

THIRD DAY

(CONTINUED)

TUESDAY, AUGUST 9, 2005

PROCEEDINGS

AFTER RECESS

The Senate met at 3:15 p.m. and was called to order by the President.

SENATOR ANNOUNCED PRESENT

Senator Carona, who had previously been recorded as "Absent-excused," was announced "Present."

LEAVES OF ABSENCE

On motion of Senator Whitmire, Senator Madla was granted leave of absence for today on account of illness.

On motion of Senator Whitmire, Senator Van de Putte was granted leave of absence for today on account of important business.

PHYSICIAN OF THE DAY

Senator Staples was recognized and presented Dr. Ron McMurry of Jasper as the Physician of the Day.

The Senate welcomed Dr. McMurry 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 3:16 p.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE

SENATE BILL 8 ON SECOND READING

Senator Shapiro moved to suspend the regular order of business to take up for consideration **CSSB 8** at this time on its second reading:

CSSB 8, Relating to public education and public school finance matters; imposing criminal penalties.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Hinojosa, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, West, Williams.

Nays: Barrientos, Ellis, Eltife, Gallegos, Harris, Lucio, Shapleigh, Whitmire, Zaffirini.

Absent-excused: Madla, Van de Putte.

The bill was read second time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 8** in SECTION 1B.01 of the bill as follows:

(1) In added Subsection (b), Section 42.252, Education Code, in the definition of "GL", strike "different" and substitute "greater".

(2) In added Subsection (c), Section 42.252, Education Code, strike "different" and substitute "greater".

(3) Strike added Subsection (e), Section 42.252, Education Code.

STAPLES
WEST

The amendment to **CSSB 8** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Madla, Van de Putte.

(Senator Armbrister in Chair)

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 8** by striking all text below the enacting clause and substituting the following:

ARTICLE 1. SALARY PAID TO CERTAIN PROFESSIONAL STAFF

SECTION 1.01. Section 21.402, Education Code, is amended by amending Subsection (d) and adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(c-1) Notwithstanding Subsection (a), for the 2005-2006 school year, a classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse is entitled to a monthly salary that is at least equal to the sum of:

(1) the monthly salary the employee would have received for the 2005-2006 school year under the district's salary schedule for the 2004-2005 school year, if that schedule had been in effect for the 2005-2006 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 2005-2006 school year; and

(2) \$100.

(c-2) Notwithstanding Subsection (a), for the 2006-2007 school year, a classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse is entitled to a monthly salary that is at least equal to the sum of:

(1) the monthly salary the employee would have received for the 2006-2007 school year under the district's salary schedule for the 2004-2005 school year, if that schedule had been in effect for the 2006-2007 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 2006-2007 school year; and

(2) \$200.

(c-3) Subsections (c-1) and (c-2) and this subsection expire September 1, 2007.

(d) A classroom teacher, full-time librarian, full-time counselor certified under Subchapter B, or full-time school nurse employed by a school district in the 2006-2007 [~~2000-2001~~] school year is, as long as the employee is employed by the same district, entitled to a salary that is at least equal to the salary the employee received for the 2006-2007 [~~2000-2001~~] school year.

SECTION 1.02. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2516 to read as follows:

Sec. 42.2516. ADDITIONAL STATE AID OR CREDIT AGAINST COST OF ATTENDANCE CREDITS FOR PROFESSIONAL STAFF SALARIES. (a) A school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount, as determined by the commissioner, equal to the product of \$2,000 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses employed by the district and entitled to a minimum salary under Section 21.402.

(a-1) Subsection (a) applies beginning with the 2006-2007 school year. For the 2005-2006 school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount, as determined by the commissioner, equal to the product of \$1,000 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses employed by the district and entitled to a minimum salary under Section 21.402. This subsection expires September 1, 2006.

(b) A school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level is entitled to a credit, in the amount of state aid to which the district is entitled under this section, against the total amount required under Section 41.093 for the district to purchase attendance credits.

(c) A determination by the commissioner under this section is final and may not be appealed.

(d) The commissioner may adopt rules to implement this section.

ARTICLE 2. HEALTH INSURANCE FOR PUBLIC SCHOOL EMPLOYEES

SECTION 2.01. Section 22.104, Education Code, as added by S.B. 1863, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 22.104. DISTRIBUTION BY AGENCY. Subject to the availability of funds, each month the agency shall deliver to each district, including a district that is ineligible for state aid under Chapter 42, each other educational district that is a member of the Teacher Retirement System of Texas, each participating charter school, and each regional education service center state funds in an amount, as determined by the agency, equal to the product of the number of eligible employees employed by the district, school, or service center multiplied by the amount specified in the General Appropriations Act for purposes of this subchapter or \$1,000, whichever is greater, and divided by 12. The agency shall distribute funding to only one entity for employees who are employed by more than one entity listed in this section.

SECTION 2.02. Section 22.103, Education Code, as added by S.B. 1691, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

ARTICLE 3. PUBLIC SCHOOL TEXTBOOKS

SECTION 3.01. It is the intent of the legislature that textbooks for the 2005-2006 school year be delivered timely to classrooms for the start of school. Recognizing that many schools begin classes in early or mid-August, time is of the essence in ensuring teachers and students have the resources they need to comply with state laws that require schools to teach the state's required curriculum. Notwithstanding H.B. No. 1, Acts of the 79th Legislature, 1st Called Session, 2005, or any other law, the Texas Education Agency shall expedite the process for timely delivery of such textbooks to classrooms upon passage of this Act, and funding in that bill for textbooks is not contingent upon passage of any other legislation.

SECTION 3.02. It is the intent of the legislature that the Texas Education Agency, from amounts appropriated to the agency by other law, use an amount at least equal to \$295 million for the purchase of Proclamation 2002 textbooks for the 2005-2006 school year.

ARTICLE 4. EFFECTIVE DATE

SECTION 4.01. This Act applies beginning with the 2005-2006 school year.

SECTION 4.02. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

ELLIS
ELTIFE

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 2 to **CSSB 8** was tabled by the following vote: Yeas 17, Nays 12.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Jackson, Janek, Lindsay, Nelson, Ogden, Shapiro, Staples, Wentworth, Williams.

Nays: Barrientos, Ellis, Eltife, Gallegos, Harris, Hinojosa, Lucio, Seliger, Shapleigh, West, Whitmire, Zaffirini.

Absent-excused: Madla, Van de Putte.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 8** as follows:

(1) In SECTION 1B.01 of the bill, in proposed Section 42.252(b), Education Code, in the description of "GL", strike "provided that a different amount for any school year may be provided by appropriation;" and substitute "provided that a greater amount for any school year may be provided by appropriation;".

(2) In SECTION 1B.01 of the bill, in proposed Section 42.252, Education Code, strike Subsection (e).

(3) In SECTION 1B.01 of the bill, in proposed Section 42.301, Education Code, strike Subsection (f).

(4) In SECTION 1B.01 of the bill, in proposed Section 42.302, Education Code, strike Subsection (h).

The amendment was read.

Senator Shapleigh withdrew Floor Amendment No. 3.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 8** in SECTION 1B.01 of the bill, in proposed Section 42.253, Education Code, by inserting the following:

(b-1) Notwithstanding Subsection (b), but subject to the limitations imposed by Subsections (a) and (a-1), a school district without voter approval may impose an enrichment tax under this section in the amount necessary to fund increases in educational costs due to inflation that are not otherwise funded through other provisions of this chapter, provided that the total rate of the district's tax for the maintenance of the public schools has been approved by the voters, regardless of the date of the election. For purposes of this subsection:

(1) the Legislative Budget Board shall adopt an annual educational costs inflation index using existing cost indices; and

(2) the commissioner annually shall determine:

(A) the degree to which increases in educational costs due to inflation are funded through other provisions of this chapter; and

(B) the tax rate permissible under this subsection.

The amendment was read.

Senator Seliger withdrew Floor Amendment No. 4.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 8** in SECTION 1B.01 of the bill, between added Sections 42.3081 and 42.309, Education Code, by inserting the following:

Sec. 42.3082. LIMITATION ON CERTAIN AID. The total amount of state funds to which a school district subject to Section 42.401 is entitled to for a school year is reduced by an amount equal to the amount of money allocated to the district from the available school fund for that school year.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 5 to **CSSB 8** was tabled by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, West, Whitmire, Zaffirini.

Absent-excused: Madla, Van de Putte.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSSB 8** as follows:

(1) In SECTION 1B.01 of the bill, strike added Subsection (a), Section 42.401, Education Code, and substitute the following:

(a) Except as provided by Subsection (b), a school district shall be consolidated by the commissioner under Subchapter H, Chapter 41, if:

(1) the district's local share under Section 42.306 exceeds the district's tier one allotment under Section 42.304; or

(2) the total amount of district enrichment tax revenue raised by the district exceeds the amount of state and local funds guaranteed under Section 42.252 to a school district that imposes a district enrichment tax at the rate imposed by the district.

(2) In SECTION 1B.10 of the bill, strike amended Section 41.091, Education Code, and substitute the following:

Sec. 41.091. AGREEMENT. A school district subject to Section 42.401 ~~[with a wealth per student that exceeds the equalized wealth level]~~ may execute an agreement with the commissioner to purchase attendance credits in an amount equal to the sum of:

(1) the difference between the district's local share under Section 42.306 and the district's tier one allotment under Section 42.304; and

(2) the difference between the total amount of district enrichment tax revenue raised by the district and the amount of state and local funds guaranteed under Section 42.252 to a school district that imposes a district enrichment tax at the rate imposed by the district. ~~[sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level.]~~

(3) In Part C, Article 1, of the bill, insert the following new section, appropriately numbered, and renumber the subsequent sections of Part C, Article 1, accordingly:

SECTION 1C. ____ . For the state fiscal year beginning September 1, 2006, the amount determined in accordance with this section is appropriated to the Texas Education Agency for the purpose of providing state assistance with new instructional facility projects under Subchapter A, Chapter 46, Education Code, in addition to other amounts appropriated by the 79th Legislature for that purpose. The amount appropriated under this section is equal to the difference between:

(1) the total amount required for the fiscal year beginning September 1, 2006, for school districts to purchase attendance credits in accordance with Section 41.091, Education Code, as amended by this Act; and

(2) the total amount that would be required for the fiscal year beginning September 1, 2006, for school districts to purchase attendance credits in accordance with Section 41.091, Education Code, as amended by this Act, if the amount of attendance credits a school district were required to purchase for that year did not include the amount required under Section 41.091(2), Education Code, as added by this Act.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 6 to **CSSB 8** was tabled by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, West, Whitmire, Zaffirini.

