandum of understanding with the Texas Department of Insurance for the interagency development of a curriculum for driving safety courses.

SECTION __.16. Sections 1001.106(b), (c), and (d), Education Code, are amended to read as follows:

(b) The commission [commissioner] by rule shall provide minimum standards of curriculum relating to operation of vehicles at railroad and highway grade crossings.

(c) Subchapter F, Chapter 51, Occupations Code, Section 51.353, Occupations Code, and Section [Sections 1001.454,] 1001.456 of this code[, and 1001.553] do not apply to a violation of this section or a rule adopted under this section.

(d) Section 51.352, Occupations Code, and Sections [1001.455(a)(6),] 1001.501[, 1001.551, 1001.552,] and 1001.554 of this code do not apply to a violation of this section.

SECTION __.17. Section 1001.107, Education Code, is amended to read as follows:

Sec. 1001.107. INFORMATION RELATING TO LITTER PREVENTION. (a) The commission [commissioner] by rule shall require that information relating to litter prevention be included in the curriculum of each driver education and driving safety course.

(b) In developing rules under this section, the commission [commissioner] shall consult the Department of Public Safety [department].

SECTION __.18. Sections 1001.108(a) and (c), Education Code, are amended to read as follows:

(a) The commission ~~[commissioner]~~ by rule shall require that information relating to anatomical gifts be included in the curriculum of each driver education course and driving safety course.

(c) In developing rules under this section, the commission ~~[commissioner]~~ shall consult with the Department of Public Safety ~~[department]~~ and the ~~[Texas]~~ Department of State Health Services.

SECTION __.19. Section 1001.151, Education Code, as amended by H.B. 468, 79th Legislature, Regular Session, is amended to read as follows:

Sec. 1001.151. APPLICATION, LICENSE, AND REGISTRATION FEES. (a) The commission ~~[commissioner]~~ shall establish ~~[collect]~~ application, license, and registration fees. The fees must be in amounts sufficient to cover administrative costs and are nonrefundable. The department shall collect the application, license, and registration fees.

(b) The commission shall establish a fee for:

(1) an initial driver education school license and ~~[is \$1,000 plus \$850]~~ for each branch location; [-]

(2) ~~[(e) The fee for]~~ an initial driving safety school license; ~~[is an appropriate amount established by the commissioner not to exceed \$200.]~~

(3) ~~[(d) The fee for]~~ an initial course provider license ~~[is an appropriate amount established by the commissioner not to exceed \$2,000]~~, except that the commission ~~[agency]~~ may waive the fee if revenue received from the course provider is sufficient to cover the cost of licensing the course provider; [-]

(4) the ~~[(e) The]~~ annual renewal ~~[fee]~~ for a course provider, driving safety school, driver education school, or branch location ~~[is an appropriate amount established by the commissioner not to exceed \$200]~~, except that the commission ~~[agency]~~ may waive the fee if revenue generated by the issuance of course completion certificate numbers and driver education certificates is sufficient to cover the cost of administering this chapter and Article 45.0511, Code of Criminal Procedure; [-]

(5) ~~[(f) The fee for]~~ a change of address of:

~~[(1) a driver education school, [is \$180; and~~

~~[(2) a driving safety school, or course provider; [is \$50.]~~

(6) ~~[(g) The fee for]~~ a change of name of:

(A) ~~[(1) a driver education school or course provider or an owner of a driver education school or course provider [is \$100]; or [and]~~

(B) ~~[(2) a driving safety school or owner of a driving safety school; [is \$50.]~~

(7) ~~[(h) The application fee for]~~ each additional driver education or driving safety course at a driver training school; ~~[is \$25.]~~

(8) an ~~[(i) The]~~ application of a ~~[fee for:~~

~~[(1) each] director, [is \$30; and~~

~~[(2) each] assistant director, or administrative staff member; and [is \$15.]~~

(9) an ~~[(j) Each]~~ application for approval of a driving safety course that has not been evaluated by the department ~~[commissioner must be accompanied by a nonrefundable fee of \$9,000];~~

(10) an application for approval to teach an approved driving safety course by an alternative method.

(c) ~~(4)~~ An application for an original driver education or driving safety instructor license must be accompanied by a processing fee ~~[of \$50]~~ and an annual license fee ~~[of \$25]~~, except that the department ~~[commissioner]~~ may not collect the processing fee from an applicant for a driver education instructor license who is currently teaching a driver education course in a public school in this state.

(d) ~~(4)~~ The commission ~~[commissioner]~~ shall establish the amount of the fee for a duplicate license.

SECTION __.20. Section 1001.153, Education Code, is amended to read as follows:

Sec. 1001.153. COMPLAINT INVESTIGATION FEE. (a) The commission ~~[commissioner]~~ shall establish the amount of the fee to investigate a driver training school or course provider to resolve a complaint against the school or course provider.

