

# SEVENTY-FIFTH DAY

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THURSDAY, MAY 20, 1999

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## PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Luna.

The President announced that a quorum of the Senate was present.

The Reverend M. Douglas Harper, Jr., Covenant Presbyterian Church, Austin, accompanied by his wife, Emmy, offered the invocation as follows:

Almighty God, creator of all things, giver of every good and perfect gift, hear us this day as we seek Your blessing on the deliberations of this body. Teach us all to number our days so that we may apply our hearts to wisdom. Let the Members of the Senate use wisely all the days that You give them, but, especially, we pray that they may use wisely the remaining days of this session of the Legislature. Save them from the tyranny of the nonessential. Let them give themselves to what is important. Grant them the wisdom and the willingness to recognize and avoid the dead-end roads that can seem so promising. We believe that You have the answers to the troubling questions and problems that this body must deal with, and, so, we ask that each Senator may listen for, hear, and heed Your counsel. Bless them and those they love with Your wise and unfailing protection, guidance, and care. Lord, we remember the children wounded in the school shooting in Georgia and pray for their recovery, as well as for their parents. We ask this for Your love's sake. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

## **LEAVE OF ABSENCE**

On motion of Senator Barrientos, Senator Luna was granted leave of absence for today on account of illness.

### GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate a group of eighth-grade students from Mary Help of Christians School in Laredo, accompanied by Sister Teresita; Rosario Davila, Vice-principal; teachers, Norma Quintero and Lupita Ramirez; and Laura Zaffirini, niece of Senator Zaffirini.

The Senate welcomed its guests.

### CAPITOL PHYSICIANS

Senator Carona was recognized and presented Drs. Jimmy Randles, Chris Witherspoon, and Greg Ennis of Garland as the "Doctors for the Day."

The Senate welcomed Dr. Randles, Dr. Witherspoon, and Dr. Ennis and thanked them for their participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

### MESSAGE FROM THE HOUSE

#### HOUSE CHAMBER

Austin, Texas

May 20, 1999

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HCR 261**, Honoring Vollie Urbantke on the occasion of her 80th birthday.

**HCR 276**, In memory of William D. Morgan.

**HCR 284**, Declaring October 20, 1999, and October 18, 2000, as Legislators in Schools Day.

**SB 8**, Relating to the compilation of information pertaining to criminal combinations and criminal street gangs and to the establishment of a statewide database of criminal street gang information.  
(Committee Substitute/Amended)

**SB 19**, Relating to the issuance and renewal of certain initial probationary licenses granted for a nursing or convalescent home or related institution.  
(Committee Substitute)

**SB 60**, Relating to the wearing of safety belts by certain vehicle passengers; providing penalties.  
(Amended)

**SB 107**, Relating to the designation of March 31 as Cesar Chavez Day.

**SB 111**, Relating to an optional majority vote requirement for election of trustees in certain independent school districts.

**SB 138**, Relating to government restrictions on the exercise of religion.  
(Committee Substitute/Amended)

**SB 149**, Relating to student intercollegiate athletic fees at The University of Texas at Arlington.

**SB 172**, Relating to a qualified commercial loan.  
(Committee Substitute)

**SB 178**, Relating to codification of certain state agency practices and duties currently prescribed by the General Appropriations Act.  
(Committee Substitute)

**SB 185**, Relating to certain permissible conditions of placement on deferred disposition for offenses involving the use of alcohol, a controlled substance, or drugs.

**SB 187**, Relating to the release of certain information relating to a juvenile offender suspected of fleeing after committing certain violent crimes.

**SB 192**, Relating to contracts with and compensation of administrators of public institutions of higher education.

**SB 201**, Relating to the ability of a navigation district to contract with other parties.

**SB 203**, Relating to the restrictions on political activities of full-time employees of a county elections administrator's office in certain counties.

**SB 205**, Relating to the fee associated with the installation or the monitoring of a motor vehicle ignition interlock device required as a condition of bail.

**SB 232**, Relating to the notification of a court on the discharge of a person from the Texas Department of Criminal Justice or release on parole or mandatory supervision.