Absent-excused: Madla, Van de Putte.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSSB 8** (committee printing) by adding the following appropriately lettered part to Article 2 of the bill and relettering the subsequent parts of Article 2 accordingly:

PART __. SCHOOL COUNSELING PROGRAMS

SECTION 2 __.01. Section 33.006, Education Code, is amended by adding Subsection (c) to read as follows:

(c) In accordance with rules adopted by the commissioner, the board of trustees of each school district shall adopt a policy that requires a counselor to spend not more than 10 percent of the counselor's total work time on duties that are not components of a counseling or guidance program developed under Section 33.005. For purposes of this subsection, time spent in administering assessment instruments or providing other assistance in connection with assessment instruments, except time spent in interpreting data from assessment instruments, is not considered time spent on counseling or guidance. Each school in the district shall implement the policy. A copy of the policy shall be maintained in the office of each school in the district and made available on request during regular school hours to district employees, parents of district students, and the public.

SECTION 2 __.02. Section 39.076, Education Code, is amended by adding Subsection (a-4) to read as follows:

(a-4) Before an investigation, the commissioner shall request that the district scheduled for the investigation assess the district's compliance with the policy adopted under Section 33.006(c) and provide a written copy of the assessment to the investigators on or before the date specified by the commissioner. As part of each

investigation, the investigators shall interview a percentage of district counselors determined by the commissioner to assess the district's compliance with the policy adopted under Section 33.006(c). The commissioner shall adopt rules to implement this subsection.

SECTION 2__03. (a) Each school district shall implement a policy adopted under Section 33.006(c), Education Code, as added by this Act, beginning with the 2006-2007 school year.

(b) Section 39.076(a-4), Education Code, as added by this Act, applies beginning with the 2006-2007 school year.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 7 to **CSSB 8** was tabled by the following vote: Yeas 22, Nays 7.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Wentworth, West, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Whitmire, Zaffirini.

Absent-excused: Madla, Van de Putte.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSSB 8** (committee report) as follows:

(1) In SECTION 1B.01 of the bill, in added Section 42.152(d), Education Code, strike Subdivision (3) and substitute the following:

(3) in addition to any other funds available for programs under Subchapter A, Chapter 33, including funds provided under Section 42.3053, withhold the amount of \$7.5 million, or a greater amount as determined in the General Appropriations Act, and distribute that amount for programs under Subchapter A, Chapter 33;

(2) In SECTION 1B.01 of the bill, between added Sections 42.3052 and 42.306, Education Code, insert the following:

Sec. 42.3053. ADDITIONAL STATE AID FOR CERTIFIED COUNSELORS.

(a) For each school year, from funds that may be used for the purpose, a school district is entitled to state aid in an amount, as determined by the commissioner, sufficient to assist the district in employing the number of certified counselors required by Section 33.002.

(b) The commissioner shall adopt rules as necessary to administer this section.

(3) In Part C, Article 2, of the bill, insert the following appropriately numbered section to read as follows and renumber the subsequent sections of Part C, Article 2, accordingly:

SECTION 2C.___. Effective September 1, 2006, Sections 33.002(b) and (c), Education Code, are amended to read as follows:

(b) A school district with 350 ~~[500]~~ or more students in enrollment ~~[enrolled in elementary school grades]~~ shall employ a counselor certified under the rules of the commissioner ~~[State Board for Educator Certification]~~ for each ~~[elementary]~~ school in the district. A school district shall employ at least one counselor for every 350 ~~[500 elementary school]~~ students in the district.

(c) A school district with fewer than 350 ~~[500]~~ students in enrollment ~~[enrolled in elementary school grades]~~ shall provide guidance and counseling services to ~~[elementary school]~~ students by:

(1) employing a part-time counselor certified under the rules of the commissioner ~~[State Board for Educator Certification]~~;

(2) employing a part-time teacher certified as a counselor under the rules of the commissioner ~~[State Board for Educator Certification]~~; or

(3) entering into a shared services arrangement agreement with one or more school districts to share a counselor certified under the rules of the commissioner ~~[State Board for Educator Certification]~~.

(4) Strike SECTION 3.18 of the bill, amending Section 33.002(a), Education Code, and renumber the subsequent sections of Article 3 accordingly.

(5) Strike SECTION 7.32 of the bill, amending Sections 33.002(b) and (c), Education Code, and renumber the subsequent sections of Article 7 accordingly.

(6) In SECTION 9.02(3) of the bill, between "29.203(c) and (g)," and "39.024(e)," insert "33.002(a)".

The amendment was read.

Senator Lucio withdrew Floor Amendment No. 8.

(President in Chair)

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSSB 8** as follows:

(1) In SECTION 2A.12 of the bill, in proposed Section 21.4031(a), Education Code, between "teacher" and "is", insert ", full-time librarian, full-time counselor certified under Subchapter B, or full-time nurse".

(2) In SECTION 2A.12 of the bill, in proposed Section 21.4031(b), Education Code, between "teacher," and "other than an employed retiree", insert "full-time librarian, full-time counselor certified under Subchapter B, or full-time nurse".

(3) In SECTION 2A.12 of the bill, in proposed Sections 21.4031(b)(1), (2), (3), and (4), Education Code, strike "teacher's" each place it appears and substitute "person's".

(4) In SECTION 2A.12 of the bill, in proposed Section 21.4031(e), Education Code, between "classroom teachers" and "employed by the district", insert ", full-time librarians, full-time counselors certified under Subchapter B, and full-time nurses".

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 9 to **CSSB 8** was tabled by the following vote: Yeas 21, Nays 8.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, West, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Whitmire, Zaffirini.

Absent-excused: Madla, Van de Putte.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 10

Amend **CSSB 8** as follows:

(1) In SECTION 2C.07 of the bill, in proposed Section 44.011, Education Code, in the first sentence of Subsection (a), between "revenue" and "to", insert ", excluding revenue received from federal funds and expended on activities associated with teacher-student instruction as described by Subsection (b)(2)(B),".

(2) In SECTION 2C.07 of the bill, in proposed Section 44.011, Education Code, strike Subsection (b) and substitute the following:

(b) For purposes of this section, whether an expenditure is an expenditure for direct instructional activities:

(1) shall be determined in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education; and

(2) must also include:

(A) expenditures for any instructional or related service for a student with a disability, counseling services determined by appropriate school personnel to be necessary for instructional success, truant officers, speech pathology and audiology services, curriculum and instruction development, staff training, instruction-related technology, nurses, and library services; and

(B) operating expenses associated with teacher-student instruction in accordance with Accounting functions 11 - Instruction, 12 - Instructional Resources and Media Services, 13 - Curriculum Development and Instructional Staff Development, and 31 - Guidance, Counseling, and Evaluation Services, as described in the Financial Accountability System Resource Guide published by the Texas Education Agency.

The amendment was read.

Senator Seliger withdrew Floor Amendment No. 10.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 11

Amend **CSSB 8** in Part B, Article 2 of the bill, by inserting the following appropriately numbered SECTION and renumbering subsequent SECTIONS in Part B, Article 2 of the bill accordingly:

SECTION 2B.____. Chapter 4, Education Code, is amended by adding Section 4.004 to read as follows:

Sec. 4.004. CLASSROOM OBSERVATION BY MEMBERS OF THE LEGISLATURE. Each member of the legislature shall, for at least one hour during each academic semester, observe the instruction provided to students in a classroom in a public school located in the member's district.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 11 to **CSSB 8** was tabled by the following vote: Yeas 21, Nays 8.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Williams.

Nays: Barrientos, Gallegos, Hinojosa, Lucio, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Madla, Van de Putte.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 12

Amend **CSSB 8** in Article 2 of the bill by inserting the following new part, appropriately lettered, and relettering the subsequent parts of Article 2 accordingly:

PART __. SAFETY OF LAP BELTS IN SCHOOL BUSES

SECTION 2 __.__. Chapter 34, Education Code, is amended by adding Section 34.012 to read as follows:

Sec. 34.012. FUNDING FOR SAFETY OF LAP BELTS. (a) A person may offer to donate safety or lap belts or money for the purchase of safety or lap belts for a school district's school buses.

(b) The board of trustees of a school district shall consider any offer made by a person under Subsection (a). The board of trustees may accept or decline the offer after adequate consideration.

(c) The board of trustees may acknowledge a person who donates safety or lap belts or money for the purchase of safety or lap belts for a school bus under this section by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 12 to **CSSB 8** was tabled by the following vote: Yeas 19, Nays 10.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, West, Williams.

Nays: Barrientos, Ellis, Gallegos, Harris, Hinojosa, Lucio, Shapleigh, Wentworth, Whitmire, Zaffirini.

Absent-excused: Madla, Van de Putte.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 13

Amend **CSSB 8** in Article 1 of the bill by inserting the following new part, appropriately lettered, and relettering the subsequent parts of Article 1 accordingly:

PART ____ STUDY OF UNFUNDED STATE EDUCATIONAL MANDATES

SECTION 1 __.01. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.032 to read as follows:

Sec. 7.032. STUDY OF UNFUNDED STATE EDUCATIONAL MANDATES.

(a) For purposes of this section:

(1) "State educational mandate" means a provision of a state statute or rule that requires:

(A) school district action to implement the provision; and

(B) an expenditure by a school district that would not have been required in the absence of the provision.

(2) "Unfunded state educational mandate" means a state educational mandate for which the legislature has not appropriated funds estimated to be sufficient to meet the state's share of financing the expenditure.

(b) The agency shall conduct a study of unfunded state educational mandates. The study must:

(1) identify existing unfunded state educational mandates, including any mandates created by a statute enacted by the 79th Legislature or a rule adopted under such a statute; and

(2) estimate the cost to school districts of complying with each unfunded state educational mandate the agency identifies.

(c) Each school district shall cooperate with the agency by providing information relating to the district's cost of implementing an unfunded state educational mandate. At the commissioner's request, the Legislative Budget Board, state auditor, comptroller, and other state officers and agencies shall assist the agency in conducting the study and analyzing information obtained from school districts.

(d) The agency shall:

(1) prepare a report containing the results of the study conducted under this section; and

(2) deliver the report to the governor, lieutenant governor, and each member of the legislature not later than December 15, 2006.