(b) The fee may be charged only if:

(1) the complaint could not have been resolved solely by telephone or in writing;

(2) a representative of the department ~~[agency]~~ visited the school or course provider as a part of the complaint resolution process; and

(3) the school or course provider was found to be at fault.

SECTION __.21. Section 1001.202(b), Education Code, is amended to read as follows:

(b) A driving safety school may use multiple classroom locations to teach a driving safety course if each location:

(1) is approved by the parent school and the department ~~[agency]~~;

(2) has the same name as the parent school; and

(3) has the same ownership as the parent school.

SECTION __.22. Sections 1001.203, 1001.204, 1001.205, and 1001.206, Education Code, are amended to read as follows:

Sec. 1001.203. APPLICATION. To operate or do business in this state, a driver training school must apply to the department ~~[commissioner]~~ for the appropriate license. The application must:

(1) be in writing;

(2) be in the form prescribed by the department ~~[commissioner]~~;

(3) include all required information; and

(4) be verified.

Sec. 1001.204. REQUIREMENTS FOR DRIVER EDUCATION SCHOOL LICENSE. The department ~~[commissioner]~~ shall approve an application for a driver education school license if, on investigation of the premises of the school, it is determined that the school:

(1) has courses, curricula, and instruction of a quality, content, and length that reasonably and adequately achieve the stated objective for which the courses, curricula, and instruction are offered;

(2) has adequate space, equipment, instructional material, and instructors to provide training of good quality in the classroom and behind the wheel;

(3) has directors, instructors, and administrators who have adequate educational qualifications and experience;

(4) provides to each student before enrollment:

(A) a copy of:

- (i) the refund policy;
- (ii) the schedule of tuition, fees, and other charges; and
- (iii) the regulations relating to absence, grading policy, and rules of

operation and conduct; and

(B) the department's name, mailing address, ~~[and]~~ telephone number, and Internet website address ~~[of the agency]~~ for the purpose of directing complaints to the department ~~[agency]~~;

(5) maintains adequate records as prescribed by the department ~~[commissioner]~~ to show attendance and progress or grades and enforces satisfactory standards relating to attendance, progress, and conduct;

(6) on completion of training, issues each student a certificate indicating the course name and satisfactory completion;

(7) complies with all county, municipal, state, and federal regulations, including fire, building, and sanitation codes and assumed name registration;

(8) is financially sound and capable of fulfilling its commitments for training;

(9) has administrators, directors, owners, and instructors who are of good reputation and character;

(10) maintains and publishes as part of its student enrollment contract the proper policy for the refund of the unused portion of tuition, fees, and other charges if a student fails to take the course or withdraws or is discontinued from the school at any time before completion;

(11) does not use erroneous or misleading advertising, either by actual statement, omission, or intimation, as determined by the department ~~[commissioner]~~;

(12) does not use a name similar to the name of another existing school or tax-supported educational institution in this state, unless specifically approved in writing by the executive director ~~[commissioner]~~;

(13) submits to the department ~~[agency]~~ for approval the applicable course hour lengths and curriculum content for each course offered by the school;

(14) does not owe an administrative penalty for a violation of ~~[under]~~ this chapter; and

(15) meets any additional criteria required by the department ~~[agency]~~.

Sec. 1001.205. REQUIREMENTS FOR DRIVING SAFETY SCHOOL LICENSE. The department ~~[commissioner]~~ shall approve an application for a driving safety school license if on investigation the department ~~[agency]~~ determines that the school:

(1) has driving safety courses, curricula, and instruction of a quality, content, and length that reasonably and adequately achieve the stated objective for which the course, curricula, and instruction are developed by the course provider;

(2) has adequate space, equipment, instructional material, and instructors to provide training of good quality;

(3) has instructors and administrators who have adequate educational qualifications and experience;

(4) maintains adequate records as prescribed by the department [~~commissioner~~] to show attendance and progress or grades and enforces satisfactory standards relating to attendance, progress, and conduct;

(5) complies with all county, municipal, state, and federal laws, including fire, building, and sanitation codes and assumed name registration;

(6) has administrators, owners, and instructors who are of good reputation and character;

(7) does not use erroneous or misleading advertising, either by actual statement, omission, or intimation, as determined by the department [~~commissioner~~];

(8) does not use a name similar to the name of another existing school or tax-supported educational establishment in this state, unless specifically approved in writing by the executive director [~~commissioner~~];

(9) maintains and uses the approved contract and policies developed by the course provider;

(10) does not owe an administrative penalty for a violation of [~~under~~] this chapter;

(11) will not provide a driving safety course to a person for less than \$25; and

(12) meets additional criteria required by the department [~~commissioner~~].