**SB 262**, Relating to the reimbursement of landowners or developers prior to annexation of a water-related special district.  
(Amended)

**SB 306**, Relating to the eligibility of certain defendants convicted of felonies for release on bail pending appeal.

**SB 405**, Relating to the extension of certain group life insurance coverage to spouses and children.

**SB 430**, Relating to the punishment for certain Class C habitual offenders.  
(Amended)

**SB 557**, Relating to the discovery of expert witnesses in a criminal trial.  
(Amended)

**SB 583**, Relating to a prospective state contractor who is indebted to or owes delinquent taxes to the state.

**SB 674**, Relating to the regulation of property tax professionals, including county tax assessor-collectors.  
(Committee Substitute/Amended)

**SB 778**, Relating to the requirements for posting a bond by a county treasurer.

**SJR 21**, Proposing a constitutional amendment relating to the exemption from ad valorem taxation of certain leased motor vehicles not held primarily for the production of income.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 362** (143 AYES, 1 NAYS, 1 PRESENT NOT VOTING)

**HB 690** (139 AYES, 2 NAYS, 2 PRESENT NOT VOTING)

**HB 1147** (Viva-voce vote)

**HB 1244** (Viva-voce vote)

**HB 1297** (146 AYES, 0 NAYS, 1 PRESENT NOT VOTING)

**HB 1341** (Viva-voce vote)

**HB 1368** (143 AYES, 0 NAYS, 1 PRESENT NOT VOTING)

**HB 1380** (143 AYES, 0 NAYS, 1 PRESENT NOT VOTING)

**HB 1479** (Viva-voce vote)

**HB 1572** (Viva-voce vote)

**HB 1895** (Viva-voce vote)

**HB 2104** (142 AYES, 3 NAYS, 1 PRESENT NOT VOTING)

**HB 2301** (Viva-voce vote)

**HB 2304** (Viva-voce vote)

**HB 2353** (Viva-voce vote)

**HB 2461** (Viva-voce vote)

**HB 2542** (Viva-voce vote)

**HB 2768** (Viva-voce vote)

**HB 2925** (143 AYES, 0 NAYS, 2 PRESENT NOT VOTING)

**HB 2965** (143 AYES, 0 NAYS, 2 PRESENT NOT VOTING)

**HB 3091** (Viva-voce vote)

**HB 3330** (144 AYES, 0 NAYS, 1 PRESENT NOT VOTING)

**HCR 134** (Viva-voce vote)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 746**

House Conferees: Gallego - Chair/Cuellar/Farabee/Rangel/Wohlgemuth

**HB 1592**

House Conferees: Junell - Chair/Brown, Betty/Crownover/Swinford/Turner, Bob

**HB 1865**

House Conferees: Edwards - Chair/Giddings/Goolsby/Hunter/Turner, Sylvester

**HB 1975**

House Conferees: Swinford - Chair/Christian/Crownover/Green/Van de Putte

**HB 2599**

House Conferees: McReynolds - Chair/Cook/Dunnam/Swinford/Zbranek

**HB 3799**

House Conferees: Coleman - Chair/Bonnen/Gallego/Ramsay/Salinas

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 358**

House Conferees: Gray - Chair/Bosse/Capelo/McCall/McClendon

**SB 371**

House Conferees: Gray - Chair/Bosse/Haggerty/McCall/Staples

**SB 781**

House Conferees: Bailey - Chair/Eiland/Olivo/Seaman/Smithee

**SB 1128**

House Conferees: Greenberg - Chair/Lewis, Ron/McClendon/Telford/Walker

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

(Senator Ogden in Chair)

**SENATE RESOLUTION 956**

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to recognize Nunzio Belfiore for his outstanding accomplishments in the world of music; and

WHEREAS, Born to musically inclined parents in Sicily, Nunzio has displayed exceptional ability with his accordion since early childhood; by the age of 15 his marvelous gift for music had brought him much acclaim in Italy; and

WHEREAS, Nunzio has enjoyed tremendous success, and his inspiring music has brought him much well-deserved praise: in 1960 he won the international festival of Rome; in 1961 he was featured at the San Remo Music Festival; in 1993 he performed a concert for Pope John Paul II; and in 1995 he performed for the string section of the Vienna Philharmonic Orchestra; and

WHEREAS, Having brought enjoyment to audiences around the world with his accordion music, Maestro Belfiore is to be commended for sharing his extensive repertoire with the citizens of Texas; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, hereby recognize the musical accomplishments of Nunzio Belfiore; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of the high regard of the Texas Senate.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Lucio, the resolution was adopted by a viva voce vote.

**GUEST PRESENTED**

Senator Lucio was recognized and introduced to the Senate Nunzio Belfiore. The Senate welcomed Mr. Belfiore.