(e) This section expires January 15, 2007.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 13 to **CSSB 8** was tabled by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, West, Whitmire, Zaffirini.

Absent-excused: Madla, Van de Putte.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 14

Amend **CSSB 8** by Shapiro as follows:

(1) Strike SECTION 2A.03 of the bill in its entirety, beginning on page 80, line 1, and continuing through page 81, line 5, and renumber subsequent sections of the bill accordingly.

(2) Strike PART F of Article 2 of the bill in its entirety, beginning on page 242, line 18, and continuing through page 254, line 3, and substitute it with the following text:

"PART F. BILINGUAL EDUCATION AND SPECIAL
LANGUAGE PROGRAMS

SECTION 2F.01. Effective August 1, 2006, Subchapter B, Chapter 21, Education Code, is amended by adding Sections 21.0485 and 21.0486 to read as follows:

Sec. 21.0485. DUAL LANGUAGE EDUCATION TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in a dual language education program, the board shall establish a dual language education teaching certificate.

(b) The board shall adopt rules establishing the training requirements, including the minimum academic qualifications, a person must accomplish to obtain a certificate under this section.

(c) The board shall adopt rules establishing the requirements for a teacher who receives training in a foreign country to obtain a certificate under this section.

Sec. 21.0486. MASTER LANGUAGE TEACHER CERTIFICATION. (a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student performance in English and other languages, the board shall establish:

(1) a master language teacher certificate to teach bilingual education, dual language instruction, or English as a second language at elementary school grade levels;

(2) a master language teacher certificate to teach bilingual education, dual language instruction, or English as a second language at middle school grade levels; and

(3) a master language teacher certificate to teach dual language instruction at high school grade levels.

(b) The board shall issue the appropriate master language teacher certificate to each eligible person.

(c) To be eligible for a master language teacher certificate, a person must:

(1) hold a teaching certificate issued under this subchapter;

(2) have at least three years of experience teaching bilingual education, dual language instruction, or English as a second language;

(3) satisfactorily complete a knowledge-based course of instruction on second language acquisition and the science of teaching children language that includes training in language instruction and professional peer mentoring techniques that, through scientific testing, have been proven effective;

(4) perform satisfactorily on the appropriate master language certification examination prescribed by the board; and

(5) satisfy any other requirements prescribed by the board.

SECTION 2F.02. Section 21.050(b), Education Code, is amended to read as follows:

(b) The board may not require more than 18 semester credit hours of education courses at the baccalaureate level for the granting of a teaching certificate. The board shall provide for a minimum number of semester credit hours of internship to be included in the hours needed for certification. The board may propose rules requiring additional credit hours for certification in bilingual education, dual language instruction, English as a second language, early childhood education, or special education.

SECTION 2F.03. Section 21.054, Education Code, is amended by adding Subsection (c) to read as follows:

(c) Rules adopted under Subsection (a) must permit an educator to fulfill continuing education requirements by acquiring conversational skills in one or more languages other than English and academic language development in the subject area for which the educator provides instruction. The rules must permit educators to obtain language instruction through a variety of methods, including attendance at workshops offered by qualified entities and enrollment on a noncredit basis in courses offered by public or private colleges and universities.

SECTION 2F.04. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.060 to read as follows:

Sec. 21.060. NOTICE OF EDUCATIONAL AIDE TUITION EXEMPTION. On issuing an educator certificate to an educational aide or renewing such a certificate, the board shall notify the person to whom the certificate is issued of the existence of the educational aide exemption under Section 54.214.

SECTION 2F.05. Section 28.0051, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The board shall provide for the issuance of teaching certificates appropriate for dual language instruction to teachers who:

(1) possess a speaking, reading, and writing language ability in a language other than English in which a dual language immersion program is offered; and

(2) meet the general requirements of Subchapter B, Chapter 21.

SECTION 2F.06. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.0052 to read as follows:

Sec. 28.0052. DUAL LANGUAGE EDUCATION PILOT PROJECT. (a) The commissioner shall establish a pilot project in school districts selected by the commissioner under which the agency examines dual language education programs and the effect of those programs on a student's ability to graduate from high school.

(b) In selecting school districts under Subsection (a), the commissioner shall:

(1) select districts that:

(A) will commit to at least a three-year dual language education program; and

(B) demonstrate a substantially equal enrollment of students with limited English proficiency and students whose primary language is English or, if a district does not have a sufficient number of limited English proficiency students to meet the equal enrollment standard, include the enrollment of students with limited English proficiency, students whose primary language is English, and bilingual students; and

(2) give preference to a district that:

(A) demonstrates the potential for expanding the program through middle school; and

(B) will implement the program at the kindergarten level.

(c) The commissioner by rule shall require a district to limit activities of the dual language education program during the first year of the program to planning activities, including:

(1) hiring and training teachers and ensuring teacher certification;

(2) establishing parental and community support for the program; and

(3) acquiring adequate learning materials in both program languages.

(d) From amounts appropriated to the agency, including foundation school program funds, the commissioner shall award grants to school districts that participate in the program. A grant under this section must be in an amount sufficient to pay the costs to the district of participating in the program, as determined by the commissioner. A determination of the commissioner under this subsection is final and may not be appealed.

(e) A school district that applies for the expansion of an existing dual language education program is eligible for a grant under Subsection (d).

(f) A school district may use a grant awarded under Subsection (d) for:

(1) classroom materials;

(2) tuition and textbook expenses for students seeking teacher certification under Section 21.0485; and

(3) other necessary costs of operating the program, as approved by the commissioner.

(f-1) During the 2006-2007 school year, the commissioner may award grants to school districts under this section only for the purpose of planning activities described by Subsection (c) in an amount not to exceed two percent of the total amount required to fully implement the pilot program for the 2007-2008 school year. This subsection expires September 1, 2008.

(g) Grants under this section may not exceed \$13 million for each biennium.

(h) The agency shall report to the legislature describing the agency's activities under the pilot project, the effect of the project on grade-level completion, and the recommendations arising from the project. The agency shall submit an interim report under this subsection not later than January 1, 2009, and a final report not later than January 1, 2011.

(i) This section expires August 1, 2011.

SECTION 2F.07. Section 29.056, Education Code, is amended by amending Subsections (a), (d), and (g) and adding Subsections (g-1) and (i) to read as follows:

(a) The agency shall establish standardized criteria for the identification, assessment, and classification of students of limited English proficiency eligible for entry into the program or exit from the program. Except as provided by this subsection, the [The] student's parent must approve a student's entry into the program, exit from the program, or placement in the program. A school district shall provide notice to the student's parent that the district intends to transfer the student from the program. If the student's parent fails to respond to the notice on or before the 30th day after the date the notice is provided, the district may transfer the student from the program without the student's parent's approval. The district must inform the student's parent of the student's transfer from the program. The school district or parent may appeal the decision under Section 29.064. The criteria for identification, assessment, and classification may include:

(1) results of a home language survey conducted within four weeks of each student's enrollment to determine the language normally used in the home and the language normally used by the student, conducted in English and the home language, signed by the student's parents if the student is in kindergarten through grade 8 or by the student if the student is in grades 9 through 12, and kept in the student's permanent folder by the language proficiency assessment committee;

(2) the results of an agency-approved English language proficiency test administered to all students identified through the home survey as normally speaking a language other than English to determine the level of English language proficiency, with students in kindergarten or grade 1 being administered an oral English proficiency test and students in grades 2 through 12 being administered an oral English proficiency test and, if the oral English proficiency test demonstrates proficiency, a written English proficiency test; and

(3) the results of an agency-approved proficiency test in the primary language administered to all students identified under Subdivision (2) as being of limited English proficiency to determine the level of primary language proficiency, with students in kindergarten or grade 1 being administered an oral primary language proficiency test and students in grades 2 through 12 being administered an oral and written primary language proficiency test.

(d) Not later than the 20th [10th] day after the date of the student's classification as a student of limited English proficiency, the language proficiency assessment committee shall give written notice of the classification to the student's parent. The notice must be in English and the parent's primary language. The parents of students eligible to participate in the required bilingual education program shall be informed of the benefits of the bilingual education or special language program and that it is an integral part of the school program.

(g) A district may transfer a student of limited English proficiency out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

(1) agency-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in [both the student's primary language and] English;

(2) satisfactory performance on the reading assessment instrument under Section 39.023(a)(2) or the English language arts assessment instrument under Section 39.023(a)(4), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by the agency; and

(3) agency-approved ~~[other indications of a student's overall progress, including]~~ criterion-referenced tests and the results of a ~~[test scores,]~~ subjective teacher evaluation~~[, and parental evaluation].~~

(g-1) A school district may transfer a student of limited English proficiency who is eligible for special education services under Subchapter A out of a bilingual education or special language program and into a special education program if the language proficiency assessment committee and the student's admission, review, and dismissal committee agree that the student has a learning disability and would be better served in a special education program. The student's admission, review, and dismissal committee must document that the student has a learning disability that cannot be addressed effectively in a bilingual education or special language program and that the student's learning disability is not due to the student's limited English proficiency. The commissioner by rule shall adopt criteria for a school district to use in transferring a student under this subsection.

(i) On approval of the student's parent, a school district may allow a student of limited English proficiency who meets the criteria for being transferred out of a bilingual education or special language program to continue participating in the program.

SECTION 2F.08. Subchapter B, Chapter 29, Education Code, is amended by adding Section 29.0561 to read as follows:

Sec. 29.0561. EVALUATION OF TRANSFERRED STUDENTS; REENROLLMENT. (a) The language proficiency assessment committee shall reevaluate a student who is transferred out of a bilingual education or special language program under Section 29.056(g) if the student earns a failing grade in a subject in the foundation curriculum under Section 28.002(a)(1) during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

(b) During the first two school years after a student is transferred out of a bilingual education or special language program under Section 29.056(g), the language proficiency assessment committee shall review the student's performance and consider:

(1) the total amount of time the student was enrolled in a bilingual education or special language program;

(2) the student's grades each grading period in each subject in the foundation curriculum under Section 28.002(a)(1);

(3) the student's performance on each assessment instrument administered under Section 39.023(a) or (c);

(4) the number of credits the student has earned toward high school graduation, if applicable; and

(5) any disciplinary actions taken against the student under Subchapter A, Chapter 37.