Sec. 1001.206. REQUIREMENTS FOR COURSE PROVIDER LICENSE. The department [~~commissioner~~] shall approve an application for a course provider license if on investigation the department [~~agency~~] determines that:

(1) the course provider has an approved course that at least one licensed driving safety school is willing to offer;

(2) the course provider has adequate educational qualifications and experience;

(3) the course provider will:

(A) develop and provide to each driving safety school that offers the approved course a copy of:

(i) the refund policy; and

(ii) the regulations relating to absence, grading policy, and rules of operation and conduct; and

(B) provide to the driving safety school the department's name, mailing address, [~~and~~] telephone number, and Internet website address [~~of the agency~~] for the purpose of directing complaints to the department [~~agency~~];

(4) a copy of the information provided to each driving safety school under Subdivision (3) will be provided to each student by the school before enrollment;

(5) not later than the 15th working day after the date the person successfully completes the course, the course provider [~~will mail~~] shall issue a uniform certificate of course completion by United States mail or commercial delivery to the person indicating the course name and successful completion;

(6) the course provider maintains adequate records as prescribed by the department [~~commissioner~~] to show attendance and progress or grades and enforces satisfactory standards relating to attendance, progress, and conduct;

(7) the course provider complies with all county, municipal, state, and federal laws, including assumed name registration and other applicable requirements;

(8) the course provider is financially sound and capable of fulfilling its commitments for training;

(9) the course provider is of good reputation and character;

(10) the course provider maintains and publishes as a part of its student enrollment contract the proper policy for the refund of the unused portion of tuition, fees, and other charges if a student fails to take the course or withdraws or is discontinued from the school at any time before completion;

(11) the course provider does not use erroneous or misleading advertising, either by actual statement, omission, or intimation, as determined by the department [~~commissioner~~];

(12) the course provider does not use a name similar to the name of another existing school or tax-supported educational institution in this state, unless specifically approved in writing by the executive director [~~commissioner~~];

(13) the course provider does not owe an administrative penalty for a violation of [~~under~~] this chapter; and

(14) the course provider meets additional criteria required by the department [~~commissioner~~].

SECTION __.23. Sections 1001.207(a) and (b), Education Code, are amended to read as follows:

(a) Before a driver education school may be issued a license, the school must file a corporate surety bond with the department [~~commissioner~~] in the amount of:

(1) \$10,000 for the primary location of the school; and

(2) \$5,000 for each branch location.

(b) A bond issued under Subsection (a) must be:

(1) issued in a form approved by the department [~~commissioner~~];

(2) issued by a company authorized to do business in this state;

(3) payable to the state to be used only for payment of a refund due to a student or potential student;

(4) conditioned on the compliance of the school and its officers, agents, and employees with this chapter and rules adopted under this chapter; and

(5) issued for a period corresponding to the term of the license.

SECTION __.24. Section 1001.209(b), Education Code, as amended by H.B. 468, 79th Legislature, Regular Session, is amended to read as follows:

(b) A bond issued under Subsection (a) must be:

(1) issued by a company authorized to do business in this state;

(2) payable to the state to be used:

(A) for payment of a refund due a student of the course provider's approved course;

(B) to cover the payment of unpaid fees or penalties assessed by the department [~~agency~~]; or

(C) to recover any cost associated with providing course completion certificate numbers, including the cancellation of certificate numbers;

(3) conditioned on the compliance of the course provider and its officers, agents, and employees with this chapter and rules adopted under this chapter; and

(4) issued for a period corresponding to the term of the license.

SECTION __.25. Section 1001.210, Education Code, is amended to read as follows:

Sec. 1001.210. ALTERNATE FORM OF SECURITY. Instead of the bond required by Section 1001.207 or 1001.209, a driver education school or course provider may provide another form of security that is:

- (1) ~~[(A)]~~ approved by the department ~~[commissioner]~~; and
- (2) ~~[(B)]~~ in the amount required for a comparable bond under Section 1001.207 or 1001.209.

SECTION __.26. Sections 1001.211(a) and (b), Education Code, are amended to read as follows:

(a) The department ~~[commissioner]~~ shall issue a license to an applicant for a license under this subchapter if:

- (1) the application is submitted in accordance with this subchapter; and
- (2) the applicant meets the requirements of this chapter.

(b) A license must be in a form determined by the department ~~[commissioner]~~ and must show in a clear and conspicuous manner:

- (1) the date of issuance, effective date, and term of the license;
- (2) the name and address of the driver training school or course provider;
- (3) the authority for and conditions of approval;
- (4) the executive director's ~~[commissioner's]~~ signature; and
- (5) any other fair and reasonable representation that is consistent with this chapter and that the department ~~[commissioner]~~ considers necessary.

SECTION __.27. Section 1001.212, Education Code, is amended to read as follows:

Sec. 1001.212. NOTICE OF DENIAL OF LICENSE. The department ~~[commissioner]~~ shall provide a person whose application for a license under this subchapter is denied a written statement of the reasons for the denial.

SECTION __.28. Sections 1001.213(c) and (d), Education Code, are amended to read as follows:

(c) The commission may establish ~~[Instead of the]~~ fees ~~[required by Section 1001.151, the fee]~~ for a new driver education school or course provider license under Subsection (b) and [is \$500, plus \$200] for each branch location that are different from the amounts established under Section 1001.151[;] if:

- (1) the new owner is substantially similar to the previous owner; and
- (2) there is no significant change in the management or control of the driver education school or course provider.

(d) The department ~~[commissioner]~~ is not required to reinspect a school or a branch location after a change of ownership.

SECTION __.29. Section 1001.214, Education Code, is amended to read as follows:

Sec. 1001.214. DUPLICATE LICENSE. A duplicate license may be issued to a driver training school or course provider if:

- (1) the original license is lost or destroyed; and
- (2) an affidavit of that fact is filed with the department ~~[agency]~~.

SECTION __.30. Sections 1001.251, 1001.252, and 1001.253, Education Code, are amended to read as follows:

Sec. 1001.251. LICENSE REQUIRED FOR INSTRUCTOR. (a) A person may not teach or provide driver education, either as an individual or in a driver education school, or conduct any phase of driver education, unless the person holds a driver education instructor license issued by the department ~~[agency]~~.

(b) A person may not teach or provide driving safety training, either as an individual or in a driving safety school, or conduct any phase of driving safety education, unless the person holds a driving safety instructor license issued by the department ~~[agency]~~. This subsection does not apply to an instructor of a driving safety course that does not provide a uniform certificate of course completion to its graduates.

Sec. 1001.252. SIGNATURE AND SEAL ON LICENSE REQUIRED. A license under this subchapter must be signed by the executive director ~~[commissioner]~~.

Sec. 1001.253. DRIVER EDUCATION INSTRUCTOR TRAINING. (a) The department ~~[commissioner]~~ shall establish standards for certification of professional and paraprofessional personnel who conduct driver education programs in driver education schools.

(b) A driver education instructor license authorizing a person to teach or provide behind-the-wheel training may not be issued unless the person has successfully completed six semester hours of driver and traffic safety education or a program of study in driver education approved by the department ~~[commissioner]~~ from an approved driver education school.

(c) A person who holds a driver education instructor license authorizing behind-the-wheel training may not be approved to ~~[assist a classroom instructor]~~ provide instruction in the classroom phase of driver education, under the certification of a classroom instructor, unless the person has successfully completed the three additional semester hours of training required for a classroom instructor or a program of study in driver education approved by the department ~~[commissioner]~~.

(d) Except as provided by Section 1001.254, a driver education instructor license authorizing a person to teach or provide classroom training may not be issued unless the person:

(1) has completed nine semester hours of driver and traffic safety education or a program of study in driver education approved by the department ~~[commissioner]~~ from an approved driver education school; and

(2) holds a teaching certificate and any additional certification required to teach driver education.

(e) A driver education instructor who has completed the educational requirements prescribed by Subsection (d)(1) may not teach instructor training classes unless the instructor has successfully completed a supervising instructor development program consisting of at least six additional semester hours or a program of study in driver education approved by the department ~~[commissioner]~~ that includes administering driver education programs and supervising and administering traffic safety education, except that the supervising teacher may allow driver education teachers and teaching assistants to provide training in areas appropriate for their level of certification or licensure.

(f) A driver education school may submit for department [~~agency~~] approval a curriculum for an instructor development program for driver education instructors. The program must:

- (1) be taught by a person who has completed a supervising instructor development program under Subsection (e); and
- (2) satisfy the requirements of this section for the particular program or type of training to be provided.

SECTION __.31. Section 1001.254(a), Education Code, is amended to read as follows:

(a) A temporary driver education instructor license may be issued authorizing a person to teach or provide classroom driver education training if the person:

- (1) has completed the educational requirements prescribed by Section 1001.253(d)(1);
- (2) holds a Texas teaching certificate with an effective date before February 1, 1986;
- (3) meets all license requirements, other than successful completion of the examination required under rules adopted by the State Board for Educator Certification to revalidate the teaching certificate; and
- (4) demonstrates, in a manner prescribed by the department [~~commissioner~~], the intention to comply with the examination requirement at the first available opportunity.

SECTION __.32. Sections 1001.255(a), (b), and (c), Education Code, are amended to read as follows:

(a) The department [~~agency~~] shall regulate as a driver education school a driver education instructor who:

- (1) teaches driver education courses in a county having a population of 50,000 or less; and
- (2) does not teach more than 200 students annually.