(c) After an evaluation under this section, the language proficiency assessment committee may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

SECTION 2F.09. Effective August 1, 2006, Subchapter B, Chapter 29, Education Code, is amended by adding Section 29.065 to read as follows:

Sec. 29.065. MEASURE OF PROGRESS TOWARD ENGLISH LANGUAGE PROFICIENCY. The commissioner by rule shall develop a longitudinal measure of progress toward English language proficiency under which a student of limited English proficiency is evaluated from the time the student enters public school until, for two consecutive school years, the student scores at a specific level determined by the commissioner on the reading assessment instrument under Section 39.023(a)(2) or the English language arts assessment instrument under Section 39.023(a)(4), as applicable. The commissioner shall:

(1) as part of the measure of progress, include student advancement from one proficiency level to a higher level under the reading proficiency in English assessment system developed under Section 39.027(e) and from the highest level under that assessment system to the level determined by the commissioner under this section on the reading assessment instrument under Section 39.023(a)(2) or the English language arts assessment instrument under Section 39.023(a)(4), as applicable; and

(2) to the extent practicable in developing the measure of progress, use applicable research and analysis done in developing an annual measurable achievement objective as required by Section 3122, No Child Left Behind Act of 2001 (20 U.S.C. Section 6842).

SECTION 2F.10. Not later than January 1, 2006, the Educators' Professional Practices Board shall adopt rules permitting an educator to fulfill continuing education requirements by requiring conversational skill in a language other than English, as required by Section 21.054(c), Education Code, as added by this Act.

SECTION 2F.11. Not later than January 1, 2007, the Educators' Professional Practices Board shall adopt rules:

(1) establishing requirements and prescribing an examination for master language teacher certification as required by Section 21.0486, Education Code, as added by this Act; and

(2) establishing requirements and prescribing an examination for dual language instruction teacher certification as required by Section 21.050(b), Education Code, as amended by this Act, and Section 28.0051(d), Education Code, as added by this Act."

(3) Strike PART J of Article 2 of the bill in its entirety, beginning on page 265, line 22, and continuing through page 270, line 3, and substitute it with the following text:

"PART J. CRIMINAL HISTORY RECORDS INFORMATION

SECTION 2J.01. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.0401 to read as follows:

Sec. 21.0401. COLLECTION OF FINGERPRINTS REQUIRED. The board shall obtain a complete set of fingerprints from:

- (1) each applicant for a certificate issued under this subchapter;
- (2) each applicant for or holder of a teaching permit issued under this subchapter; and
- (3) each person described by Section 11A.153 or Section 21.0032 for whom the board has received information from a public charter district.

SECTION 2J.02. Section 21.041(c), Education Code, is amended to read as follows:

(c) The board shall propose a rule adopting a fee for:

(1) the issuance and maintenance of each ~~an~~ educator certificate that is adequate to cover the cost of administration of this subchapter, including costs related to the operation of the board and any amount necessary to cover the cost of obtaining fingerprints under Section 21.0401 or conducting a national criminal background review and investigation under Sections 21.0032 and 22.082; and

(2) the cost of obtaining fingerprints from or conducting a national criminal background review of a holder of a teaching permit issued under this subchapter.

SECTION 2J.03. Section 22.082, Education Code, is amended to read as follows:

Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY ~~[STATE] EDUCATORS' PROFESSIONAL PRACTICES BOARD [FOR EDUCATOR CERTIFICATION]~~. (a) The ~~[State] Educators' Professional Practices Board [for Educator Certification]~~ shall obtain from the Department of Public Safety ~~[any law enforcement or criminal justice agency]~~ all state and national criminal history record information that relates to:

(1) an applicant for or holder of a certificate or permit issued under Subchapter B, Chapter 21; or

(2) a person described by Section 11A.153 or 21.0032.

(b) The Educators' Professional Practices Board may obtain from the Department of Public Safety all criminal history record information that relates to a holder of a certificate issued under Subchapter B, Chapter 21.

(c) The board shall require each applicant, holder, and person described by Subsection (a)(2) to pay any costs to the board related to obtaining criminal history record information related to the person under this section.

SECTION 2J.04. Section 22.083(d), Education Code, is amended to read as follows:

(d) The superintendent of a district or the director of a public charter district ~~[an open enrollment charter school]~~, private school, regional education service center, or shared services arrangement shall promptly notify the ~~[State] Educators' Professional Practices Board [for Educator Certification]~~ in writing if the person obtains or has knowledge of information showing that an applicant for or holder of a certificate issued under Subchapter B, Chapter 21, has a reported criminal history.

SECTION 2J.05. Sections 22.085 and 22.086, Education Code, are amended to read as follows:

Sec. 22.085. DISCHARGE OF EMPLOYEES CONVICTED OF OFFENSES. A school district, public charter district [~~open enrollment charter school~~], private school, regional education service center, or shared services arrangement may discharge an employee if the district or school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the [~~State~~] Educators' Professional Practices Board [~~for Educator Certification~~] or the district, school, service center, or shared services arrangement. An employee discharged under this section is considered to have been discharged for misconduct for purposes of Section 207.044, Labor Code.

Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The [~~State~~] Educators' Professional Practices Board [~~for Educator Certification~~], a school district, a public charter district [~~an open enrollment charter school~~], a private school, a regional education service center, a shared services arrangement, or an employee of the board, district, school, service center, or shared services arrangement is not civilly or criminally liable for making a report required under this subchapter.

SECTION 2J.06. Section 411.090, Government Code, is amended to read as follows:

Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION AND FINGERPRINTS: [~~STATE~~] EDUCATORS' PROFESSIONAL PRACTICES BOARD [~~FOR EDUCATOR CERTIFICATION~~]. (a) The [~~State~~] Educators' Professional Practices Board [~~for Educator Certification~~] is entitled to obtain from the department any criminal history record information maintained by the department about:

(1) a person who has applied to the board for a certificate or permit or holds a certificate or permit under Subchapter B, Chapter 21, Education Code; or

(2) a person described by Section 11A.153 or 21.0032, Education Code.

(b) Criminal history record information obtained by the board under Subsection (a):

(1) may be used for any purpose related to the issuance, denial, suspension, or cancellation of a certificate issued under Subchapter B, Chapter 21, Education Code, or for any purpose authorized by Section 11A.153 or 21.0032, Education Code [~~by the board~~];

(2) may not be released to any other person except on court order or with the consent of the subject of the criminal history record information [~~applicant for a certificate~~]; and

(3) shall be destroyed by the board after the information is used for the authorized purposes.

(c) The Educators' Professional Practices Board may keep on file with the department all fingerprints obtained by the board under Section 21.0401, Education Code. The department shall notify the board of the arrest of any person who has fingerprints on file with the department pursuant to that section.

(d) On receipt of notice from the department of an arrest of a person described by Section 11A.153 or 21.0032, Education Code, the Educators' Professional Practices Board shall notify the public charter district affected.

(4) Strike ARTICLE 7 of the bill in its entirety, beginning on page 401, line 22, and continuing through page 441, line 12, and substitute it with the following text:

"ARTICLE 7. ABOLISHMENT OF STATE BOARD FOR EDUCATOR
CERTIFICATION; TRANSFER OF POWERS AND DUTIES

SECTION 7.01. Section 21.0031(a), Education Code, is amended to read as follows:

(a) An employee's probationary, continuing, or term contract under this chapter is void if the employee:

(1) does not hold a certificate or permit issued under Subchapter B [~~by the State Board for Educator Certification~~]; or

(2) fails to fulfill the requirements necessary to extend the employee's temporary or emergency certificate or permit.

SECTION 7.02. Sections 21.004(a)-(e), Education Code, are amended to read as follows:

(a) To the extent that funds are available, the agency, the [State] Educators' Professional Practices Board [~~for Educator Certification~~], and the Texas Higher Education Coordinating Board shall develop and implement programs to identify talented students and recruit those students and persons, including high school and undergraduate students, mid-career and retired professionals, honorably discharged and retired military personnel, and members of underrepresented gender and ethnic groups, into the teaching profession.

(b) From available funds, the agency, the Educators' Professional Practices [~~State~~] Board [~~for Educator Certification~~], and the Texas Higher Education Coordinating Board shall develop and distribute materials that emphasize the importance of the teaching profession and inform individuals about state-funded loan forgiveness and tuition assistance programs.

(c) The commissioner, in cooperation with the commissioner of higher education and the executive director of the [State] Educators' Professional Practices Board [~~for Educator Certification~~], shall annually identify the need for teachers in specific subject areas and geographic regions and among underrepresented groups. The commissioner shall give priority to developing and implementing recruitment programs to address those needs from the agency's discretionary funds.

(d) The agency, the [State] Educators' Professional Practices Board [~~for Educator Certification~~], and the Texas Higher Education Coordinating Board shall encourage the business community to cooperate with local schools to develop recruiting programs designed to attract and retain capable teachers, including programs to provide summer employment opportunities for teachers.

(e) The agency, the [State] Educators' Professional Practices Board [~~for Educator Certification~~], and the Texas Higher Education Coordinating Board shall encourage major education associations to cooperate in developing a long-range program promoting teaching as a career and to assist in identifying local activities and resources that may be used to promote the teaching profession.

SECTION 7.03. Section 21.006, Education Code, is amended by amending Subsections (a)-(c) and (e)-(g) to read as follows:

(a) In this section:

(1) "Abuse" [~~-"abuse"~~] has the meaning assigned by Section 261.001, Family Code, and includes any sexual conduct involving an educator and a student or minor.

(2) "Board" means the Educators' Professional Practices Board.

(b) In addition to the reporting requirement under Section 261.101, Family Code, the superintendent or director of a school district, regional education service center, or shared services arrangement shall notify the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ if the superintendent or director has reasonable cause to believe that:

(1) an educator employed by or seeking employment by the district, service center, or shared services arrangement has a criminal record;

(2) an educator's employment at the district, service center, or shared services arrangement was terminated based on a determination that the educator:

(A) abused or otherwise committed an unlawful act with a student or minor;

(B) possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq. ~~[-and its subsequent amendments];~~

(C) illegally transferred, appropriated, or expended funds or other property of the district, service center, or shared services arrangement;

(D) attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or

(E) committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event; or

(3) the educator resigned and reasonable evidence supports a recommendation by the superintendent or director to terminate the educator based on a determination that the educator engaged in misconduct described by Subdivision (2).

(c) The superintendent or director must notify the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ by filing a report with the board not later than the seventh day after the date the superintendent or director first learns about an alleged incident of misconduct described by Subsection (b). The report must be:

(1) in writing; and

(2) in a form prescribed by the board.

(e) A superintendent or director who in good faith and while acting in an official capacity files a report with the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ under this section is immune from civil or criminal liability that might otherwise be incurred or imposed.

(f) The board ~~[State Board for Educator Certification]~~ shall determine whether to impose sanctions against a superintendent or director who fails to file a report in violation of Subsection (c).

(g) The [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ shall propose rules as necessary to implement this section.

SECTION 7.04. Sections 21.031(a) and 21.032, Education Code, are amended to read as follows:

Sec. 21.031. PURPOSE. (a) The Educators' Professional Practices [State] Board [for Educator Certification] is established to recognize public school educators as professionals and to grant educators the authority to govern the standards of their profession. The board shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.

Sec. 21.032. DEFINITION. In this subchapter, "board" means the Educators' Professional Practices [State] Board [for Educator Certification].

SECTION 7.05. The heading to Section 21.033, Education Code, is amended to read as follows:

Sec. 21.033. EDUCATORS' PROFESSIONAL PRACTICES [STATE] BOARD [FOR EDUCATOR CERTIFICATION].

SECTION 7.06. Section 21.033, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (d), and (e) to read as follows:

(a) The board [State Board for Educator Certification] is composed of 11 [14] members~~[The commissioner of education shall appoint an employee of the agency to represent the commissioner as a nonvoting member. The commissioner of higher education shall appoint an employee of the Texas Higher Education Coordinating Board to represent the commissioner as a nonvoting member. The governor shall appoint a dean of a college of education in this state as a nonvoting member. The remaining 11 members are]~~ appointed by the commissioner [governor with the advice and consent of the senate,] as follows:

(1) six [four] members must be classroom teachers, appointed as provided by Subsection (a-1) [employed in public schools];

(2) not more than two members of the board may [must] be [public] school administrators; and

(3) a number of other members consistent with this subsection who the commissioner determines are qualified [one member must be a public school counselor; and

~~[(4) four members must be citizens, three of whom are not and have not, in the five years preceding appointment, been employed by a public school district or by an educator preparation program in an institution of higher education and one of whom is not and has not been employed by a public school district or by an educator preparation program in an institution of higher education].~~

(a-1) In appointing a board member under Subsection (a)(1), the commissioner shall request a list of qualified candidates from each of the four statewide professional educator associations in this state with the largest membership of classroom teachers and shall make appointments from the candidates listed. Not later than the 30th day after the date on which the association receives notice of the commissioner's request for candidate nominations, the association shall submit a list of six candidates for membership on the board. If the commissioner does not receive nominations for at least 12 candidates, the commissioner may appoint classroom teachers not nominated by an association, provided that they have at least five years' experience as public school classroom teachers.

(d) The agency shall provide administrative services for the board as necessary.

(e) A reference in law to the State Board for Educator Certification means the Educators' Professional Practices Board.

SECTION 7.07. Section 21.034, Education Code, is amended to read as follows:

Sec. 21.034. TERMS; VACANCY. (a) The board members ~~[appointed by the governor]~~ hold office for staggered terms of six years with the terms of one-third, or as near to one-third as possible, of the members expiring on February 1 of each odd-numbered year. ~~[A member appointed by the commissioner of education or the commissioner of higher education serves at the will of the appointing commissioner.]~~

(b) In the event of a vacancy during a term of a member ~~[appointed by the governor]~~, the commissioner [governor] shall appoint a replacement who meets the qualifications of the vacated office to fill the unexpired portion of the term.

(c) A vacancy arises if a member ~~[appointed by the governor]~~ no longer qualifies for the office to which the member was appointed, as determined by the commissioner.

SECTION 7.08. Section 21.035, Education Code, as amended by H.B. No. 1116, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 21.035. APPLICATION OF SUNSET ACT. The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires on the date prescribed by Section 7.004 for abolishment of the agency. [The Texas Education Agency shall provide the board's administrative functions and services.]

SECTION 7.09. Subchapter B, Chapter 21, is amended by adding Section 21.039 to read as follows:

Sec. 21.039. EXECUTIVE DIRECTOR; PERSONNEL. The board shall employ an executive director. The executive director shall:

- (1) perform duties as assigned by the board or specified by law;
- (2) administer and enforce all laws and rules implemented by the board;
- (3) issue the certificates authorized under this subchapter; and
- (4) hire and dismiss the employees of the board."

SECTION 7.10. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.0391 to read as follows:

Sec. 21.0391. ADVISORY COMMITTEE. (a) The board shall appoint an advisory committee composed of holders of each class of educator certificate and stakeholders as required under Chapter 2008, Government Code.

(b) The advisory committee shall recommend educator certification standards under Section 21.041(b)(4) and educator preparation program standards under Section 21.044 and propose rules under those sections to the board through negotiated rulemaking under Chapter 2008, Government Code. For purposes of that chapter, the advisory committee is considered to be the negotiated rulemaking committee described by Section 2008.054, Government Code. As provided by Section 2008.058, Government Code, the board may propose and adopt a rule that has not been recommended or proposed by the advisory committee.

(c) The board may not finally adopt or amend a rule subject to this section unless the State Board of Education has failed to reject the rule or amendment by an affirmative vote of four-fifths of its members. A vote under this subsection may be conducted by mail ballot, provided that the State Board of Education has at least 30 days' written notice of the proposed final rule adoption.

(d) Members of the advisory committee serve at the will of the board.

SECTION 7.11. Section 21.042, Education Code, is amended to read as follows:

Sec. 21.042. APPROVAL OF RULES. The [~~State~~] Educators' Professional Practices Board [~~for Educator Certification~~] must submit a written copy of each rule it proposes to adopt to the State Board of Education for review. The State Board of Education may reject a proposed rule by a vote of at least two-thirds four-fifths of the members of the board present and voting. If the State Board of Education fails to reject a proposal before the 90th day after the date on which it receives the proposal, the proposal takes effect as a rule of the [~~State~~] Educators' Professional Practices Board [~~for Educator Certification~~] as provided by Chapter 2001, Government Code. The State Board of Education may not modify a rule proposed by the [~~State~~] Educators' Professional Practices Board [~~for Educator Certification~~].

SECTION 7.12. Section 21.049(b), Education Code, is amended to read as follows:

(b) The board may not require a person employed as a teacher in a disciplinary [~~an~~] alternative education program under Section 37.008 or a juvenile justice alternative education program under Section 37.011 for at least three years to complete an alternative educator certification program adopted under this section before taking the appropriate certification examination.

SECTION 7.13. Section 21.105(c), Education Code, is amended to read as follows:

(c) On written complaint by the employing district, the Educators' Professional Practices [~~State~~] Board [~~for Educator Certification~~] may impose sanctions against a teacher employed under a probationary contract who:

- (1) resigns;
- (2) fails without good cause to comply with Subsection (a) or (b); and
- (3) fails to perform the contract.

SECTION 7.14. Section 21.160(c), Education Code, is amended to read as follows:

(c) On written complaint by the employing district, the Educators' Professional Practices [~~State~~] Board [~~for Educator Certification~~] may impose sanctions against a teacher who is employed under a continuing contract that obligates the district to employ the person for the following school year and who:

- (1) resigns;
- (2) fails without good cause to comply with Subsection (a) or (b); and
- (3) fails to perform the contract.

SECTION 7.15. Section 21.210(c), Education Code, is amended to read as follows:

(c) On written complaint by the employing district, the Educators' Professional Practices [State] Board [~~for Educator Certification~~] may impose sanctions against a teacher who is employed under a term contract that obligates the district to employ the person for the following school year and who:

- (1) resigns;
- (2) fails without good cause to comply with Subsection (a) or (b); and
- (3) fails to perform the contract.

SECTION 7.16. Section 21.503, Education Code, is amended to read as follows:

Sec. 21.503. ELIGIBILITY. A person is eligible for the program if the person:

- (1) has served in the armed forces of the United States;
- (2) is honorably discharged, retired, or released from active duty on or after October 1, 1990, after at least six years of continuous active duty service immediately before the discharge, retirement, or release;
- (3) has received a baccalaureate or advanced degree from a public or private institution of higher education accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board; and
- (4) satisfies any other criteria for selection jointly prescribed by the agency and the [State] Educators' Professional Practices Board [~~for Educator Certification~~].

SECTION 7.17. Section 21.504(b), Education Code, is amended to read as follows:

(b) The agency and the [State] Educators' Professional Practices Board [~~for Educator Certification~~] shall distribute the applications and information regarding the program.

SECTION 7.18. Section 21.510(c), Education Code, is amended to read as follows:

(c) For purposes of this section, a participant in the program is not considered to be in violation of an agreement under Section 21.508 during any period in which the participant:

- (1) is pursuing a full-time course of study related to the field of teaching at a public or private institution of higher education approved by the [State] Educators' Professional Practices Board [~~for Educator Certification~~];
- (2) is serving on active duty as a member of the armed forces of the United States;
- (3) is temporarily totally disabled for a period not to exceed three years as established by sworn affidavit of a qualified physician;
- (4) is unable to secure employment for a period not to exceed one year because of care required by a disabled spouse;
- (5) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 27 months; or
- (6) satisfies the provisions of any additional reimbursement exception adopted by the agency.

SECTION 7.19. Sections 21.551, 21.552, and 21.553, Education Code, are amended to read as follows:

Sec. 21.551. PURPOSES. The purposes of the alternative certification Teach for Texas Pilot Program are to:

(1) attract to the teaching profession persons who have expressed interest in teaching and to support the certification of those persons as teachers;

(2) recognize the importance of the certification process governed by the [State] Educators Professional Practices Board ~~[for Educator Certification]~~ under Subchapter B, which requires verification of competence in subject area and professional knowledge and skills;

(3) encourage the creation and expansion of educator preparation programs that recognize the knowledge and skills gained through previous educational and work-related experiences and that are delivered in a manner that recognizes individual circumstances, including the need to remain employed full-time while enrolled in the Teach for Texas Pilot Program; and

(4) provide annual stipends to postbaccalaureate teacher certification candidates.

Sec. 21.552. PROGRAM ESTABLISHED. The [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ by rule shall establish the Teach for Texas Pilot Program consistent with the purposes provided by Section 21.551.