(b) An instructor described by Subsection (a) must submit to the department [~~agency~~] an application for an initial or renewal driver education school license, together with all required documentation and information.

(c) The department [~~commissioner~~] may waive initial or renewal driver education school license fees or the fee for a director or administrative staff member.

SECTION __.33. Section 1001.256, Education Code, is amended to read as follows:

Sec. 1001.256. DUPLICATE LICENSE. A duplicate license may be issued to a driver education instructor or driving safety instructor if:

- (1) the original license is lost or destroyed; and
- (2) an affidavit of that fact is filed with the department [~~agency~~].

SECTION __.34. The heading to Subchapter G, Chapter 1001, Education Code, is amended to read as follows:

SUBCHAPTER G. LICENSE EXPIRATION [~~AND RENEWAL~~]

SECTION __.35. Section 1001.351(b), Education Code, as amended by H.B. 468, 79th Legislature, Regular Session, is amended to read as follows:

(b) A course provider shall electronically submit to the department ~~[agency]~~ in the manner established by the department ~~[agency]~~ data identified by the department ~~[agency]~~ relating to uniform certificates of course completion issued by the course provider.

SECTION __.36. Section 1001.352, Education Code, is amended to read as follows:

Sec. 1001.352. FEES FOR DRIVING SAFETY COURSE. (a) A course provider shall charge each student:

- (1) at least \$25 for a driving safety course; and
- (2) a fee of at least \$3 which shall be retained by the course provider to be used solely for course materials and for supervising and administering the course as required by this chapter and the rules of the commission.

(b) The department shall periodically audit course providers to verify compliance with this subsection. A course provider shall make its books and records available to the department as needed to verify compliance with this section and failure to do so may be enforced pursuant to Subchapter J.

SECTION __.37. Sections 1001.354(a) and (b), Education Code, are amended to read as follows:

(a) A driving safety course may be taught at a driving safety school if the school is approved by the department ~~[agency]~~.

(b) A driving safety school may teach an approved driving safety course by an alternative method that does not require students to be present in a classroom if the department ~~[commissioner]~~ approves the alternative method. The department ~~[commissioner]~~ may approve the alternative method if:

- (1) the department ~~[commissioner]~~ determines that the approved driving safety course can be taught by the alternative method; and
- (2) the alternative method includes testing and security measures that are at least as secure as the measures available in the usual classroom setting.

SECTION __.38. Sections 1001.404(b) and (c), Education Code, are amended to read as follows:

(b) The department ~~[commissioner]~~ shall establish annually the rate of interest for a refund at a rate sufficient to provide a deterrent to the retention of student money.

(c) The department ~~[agency]~~ may except a driver education school or course provider from the payment of interest if the school or course provider makes a good-faith effort to refund tuition, fees, and other charges but is unable to locate the student to whom the refund is owed. On request of the department ~~[agency]~~, the school or course provider shall document the effort to locate a student.

SECTION __.39. Sections 1001.451 and 1001.452, Education Code, are amended to read as follows:

Sec. 1001.451. PROHIBITED PRACTICES. A person may not:

- (1) use advertising designed to mislead or deceive a prospective student;
- (2) fail to notify the department ~~[commissioner]~~ of the discontinuance of the operation of a driver training school before the fourth working day after the date of cessation of classes and make available accurate records as required by this chapter;
- (3) issue, sell, trade, or transfer:

(A) a uniform certificate of course completion or driver education certificate to a person or driver training school not authorized to possess the certificate;

(B) a uniform certificate of course completion to a person who has not successfully completed an approved, six-hour driving safety course; or

(C) a driver education certificate to a person who has not successfully completed a department-approved ~~[commissioner-approved]~~ driver education course;

(4) negotiate a promissory instrument received as payment of tuition or another charge before the student completes 75 percent of the course, except that before that time the instrument may be assigned to a purchaser who becomes subject to any defense available against the school named as payee; or

(5) conduct any part of an approved driver education course or driving safety course without having an instructor physically present in appropriate proximity to the student for the type of instruction being given.

Sec. 1001.452. COURSE OF INSTRUCTION. A driver education ~~[training]~~ school shall ~~[may]~~ not enroll a student ~~[maintain, advertise, solicit for,]~~ or conduct a course of instruction in this state before ~~[the later of:]~~

(1) ~~[the 30th day after the date the school applies for a driver training school license; or]~~

(2) the date the school receives a driver education ~~[training]~~ school license from the department ~~[commissioner]~~; and

(3) the facilities and equipment are inspected and approved by the department.

SECTION __.40. Sections 1001.453(d) and (e), Education Code, are amended to read as follows:

(d) Subchapter F, Chapter 51, Occupations Code, Section 51.353, Occupations Code, and Section ~~[Sections 1001.454,]~~ 1001.456(a) of this code ~~[, and 1001.553]~~ do not apply to a violation of this section or a rule adopted under this section.

(e) Section 51.352, Occupations Code, and Sections ~~[1001.455(a)(6),]~~ 1001.501 ~~[, 1001.551, 1001.552,]~~ and 1001.554 of this code do not apply to a violation of this section.

SECTION __.41. Section 1001.456, Education Code, as amended by H.B. 468, 79th Legislature, Regular Session, is amended to read as follows:

Sec. 1001.456. OTHER DISCIPLINARY ACTIONS. (a) If the department ~~[agency]~~ believes that a driver education school or instructor has violated this chapter or a rule or order of the commission or executive director ~~[adopted under this chapter]~~, the department ~~[agency]~~ may, without notice:

(1) order a peer review;

(2) suspend the enrollment of students in the school or the offering of instruction by the instructor; or

(3) suspend the right to purchase driver education certificates.

(b) If the department ~~[agency]~~ believes that a course provider, driving safety school, or driving safety instructor has violated this chapter or a rule or order of the commission or executive director ~~[adopted under this chapter]~~, the department ~~[agency]~~ may, without notice:

(1) order a peer review of the course provider, driving safety school, or driving safety instructor;

(2) suspend the enrollment of students in the school or the offering of instruction by the instructor; or

(3) suspend the right to purchase course completion certificate numbers.

(c) A peer review ordered under this section must be conducted by a team of knowledgeable persons selected by the department [~~agency~~]. The team shall provide the department [~~agency~~] with an objective assessment of the content of the school's or course provider's curriculum and its application. The school or course provider shall pay the costs of the peer review.

(d) A suspension of enrollment under Subsection (a)(2) or (b)(2) means a ruling by the executive director [~~commissioner~~] that restricts a school from:

(1) accepting enrollments or reenrollments;

(2) advertising;

(3) soliciting; or

(4) directly or indirectly advising prospective students of its program or course offerings.

SECTION __.42. The heading to Subchapter L, Chapter 1001, Education Code, is amended to read as follows:

SUBCHAPTER L. PENALTIES [~~AND ENFORCEMENT PROVISIONS~~]

SECTION __.43. Section 1001.555(b), Education Code, is amended to read as follows:

(b) The department [~~agency~~] shall contract with the Department of Public Safety [~~department~~] to provide undercover and investigative assistance in the enforcement of Subsection (a).

SECTION __.44. Article 45.0511(b), Code of Criminal Procedure, is amended to read as follows:

(b) The judge shall require the defendant to successfully complete a driving safety course approved by the Texas Department of Licensing and Regulation [~~Education Agency~~] or a course under the motorcycle operator training and safety program approved by the designated state agency under Chapter 662, Transportation Code, if:

(1) the defendant elects driving safety course or motorcycle operator training course dismissal under this article;

(2) the defendant has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the 12 months preceding the date of the offense;

(3) the defendant enters a plea under Article 45.021 in person or in writing of no contest or guilty on or before the answer date on the notice to appear and:

(A) presents in person or by counsel to the court a request to take a course; or

(B) sends to the court by certified mail, return receipt requested, postmarked on or before the answer date on the notice to appear, a written request to take a course;

(4) the defendant has a valid Texas driver's license or permit;

(5) the defendant is charged with an offense to which this article applies, other than speeding 25 miles per hour or more over the posted speed limit; and

(6) the defendant provides evidence of financial responsibility as required by Chapter 601, Transportation Code.

SECTION __.45. Section 51.308, Education Code, is amended to read as follows:

Sec. 51.308. DRIVER EDUCATION. A driver education course for the purpose of preparing students to obtain a driver's license may be offered by an institution of higher education, as defined by Section 61.003, with the approval of the Texas Department of Licensing and Regulation [~~Central Education Agency~~].

SECTION __.46. Section 521.1655(a), Transportation Code, is amended to read as follows:

(a) A driver education school licensed under Chapter 1001, Education Code, [~~the Texas Driver and Traffic Safety Education Act (Article 4413(29e), Vernon's Texas Civil Statutes)~~] may administer to a student of that school the vision, highway sign, and traffic law parts of the examination required by Section 521.161.

SECTION __.47. Section 521.203, Transportation Code, is amended to read as follows:

Sec. 521.203. RESTRICTIONS ON CLASS A AND B LICENSES. The department may not issue a Class A or Class B driver's license to a person who:

(1) is under 17 years of age;

(2) is under 18 years of age unless the person has completed a driver training course approved by the Texas Department of Licensing and Regulation [~~Central Education Agency~~]; or

(3) has not provided the department with an affidavit, on a form prescribed by the department, that states that no vehicle that the person will drive that requires a Class A or Class B license is a commercial motor vehicle as defined by Section 522.003.