Sec. 21.553. FINANCIAL INCENTIVES. (a) The pilot program must offer to participants financial incentives, including tuition assistance and loan forgiveness. In offering a financial incentive, the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ shall:

(1) require a contract between each participant who accepts a financial incentive and the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ under which the participant is obligated to teach in a public school in this state for a stated period after certification;

(2) provide financial incentives in proportion to the length of the period the participant is obligated by contract to teach after certification; and

(3) give special financial incentives to a participant who agrees in the contract to teach in an underserved area.

(b) Financial incentives may be paid only from funds appropriated specifically for that purpose and from gifts, grants, and donations solicited or accepted by the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ for that purpose.

(c) The [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ shall propose rules establishing criteria for awarding financial incentives under this section, including criteria for awarding financial incentives if there are more participants than funds available to provide the financial incentives.

SECTION 7.20. Section 21.604(b), Education Code, is amended to read as follows:

(b) The agency and the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ shall distribute the applications and information regarding the program.

SECTION 7.21. Section 21.609(c), Education Code, is amended to read as follows:

(c) For purposes of this section, a participant in the program is not considered to be in violation of an agreement under Section 21.607 during any period in which the participant:

(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education approved by the ~~[State]~~ Educators' Professional Practices Board ~~[for Educator Certification]~~;

(2) is serving on active duty as a member of the armed forces of the United States;

(3) is temporarily totally disabled for a period not to exceed three years as established by affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed one year because of care required by a disabled spouse;

(5) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 27 months; or

(6) satisfies the provisions of any additional reimbursement exception adopted by the agency.

SECTION 7.22. Section 22.0512(b), Education Code, is amended to read as follows:

(b) In this section, "disciplinary proceeding" means:

(1) an action brought by the school district employing a professional employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term contract; or

(2) an action brought by the Educators' Professional Practices ~~[State]~~ Board ~~[for Educator Certification]~~ to enforce the educator's code of ethics adopted under Section 21.041(a-1) ~~[21.041(b)(8)]~~.

SECTION 7.23. Sections 29.061(a)-(c) and (e), Education Code, are amended to read as follows:

(a) The ~~[State]~~ Educators' Professional Practices Board ~~[for Educator Certification]~~ shall provide for the issuance of teaching certificates appropriate for bilingual education instruction to teachers who possess a speaking, reading, and writing ability in a language other than English in which bilingual education programs are offered and who meet the general requirements of Chapter 21. The board shall also provide for the issuance of teaching certificates appropriate for teaching English as a second language. The board may issue emergency endorsements in bilingual education and in teaching English as a second language.

(b) A teacher assigned to a bilingual education program must be appropriately certified under Subchapter B, Chapter 21, for bilingual education ~~[by the board]~~.

(c) A teacher assigned to an English as a second language or other special language program must be appropriately certified under Subchapter B, Chapter 21, for English as a second language ~~[by the board]~~.

(e) The ~~[State]~~ Educators' Professional Practices Board ~~[for Educator Certification]~~ and the Texas Higher Education Coordinating Board shall develop a comprehensive plan for meeting the teacher supply needs created by the programs outlined in this subchapter.

SECTION 7.24. Sections 33.002(b) and (c), Education Code, are amended to read as follows:

(b) A school district with 500 or more students enrolled in elementary school grades shall employ a counselor certified under the rules of the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ for each elementary school in the district. A school district shall employ at least one counselor for every 500 elementary school students in the district.

(c) A school district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by:

(1) employing a part-time counselor certified under the rules of the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~;

(2) employing a part-time teacher certified as a counselor under the rules of the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~; or

(3) entering into a shared services arrangement agreement with one or more school districts to share a counselor certified under the rules of the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~.

SECTION 7.25. Section 37.007(g), Education Code, as amended by H.B. No. 603, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(g) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a school district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The Educators' Professional Practices [State] Board ~~[for Educator Certification]~~ may revoke or suspend the certification of an educator who intentionally violates this subsection.

SECTION 7.26. Section 61.0514, Education Code, is amended to read as follows:

Sec. 61.0514. INTEGRATED COURSEWORK. The board, with the cooperation and advice of the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~, shall adopt educator preparation coursework guidelines that promote, to the greatest extent practicable, the integration of subject matter knowledge with classroom teaching strategies and techniques in order to maximize the effectiveness and efficiency of coursework required for certification under Subchapter B, Chapter 21.

SECTION 7.27. Section 61.076, Education Code, as amended by H.B. No. 2808, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subsection (b) and adding Subsection (j) to read as follows:

(b) The P-16 Council is composed of the commissioner of education, the commissioner of higher education, the executive director of the Texas Workforce Commission, the executive director of the [State] Educators' Professional Practices Board ~~[for Educator Certification]~~ and the commissioner of assistive and rehabilitative services. The commissioner of higher education and the commissioner of education shall serve as co-chairs of the council.

(j) The P-16 Council, in conjunction with the State Center for Early Childhood Development, shall develop and adopt a school readiness certification system as required by Section 29.161.

SECTION 7.28. 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]~~ Educators' Professional Practices Board ~~[for Educator Certification]~~ to revalidate the teaching certificate; and

(4) demonstrates, in a manner prescribed by the commissioner, the intention to comply with the examination requirement at the first available opportunity.

SECTION 7.29. Article 15.27(a), Code of Criminal Procedure, is amended to read as follows:

(a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or on the next school day. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or on the next school day. If the individual is a student, the superintendent shall promptly notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The Educators' Professional Practices ~~[State]~~ Board ~~[for Educator Certification]~~ may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the law enforcement agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information contained in the notice may be considered by the superintendent or the superintendent's designee in making such a determination.

SECTION 7.30. Article 42.018(b), Code of Criminal Procedure, is amended to read as follows:

(b) Not later than the fifth day after the date a person who holds a certificate issued under Subchapter B, Chapter 21, Education Code, is convicted or granted deferred adjudication on the basis of an offense, the clerk of the court in which the conviction or deferred adjudication is entered shall provide to the Educators' Professional Practices [State] Board [~~for Educator Certification~~] written notice of the person's conviction or deferred adjudication, including the offense on which the conviction or deferred adjudication was based.

SECTION 7.31. Section 654.011(a), Government Code, is amended to read as follows:

(a) The position classification plan and the salary rates and provisions in the General Appropriations Act apply to all hourly, part-time, temporary, and regular, full-time salaried employments in the state departments, agencies, or judicial entities specified in the articles of the General Appropriations Act that appropriate money to:

- (1) general government agencies;
- (2) health and human services agencies;
- (3) the judiciary, except for judges, district attorneys, and assistant district attorneys;
- (4) public safety and criminal justice agencies;
- (5) natural resources agencies;
- (6) business and economic development agencies;
- (7) regulatory agencies; and
- (8) agencies of public education, but only the Texas Education Agency, the Texas School for the Blind and Visually Impaired, the [State] Educators' Professional Practices Board [~~for Educator Certification~~], the Telecommunications Infrastructure Fund, and the Texas School for the Deaf.

SECTION 7.32. Section 821.001(7), Government Code, is amended to read as follows:

(7) "Employer" means any agents or agencies in the state responsible for public education, including the governing board of any school district created under the laws of this state, any county school board, the board of trustees, the board of regents of any college or university, or any other legally constituted board or agency of any public school, but excluding the State Board of Education, the Texas Education Agency, and the [State] Educators' Professional Practices Board [~~for Educator Certification~~].

SECTION 7.33. Section 821.103, Government Code, is amended to read as follows:

Sec. 821.103. REVOCATION [~~CANCELLATION~~] OF TEACHER CERTIFICATE. (a) After receiving notice from the board of trustees of an offense under Section 821.101 and after complying with Chapter 2001 and rules adopted by the Educators' Professional Practices [State] Board [~~for Educator Certification~~], the board [~~State Board for Educator Certification~~] may revoke [~~cancel~~] the teacher certificate of a person if the board [~~State Board for Educator Certification~~] determines that the person committed the offense.

(b) The Educators' Professional Practices [~~executive director of the State~~] Board [~~for Educator Certification~~] may enter into an agreed sanction.

(c) A criminal prosecution of an offender under Section 821.101 is not a prerequisite to action by the Educators' Professional Practices [State] Board [~~for Educator Certification or its executive director~~].

SECTION 7.34. Section 2054.352(a), Government Code, as amended by S.B. No. 411, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(a) The following licensing entities shall participate in the system established under Section 2054.353:

- (1) Texas Board of Chiropractic Examiners;
 - (2) Court Reporters Certification Board;
 - (3) State Board of Dental Examiners;
 - (4) Texas Funeral Service Commission;
 - (5) Texas Board of Professional Land Surveying;
 - (6) Texas State Board of Medical Examiners;
 - (7) Board of Nurse Examiners;
 - (8) Texas Optometry Board;
 - (9) Texas Structural Pest Control Board;
 - (10) Texas State Board of Pharmacy;
 - (11) Executive Council of Physical Therapy and Occupational Therapy Examiners;
 - (12) Texas State Board of Plumbing Examiners;
 - (13) Texas State Board of Podiatric Medical Examiners;
 - (14) Board of Tax Professional Examiners;
 - (15) Polygraph Examiners Board;
 - (16) Texas State Board of Examiners of Psychologists;
 - (17) State Board of Veterinary Medical Examiners;
 - (18) Texas Real Estate Commission;
 - (19) Texas Appraiser Licensing and Certification Board;
 - (20) Texas Department of Licensing and Regulation;
 - (21) Texas State Board of Public Accountancy;
 - (22) Educators' Professional Practices [State] Board [~~for Educator Certification~~];
 - (23) Texas Board of Professional Engineers;
 - (24) Department of State Health Services;
 - (25) Texas Board of Architectural Examiners;
 - (26) Texas Racing Commission;
 - (27) Commission on Law Enforcement Officer Standards and Education;
- [and]
- (28) Texas Private Security Board; and
 - (29) Texas Education Agency.

SECTION 7.35. Section 504.002(b), Occupations Code, is amended to read as follows:

- (b) This chapter does not apply to an activity or service of a person who:

- (1) is employed as a counselor by a federal institution and is providing chemical dependency counseling within the scope of the person's employment;
- (2) except as provided by Section 504.1515 [~~504.057~~], is a student, intern, or trainee pursuing a supervised course of study in counseling at a regionally accredited institution of higher education or training institution, if the person:
 - (A) is designated as a "counselor intern"; and
 - (B) is engaging in the activity or providing the service as part of the course of study;
- (3) is not a resident of this state, if the person:
 - (A) engages in the activity or provides the service in this state for not more than 30 days during any year; and
 - (B) is authorized to engage in the activity or provide the service under the law of the state of the person's residence;
- (4) is a licensed physician, psychologist, professional counselor, or social worker;
- (5) is a religious leader of a congregation providing pastoral chemical dependency counseling within the scope of the person's duties;
- (6) is working for or providing counseling with a program exempt under Subchapter C, Chapter 464, Health and Safety Code; or
- (7) is a school counselor certified under Subchapter B, Chapter 21, Education Code [~~by the State Board for Educator Certification~~].

SECTION 7.36. Section 21.040, Education Code, is repealed.

SECTION 7.37. (a) The State Board for Educator Certification is abolished, and all powers, duties, personnel, property, assets, and obligations of the board are transferred to the Educators' Professional Practices Board. The validity of a prior action of the State Board for Educator Certification is not affected by the abolishment, and any pending activities of the State Board for Educator Certification shall be deemed to have continued without interruption or material change.

(b) The powers and duties of the Educators' Professional Practices Board, as created by this Act, shall continue to be exercised by the State Board for Educator Certification until the initial appointees of the Educators' Professional Practices Board assume their offices, which may not be later than January 1, 2006.

(c) All rules of the State Board for Educator Certification relating to a transferred power or duty remain in effect as rules of the Educators' Professional Practices Board until amended or repealed by the board.

(d) A contested case, rulemaking procedure, program, test, fee, contract, review, evaluation, sanction, act, or decision of the State Board for Educator Certification that is pending, completed, or in effect on the effective date of this Act shall be deemed that of the Educators' Professional Practices Board to the extent authorized by Subchapter B, Chapter 21, Education Code, as amended by this article, or other law, until and unless a change is expressly made by the board.

(e) As soon as practicable after the effective date of this article and not later than December 1, 2005, the commissioner shall make initial appointments to the Educators' Professional Practices Board. In making the initial appointments, the

commissioner shall designate four members to serve terms expiring February 1, 2007, four members to serve terms expiring February 1, 2009, and three members to serve terms expiring February 1, 2011.

(f) A person who holds a certificate issued under Subchapter B, Chapter 21, Education Code, as it existed on January 1, 2005, may continue to practice under that certificate until the certificate is renewed or replaced under Subchapter B, Chapter 21, Education Code, as amended by this article.

(g) The code of ethics adopted under Subchapter B, Chapter 21, Education Code, by the State Board for Educator Certification and in effect on the effective date of this article remains in effect until superseded by rules of the Educators' Professional Practices Board."

The amendment was read.

Senator Armbrister withdrew Floor Amendment No. 14.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 15

Amend **CSSB 8** as follows:

(1) In ARTICLE 2 of the bill, in PART C, add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS appropriately:

SECTION 2C. ____ Effective August 1, 2006, Section 7.056(e), Education Code, as amended by S.B. 658, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(e) Except as provided by Subsection (f), a school campus or district may not receive an exemption or waiver under this section from:

- (1) a prohibition on conduct that constitutes a criminal offense;
- (2) a requirement imposed by federal law or rule, including a requirement for special education or bilingual education programs; or
- (3) a requirement, restriction, or prohibition relating to:
 - (A) essential knowledge or skills under Section 28.002 or minimum graduation requirements under Section 28.025;
 - (B) public school accountability as provided by Subchapters B, C, D, and G, Chapter 39;
 - (C) extracurricular activities under Section 33.081 or participation in a University Interscholastic League area, regional, or state competition under Section 33.0812;
 - (D) health and safety under Chapter 38;
 - (E) purchasing under Subchapter B, Chapter 44;
 - (F) elementary school class size limits, except as provided by Section 25.112;
 - (G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;
 - (H) at-risk programs under Subchapter C, Chapter 29;
 - (I) prekindergarten programs under Subchapter E, Chapter 29;
 - (J) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22;

(K) special education programs under Subchapter A, Chapter 29; ~~or~~

(L) bilingual education programs under Subchapter B, Chapter 29; or

(M) the requirements for the first and last day of instruction under Section 25.0811, except as provided by that section.

SECTION 2C.____. Effective August 1, 2006, the heading to Section 25.0811, Education Code, is amended to read as follows:

Sec. 25.0811. FIRST AND LAST DAY OF INSTRUCTION.

SECTION 2C.____. Effective August 1, 2006, Section 25.0811(a), Education Code, is amended to read as follows:

~~(a)~~ A school district shall ~~[may not]~~ begin instruction for students for a school year on the first Tuesday after Labor Day. The school year must end not later than June 7 unless:

(1) the district operates a year-round system under Section 25.084; or

(2) the commissioner grants a waiver to extend the school year at a campus as the result of a disaster, flood, extreme weather condition, fuel curtailment, or other calamity that caused a closure of the campus for a significant period [before the week in which August 21 falls. For purposes of this subsection, Sunday is considered the first day of the week].

SECTION 2C.____. A waiver under Section 7.056(e), Education Code, from the requirements for the first and last day of instruction under Section 25.0811, Education Code, as amended by this Act, for the 2006-2007 or a subsequent school year may be granted only as provided by Section 25.0811, Education Code, as amended by this Act, and a waiver of those requirements for the 2006-2007 or a subsequent school year that is granted before August 1, 2006, and that does not comply with Section 25.0811, Education Code, as amended by this Act, is void.

(2) In ARTICLE 9 of the bill, add the following appropriately numbered SECTION and renumber subsequent SECTIONS appropriately:

SECTION 9.____. Effective June 1, 2006, Sections 25.0811(b) and (c), Education Code, are repealed.

The amendment was read.

Senator Shapiro moved to table Floor Amendment No. 15 to **CSSB 8**.

The motion to table was lost by the following vote: Yeas 12, Nays 17.

Yeas: Averitt, Deuell, Duncan, Estes, Jackson, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, West.

Nays: Armbrister, Barrientos, Brimer, Carona, Ellis, Eltife, Fraser, Gallegos, Harris, Hinojosa, Janek, Lucio, Shapleigh, Wentworth, Whitmire, Williams, Zaffirini.

Absent-excused: Madla, Van de Putte.

Senator Duncan offered the following amendment to Floor Amendment No. 15:

Floor Amendment No. 16

Amend Floor Amendment No. 15 by Lucio to **CSSB 8** as follows:

(1) In Item (1) of the amendment, in amended Section 7.056(e)(3)(M),

Education Code (page 2, lines 22 and 23), strike "except as provided by that section".

(2) In Item (1) of the amendment, strike the section amending Section 25.0811(a), Education Code (page 2, line 24 through page 3, line 8).

(3) In Item (1) of the amendment, strike the transition section (page 3, lines 9 through 17), and substitute the following:

SECTION 2C. ___. A waiver under Section 7.056(e), Education Code, from the requirements for the first day of instruction under Section 25.0811, Education Code, as amended by this Act, for the 2006-2007 or a subsequent school year that is granted before August 1, 2006, is void.

The amendment was read.

On motion of Senator Lucio, the amendment to Floor Amendment No. 15 to **CSSB 8** was tabled by the following vote: Yeas 17, Nays 12.

Yeas: Armbrister, Barrientos, Brimer, Carona, Ellis, Eltife, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lucio, Shapleigh, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Averitt, Deuell, Duncan, Estes, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, West.

Absent-excused: Madla, Van de Putte.

Question recurring on the adoption of Floor Amendment No. 15 to **CSSB 8**, the amendment was adopted by the following vote: Yeas 18, Nays 11.

Yeas: Armbrister, Barrientos, Brimer, Carona, Ellis, Eltife, Fraser, Gallegos, Harris, Hinojosa, Janek, Lucio, Shapleigh, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Deuell, Duncan, Estes, Jackson, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples.

Absent-excused: Madla, Van de Putte.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 17

Amend **CSSB 8** in ARTICLE 2 of the bill, in PART C, by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of PART C, ARTICLE 2, appropriately:

SECTION 2C. ___. Effective August 1, 2006, Section 25.081, Education Code, is amended to read as follows:

Sec. 25.081. OPERATION OF SCHOOLS. (a) Except as authorized under Subsection (b) of this section, Section 25.084, or Section 29.0821, for each school year each school district must operate so that the district provides for at least 180 days or not fewer than 1,260 hours of instruction for students.

(b) The commissioner may approve the instruction of students for fewer than the number of days or hours required under Subsection (a) if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools.

The amendment was read.

Senator Lucio withdrew Floor Amendment No. 17.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 8 as amended was passed to engrossment by the following vote: Yeas 19, Nays 10.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Jackson, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, West, Williams.

Nays: Barrientos, Ellis, Eltife, Gallegos, Harris, Hinojosa, Lucio, Shapleigh, Whitmire, Zaffirini.

Absent-excused: Madla, Van de Putte.

(Senator Armbrister in Chair)

SENATE BILL 5 ON SECOND READING

Senator Fraser moved to suspend the regular order of business to take up for consideration **SB 5** at this time on its second reading:

SB 5, Relating to furthering competition in the communications industry.

The motion prevailed by the following vote: Yeas 25, Nays 2, Present-not voting 2.

Yeas: Armbrister, Barrientos, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Eltife.

Present-not voting: Ellis, Staples.

Absent-excused: Madla, Van de Putte.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 5**, Senate committee report, as follows:

1. On page 13, line 5, between "subscribers" and ";" insert the following: "in those service areas where such provider is not regulated as a cable system under federal law".

2. On pages 13-14, delete SECTION 25 in its entirety and renumber existing SECTIONS accordingly.

3. On page 26, lines 47-48, strike "The holder of a state-issued certificate of franchise authority" and replace with "All cable service providers and all video service providers".

4. On page 27, line 9, insert the following between "later" and "":
"and thereafter as provided in subsections (1) and (2) below"

5. On page 27, line 21, strike "until January 1, 2008, after which" and replace with ". Beginning on January 1, 2008 or the expiration of the franchise agreement, whichever is later."

The amendment to **SB 5** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Nays: Shapleigh.

Present-not voting: Ellis, Staples.

Absent-excused: Madla, Van de Putte.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 5** (committee printing) in SECTION 27, added Subtitle C, Title 2, Utilities Code, in proposed Section 66.008 (page 27, line 35), by striking the word "two" and substituting the word "three".

The amendment to **SB 5** was read and failed of adoption by the following vote: Yeas 5, Nays 22, Present-not voting 2.

Yeas: Averitt, Eltife, Seliger, Shapleigh, West.