SECTION __.48. Subsection 521.204(a), Transportation Code, is amended to read as follows:

Sec. 521.204. RESTRICTIONS ON MINOR. (a) The department may issue a Class C driver's license to an applicant under 18 years of age only if the applicant:

(1) is 16 years of age or older;

(2) has submitted to the department a driver education certificate issued under Section 1001.055, Education Code [~~Section 9A, Texas Driver and Traffic Safety Education Act (Article 4413(29e), Vernon's Texas Civil Statutes)~~], that states that the person has completed and passed a driver education course approved by the department under Section 521.205 or by the Texas Department of Licensing and Regulation [~~Education Agency~~];

(3) has obtained a high school diploma or its equivalent or is a student:

(A) enrolled in a public school, home school, or private school who attended school for at least 80 days in the fall or spring semester preceding the date of the driver's license application; or

(B) who has been enrolled for at least 45 days, and is enrolled as of the date of the application, in a program to prepare persons to pass the high school equivalency exam; and

(4) has passed the examination required by Section 521.161.

SECTION __.49. Sections 521.205(b) and (d), Transportation Code, are amended to read as follows:

(b) The department may not approve a course unless it determines that the course materials are at least equal to those required in a course approved by the Texas Department of Licensing and Regulation [~~Education Agency~~], except that the department may not require that:

(1) the classroom instruction be provided in a room with particular characteristics or equipment; or

(2) the vehicle used for the behind-the-wheel instruction have equipment other than the equipment otherwise required by law for operation of the vehicle on a highway while the vehicle is not being used for driver training.

(d) Completion of a driver education course approved under this section has the same effect under this chapter as completion of a driver education course approved by the Texas Department of Licensing and Regulation [~~Education Agency~~].

SECTION __.50. Subsections 521.222(a) and (c), Transportation Code, are amended to read as follows:

Sec. 521.222. INSTRUCTION PERMIT. (a) The department or a driver education school licensed under Chapter 1001, Education Code, [~~the Texas Driver and Traffic Safety Education Act (Article 4413(29e), Vernon's Texas Civil Statutes)~~] may issue an instruction permit, including a Class A or Class B driver's license instruction permit, to a person who:

(1) is 15 years of age or older but under 18 years of age;

(2) has satisfactorily completed and passed the classroom phase of an approved driver education course, which may be a course approved under Section 521.205;

(3) meets the requirements imposed under Section 521.204(3); and

(4) has passed each examination required under Section 521.161 other than the driving test.

(c) A driver education school may issue an instruction permit to a person 18 years of age or older who has successfully passed:

(1) a six-hour adult classroom driver education course approved by the Texas Department of Licensing and Regulation [~~Education Agency~~]; and

(2) each part of the driver's examination required by Section 521.161 other than the driving test.

SECTION __.51. Sections 1001.001(1), 1001.053(b) and (c), 1001.054(a) and (b), 1001.152, 1001.303, 1001.304, 1001.454, 1001.455, 1001.457, 1001.458, 1001.459, 1001.460, 1001.461, 1001.551, 1001.552, and 1001.553, Education Code, and Subchapter B, Chapter 543, Transportation Code, are repealed.

SECTION __.52. (a) As soon as practicable after the effective date of this Act, the Texas Education Agency and the Texas Department of Licensing and Regulation shall develop a transition plan for transferring the functions performed by the Texas Education Agency under Chapter 1001, Education Code, to the Texas Department of Licensing and Regulation. The transition plan must include a timetable with specific steps and deadlines needed to complete the transfer.

(b) In accordance with the transition plan developed by the Texas Education Agency and the Texas Department of Licensing and Regulation under Subsection (a) of this section, on January 1, 2006:

(1) all functions and activities relating to Chapter 1001, Education Code, performed by the Texas Education Agency immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the commissioner of education that relates to Chapter 1001, Education Code, is a rule or form of the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable, and remains in effect until amended or replaced by that commission or department;

(3) a reference in law to or an administrative rule of the Texas Education Agency that relates to Chapter 1001, Education Code, means the Texas Commission of Licensing and Regulation or the Texas Department of Licensing and Regulation, as applicable;

(4) a complaint, investigation, or other proceeding before the Texas Education Agency that is related to Chapter 1001, Education Code, is transferred without change in status to the Texas Department of Licensing and Regulation, and the Texas Department of Licensing and Regulation assumes, as appropriate and without a change in status, the position of the Texas Education Agency in an action or proceeding to which the Texas Education Agency is a party;