Nays: Armbrister, Barrientos, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Nelson, Ogden, Shapiro, Wentworth, Whitmire, Williams, Zaffirini.

Present-not voting: Ellis, Staples.

Absent-excused: Madla, Van de Putte.

On motion of Senator Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 5 as amended 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:

Nays: Averitt, Eltife, Lindsay.

Present-not voting: Ellis, Staples.

Absent-excused: Madla, Van de Putte.

REMARKS ORDERED PRINTED

On motion of Senator West and by unanimous consent, the remarks by Senators Fraser and West regarding **SB 5** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator West: Under Section 66.003(b)(4), we allow a new entrant to designate their service area footprint to be served within a municipality. Is it your understanding that this service area may be an area smaller than the corporate boundaries of a municipality?

Senator Fraser: Yes.

Senator West: Senator, when we last discussed this bill, you had said that "local area" in Section 66.014 could be broader than "franchise territory." Do you recall that?

Senator Fraser: Yes.

Senator West: Under Section 66.014, "potential residential subscribers" are provided certain protections against discrimination based on the income of the residents in that local area. Is that correct?

Senator Fraser: Yes.

Senator West: To follow up, is it your belief that an individual or a city could assert that a provider was avoiding providing service to residents in a "low income" area based on the income of the residents in that local area? (Section 66.014(b)).

Senator Fraser: Yes.

Senator West: Can the "local area" that we have discussed be a particular neighborhood, zip code, or part of a city that may have low income residents?

Senator Fraser: Yes.

Senator West: Now, there is some question as to whether only the potential subscribers who reside within the franchise service area designated by the new entrant have standing to pursue a claim under the non-discrimination provisions, or whether potential subscribers who may live in the same city but live outside the new entrant's service area also have standing to use the provisions of Section 66.014 that prohibit discrimination. Is it your intent to allow potential subscribers who live in the same city but reside outside the new entrant's franchise service area to have standing to pursue a claim of discrimination under Section 66.014?

Senator Fraser: Yes.

Senator West: Having said that, this bill does not require a provider to build out any facilities, correct? (66.007)

Senator Fraser: Yes.

(President in Chair)

SENATE BILL 7 ON SECOND READING

Senator Janek moved to suspend the regular order of business to take up for consideration **SB 7** at this time on its second reading:

SB 7, Relating to limiting the use of eminent domain to take private property.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Ellis, Gallegos.

Absent-excused: Madla, Van de Putte.

The bill was read second time.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 7** as follows:

Strike Section 2206.001 subsection (b) and insert in lieu thereof a new subsection (b) to read as follows:

(b) A governmental or private entity may not take private property through the use of eminent domain if the taking:

(1) confers a private benefit on a particular private party through the use of the property, except to the extent necessary to accomplish the secondary purpose described in part (3) of this subsection;

(2) is for a public use that is merely a pretext to confer a private benefit on a particular private party;

(3) is for economic development purposes, unless the economic development is a secondary purpose resulting from municipal community development or municipal urban renewal activities under Chapter 373 or 374, Local Government Code, or Section 311.005(a)(1)(I), Tax Code, to eliminate an existing affirmative harm on society from slum or blighted areas, or Chapter 311, Tax Code, to eliminate the conditions described in Section 311.005(a)(1)(I) of the Tax Code.

The amendment to **SB 7** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Madla, Van de Putte.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 7** as follows:

(1) In SECTION 1 of the bill, following the semicolon at the end of proposed Subsection (b)(2), Section 2206.001, Government Code, (page 1, line 29, committee printing) insert "or".

(2) In SECTION 1 of the bill, proposed Subsection (b)(3), Section 2206.001, Government Code, (page 1, line 35, committee printing) strike "; or" and substitute ";".

(3) In SECTION 1 of the bill, strike proposed Subsection (b)(4), Section 2206.001, Government Code, (page 1, lines 36-40, committee printing).

(4) Add a new appropriately numbered section to the bill to read as follows and renumber the existing sections as appropriate:

SECTION __. Section 203.052, Transportation Code, as amended by H.B. No. 2702, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subsection (b) to read as follows:

(b) Property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to:

- (1) protect a state highway;
- (2) drain a state highway;
- (3) divert a stream, river, or other watercourse from the right-of-way of a state highway;
- (4) store materials or equipment for use or used in the construction or maintenance of a state highway;
- (5) construct or operate a warehouse or other facility used in connection with the construction, maintenance, or operation of a state highway;
- (6) lay out, construct, or maintain a roadside park;
- (7) lay out, construct, or maintain a parking lot that will contribute to maximum use of a state highway with the least possible congestion;
- (8) mitigate an adverse environmental effect that directly results from construction or maintenance of a state highway;
- (9) provide a location for ~~[an ancillary facility that is anticipated to generate revenue for use in the design, development, financing, construction, maintenance, or operation of a toll project, including]~~ a gas station, garage, store, hotel, restaurant, or other commercial facility that provides services to and directly benefits users of the toll facility;
- (10) construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project; or
- (11) accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway.

The amendment was read.

Senator Staples temporarily withdrew Floor Amendment No. 2.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 3

Amend **SB 7** in SECTION 1 of the bill, proposed Section 2206.001(c)(1), Government Code (page 1, line 44, committee printing), by inserting "but not limited to," between "including" and "railroads".

The amendment to **SB 7** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Madla, Van de Putte.

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 4

Amend **SB 7**, on page 1, line 48 by adding a new subsection (3) to Section 2206.001(c) as follows, and renumbering the subsequent subsections appropriately:

(3) other public infrastructure, including public buildings, hospitals, and parks.

The amendment to **SB 7** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Absent-excused: Madla, Van de Putte.

Senator Staples again offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 7** as follows:

(1) In SECTION 1 of the bill, following the semicolon at the end of proposed Subsection (b)(2), Section 2206.001, Government Code, (page 1, line 29, committee printing) insert "or".

(2) In SECTION 1 of the bill, proposed Subsection (b)(3), Section 2206.001, Government Code, (page 1, line 35, committee printing) strike "; or" and substitute ".".

(3) In SECTION 1 of the bill, strike proposed Subsection (b)(4), Section 2206.001, Government Code, (page 1, lines 36-40, committee printing).

(4) Add a new appropriately numbered section to the bill to read as follows and renumber the existing sections as appropriate:

SECTION __. Section 203.052, Transportation Code, as amended by H.B. No. 2702, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subsection (b) to read as follows:

(b) Property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to:

(1) protect a state highway;

(2) drain a state highway;

(3) divert a stream, river, or other watercourse from the right-of-way of a state highway;

(4) store materials or equipment for use or used in the construction or maintenance of a state highway;

(5) construct or operate a warehouse or other facility used in connection with the construction, maintenance, or operation of a state highway;

(6) lay out, construct, or maintain a roadside park;

(7) lay out, construct, or maintain a parking lot that will contribute to maximum use of a state highway with the least possible congestion;

(8) mitigate an adverse environmental effect that directly results from construction or maintenance of a state highway;

(9) provide a location for ~~[an ancillary facility that is anticipated to generate revenue for use in the design, development, financing, construction, maintenance, or operation of a toll project, including]~~ a gas station, garage, store, hotel, restaurant, or other commercial facility that provides services to and directly benefits users of the toll facility;

(10) construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project; or

(11) accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway.

The amendment was again read.

Senator Shapleigh offered the following amendment to Floor Amendment No. 2:

Floor Amendment No. 5

Amend Floor Amendment No. 2 to **SB 7** as follows:

On page two lines 11 and 12 strike "hotel" and "other commercial facility."

The amendment to Floor Amendment No. 2 to **SB 7** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent-excused: Madla, Van de Putte.

Question recurring on the adoption of Floor Amendment No. 2 to **SB 7**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 as amended except as follows:

Absent-excused: Madla, Van de Putte.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 6

Amend **SB 7** (committee printing) on page 1 as follows:

(1) On line 50, delete "or".

(2) On line 53, between "Code" and the period insert the following:

; or

(6) waste disposal projects

The amendment was read.

Senator Seliger withdrew Floor Amendment No. 6.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 7

Amend **SB 7** in SECTION 1 of the bill as follows:

(1) In proposed Subsection (c)(4), Section 2206.001, Government Code (page 1, line 50, committee printing), strike "or".

(2) In proposed Subsection (c)(5), Section 2206.001, Government Code (page 1, line 53, committee printing), strike the period and substitute:

; or

(6) a library, museum, auditorium, or similar facility and related infrastructure.

The amendment to **SB 7** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 except as follows:

Absent-excused: Madla, Van de Putte.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 8

Amend **SB 7** (committee printing) on page 1 as follows:

(1) On line 50, delete "or".

(2) On line 53, between "Code" and the period insert the following:

; or

(6) radioactive waste disposal projects

The amendment to **SB 7** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8 except as follows:

Absent-excused: Madla, Van de Putte.

On motion of Senator Janek and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 7 as amended 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: Madla, Van de Putte.

PROCLAMATION BY THE GOVERNOR

The following Proclamation by 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, SECOND 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, Second 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, Second 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 9th day of August, 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:

Memorial Resolution

SR 79 by Barrientos, In memory of Charles Ray Barden of Austin.

Congratulatory Resolutions

SR 73 by Gallegos, Recognizing Delta Chemical Services, Incorporated, for being named the Deer Park Chamber of Commerce 2005 Industry of the Year.

SR 74 by Lindsay, Commending Matthew Benjamin Labbé for achieving the rank of Eagle Scout.

SR 75 by Lindsay, Commending Mitchell W. Davison for achieving the rank of Eagle Scout.

SR 76 by Lindsay, Commending Steven Cole Powell of Houston for achieving the rank of Eagle Scout.

SR 77 by Lindsay, Commending Patrick Joseph Cunningham of Houston for achieving the rank of Eagle Scout.

SR 78 by West, Commending Bernita Tyler of Mansfield for her service to the young people of her community.

SR 80 by Ellis, Commending Leonard N. Barksdale for 11 years of service to Fifth Ward Missionary Baptist Church in Houston.

SR 81 by Ellis, Commending the Islamic Society of Greater Houston for its service to the Muslim community.

SR 82 by Barrientos, Recognizing Cissy Closson on the occasion of her retirement.

SR 83 by Barrientos, Recognizing Judy Towns Strawmyer on the occasion of her retirement.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 7:25 p.m. adjourned until 7:30 p.m. today.