(5) all full-time equivalent employee positions at the Texas Education Agency that primarily concern the administration of Chapter 1001, Education Code, become positions at the Texas Department of Licensing and Regulation and, when filling the positions, the Texas Department of Licensing and Regulation shall give first consideration to an applicant who, as of December 31, 2005, was a full-time employee at the Texas Education Agency primarily involved in administering Chapter 1001, Education Code;

(6) all money, contracts, leases, property, and obligations of the Texas Education Agency related to Chapter 1001, Education Code, are transferred to the Texas Department of Licensing and Regulation;

(7) all property in the custody of the Texas Education Agency related to Chapter 1001, Education Code, is transferred to the Texas Department of Licensing and Regulation; and

(8) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Education Agency related to Chapter 1001, Education Code, is transferred to the Texas Department of Licensing and Regulation.

(c) Before January 1, 2006, the Texas Education Agency may agree with the Texas Department of Licensing and Regulation to transfer any property of the Texas Education Agency to the Texas Department of Licensing and Regulation to implement the transfer required by this Act.

(d) In the period beginning with the effective date of this Act and ending on January 1, 2006, the Texas Education Agency shall continue to perform functions and activities under Chapter 1001, Education Code, as if that chapter had not been amended by this Act, and the former law is continued in effect for that purpose.

SECTION __.53. Before December 31, 2007, the department shall perform a complete review and approval of each six-hour driving safety course and alternative delivery method approved before July 1, 2005, to verify compliance with Chapter 1001, Education Code, and the rules of the department applicable to the course or method. The department shall charge each course provider and alternative method owner the fee applicable to an application for initial approval of a driving safety course, which funds are appropriated to the department to administer the requirements of this subsection. The department may revoke the approval of any course or alternative delivery method that is not in compliance with Chapter 1001, Education Code, the rules of the department under that chapter or this subsection. This subsection does not apply to a specialized driving safety course approved by the Texas Education Agency that includes four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts.

SECTION __.54. The changes in law made by this article apply only to a fee charged on or after January 1, 2006. A fee charged before January 1, 2006, is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION __.55. Except as otherwise provided by this Act, the changes in law made by this article apply only to a license issued or renewed on or after January 1, 2006. An issuance or renewal that occurs before January 1, 2006, is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

The amendment was read.

Senator Averitt, on behalf of Senator Shapiro, withdrew Floor Amendment No. 3.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 5** as follows:

1) On page 9, line 45, strike "one or more persons" and substitute "one or more licensed attorneys".

2) On page 9, line 48, strike "one or more persons" and substitute "one or more licensed attorneys".

The amendment was read.

On motion of Senator Ogden, Floor Amendment No. 4 to **CSSB 5** was tabled by the following vote: Yeas 14, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Duncan, Eltife, Estes, Hinojosa, Lindsay, Lucio, Madla, Ogden, West, Williams, Zaffirini.

Nays: Barrientos, Gallegos, Harris, Jackson, Janek, Seliger, Shapleigh, Wentworth, Whitmire.

Absent: Deuell, Fraser, Nelson, Shapiro, Van de Putte.

Absent-excused: Carona, Ellis, Staples.

CSSB 5 was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Ellis, Staples.

**COMMITTEE SUBSTITUTE
SENATE BILL 5 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 5** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Carona, Ellis, Staples.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

(President in Chair)

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

OFFICIAL MEMORANDUM
STATE OF TEXAS
OFFICE OF THE GOVERNOR

MESSAGE

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE SEVENTY-NINTH TEXAS LEGISLATURE, FIRST CALLED SESSION:

WHEREAS, the people of Texas through their state constitution have placed the power to call the legislature into special session in the hands of the chief executive officer of the state; and

WHEREAS, the members of the Seventy-Ninth Texas Legislature, First Called Session, have now convened to consider items presented to them by the governor;

NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following subject matter to the Seventy-Ninth Texas Legislature, First Called Session for consideration:

Legislation relating to limiting the use of eminent domain to take private property for private parties or economic development purposes.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 8th day of July, 2005.

/s/Rick Perry
Governor of Texas

(seal)

ATTESTED BY:

/s/Roger Williams
Secretary of State

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SR 61 by Barrientos, Recognizing BAE Systems of Austin on the occasion of its 50th anniversary.

HCR 12 (Eltife), Congratulating Neal McCoy for being named the 2005 Humanitarian of the Year by the Academy of Country Music and designating October 1, 2005, as Neal McCoy Day in Texas.

HCR 22 (Averitt), Congratulating the Baylor University baseball team on its outstanding 2005 season.

RECESS

On motion of Senator Whitmire, the Senate at 11:26 a.m. recessed until 2:00 p.m. Sunday, July 10, 2005.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

July 8, 2005

STATE AFFAIRS — **CSSB 62**

FINANCE — **CSHB 3**