**SENATE RESOLUTION 962**

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to commend the distinguished career of Texas journalist Bo Byers and to recognize the contributions this venerable gentleman made to the state and nation during World War II; and

WHEREAS, Bo received his Bachelor of Journalism from The University of Texas in January, 1941, and was subsequently hired by the *Tyler Morning Telegraph*; and

WHEREAS, His career in journalism preempted by World War II, Bo left Texas' pressrooms for Europe's battlefields; he flew the first of his 30 missions as a B-17 navigator the day after D-Day on January 7, 1944; Bo retired in 1972 after 27 years of active and reserve duty with the rank of major; and

WHEREAS, Upon returning to Texas after World War II, Bo continued his career in journalism; he covered Texas state politics in the Associated Press Austin bureau from 1946 to 1956 and served as bureau chief of the *Houston Chronicle* from 1957 to 1983, when he retired; and

WHEREAS, Bo was a Texas political reporter for *Time* magazine and a political reporting contributor to the *Washington Post*; he also contributed to homegrown publications, such as *Texas Business Magazine* and *Texas Monthly*; and

WHEREAS, Bo served as a delegation reporter to the Republican and Democratic national conventions from 1960 to 1980 for Columbia Broadcasting System; he was also a senior panelist on the Capitol Eye television public affairs panel from 1968 through 1976; and

WHEREAS, Bo returned to his alma mater and served as a visiting lecturer in The University of Texas Journalism Department in 1958 and 1968; at age 73, he joined the ranks of graduate students at The University of Texas School of Communications and received his master's degree in 1993; and

WHEREAS, Bo received the Austin Headliners award for best investigative reporting in the field of state and national politics in 1967, and the Austin Headliners award for an editorial column in 1974; and

WHEREAS, Bo has been married 57 years to Mary Catherine Cowan of Waco, a schoolteacher; they have three sons, three daughters, and five grandchildren; since 1926, Bo has been an active member of Central Presbyterian Church in Austin, serving in several positions to the church congregation; currently, Bo spends his free time researching his family genealogy; and

WHEREAS, The Byers family has a tradition of state service; in addition to Bo's work, his daughter, Mary Herrick, and his granddaughter, Julia Ann Walden, have both served the Texas legislature; and

WHEREAS, Bo Byers is a man of great professional integrity; for his noteworthy career contributions and for his service to our country during World War II, the state is truly grateful; Bo's abundant intellect, curiosity, and spirit will keep him young at heart; he is truly a boon to the State of Texas; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, hereby commend Bo Byers for his many years of service to the State of Texas; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Bo as an expression of esteem from the Texas Senate.

The resolution was again read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was previously adopted on Wednesday, May 12, 1999.

### **GUESTS PRESENTED**

Senator Barrientos was recognized and introduced to the Senate Bo Byers of Austin; his wife, Mary Catherine Byers; his daughter, Mary Walden Herrick; and his granddaughter, Julia Ann Walden; accompanied by Senator Oscar H. Mauzy.

The Senate welcomed its guests.

### **REPORT OF COMMITTEE ON NOMINATIONS**

Senator Wentworth submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

Member, Prepaid Higher Education Tuition Board: Beth Miller Weakley, Bexar County.

Members, State Pension Review Board: Rafael A. Cantu, Hidalgo County; Jeanie Wyatt, Bexar County.

Members, Texas Historical Commission: Jean Ann Ables-Flatt, Kaufman County; Gail Loving Barnes, Ector County; Diane D. Bumpas, Dallas County; Eileen Johnson, Lubbock County; Mamie L. McKnight, Ph.D., Dallas County; John Liston Nau III, Harris County; Juan F. Sandoval, El Paso County.

Member, Texas State Board of Medical Examiners: Eddie J. Miles, Jr., Bexar County.

Members, State Board for Educator Certification: Kenneth R. Craycraft, Ed.D., Walker County; Annette T. Griffin, Ed.D., Dallas County; Mary E. Resendez, Bexar County; Xavier Rodriguez, Bexar County; Antonio Sanchez, Hidalgo County.

Member, Real Estate Research Advisory Committee: Celia Ross Goode-Haddock, Brazos County.

Members, Texas Commission on Alcohol and Drug Abuse: Rolland Craten Allen III, Nueces County; Beverly Barron, Ector County; Lisa F. Dickson, Dallas County; James C. Oberwetter, Dallas County; Dorothy Carol Pettigrew, Galveston County; Robert A. Valadez, Bexar County.

Members, Lower Colorado River Authority Board of Directors: Ann E. Jones, Brown County; David L. Kithil, Burnet County; F. Scott LaGrone,

Williamson County; John H. Matthews, Colorado County; Louis Romero, Jr., Kerr County; Rosemary Ann Rust, Wharton County.

Members, Upper Guadalupe River Authority Board of Directors: Jerry Ahrens, Kerr County; Joseph David Armistead, Sr., Kerr County; Gerald D. Griffin, Kerr County; Peggy J. Henderson, Kerr County; Janet Francis Robinson, Kerr County; Calvin Ray Weinheimer, Kerr County.

Members, Guadalupe-Blanco River Authority Board of Directors: Kathleen A. Devine, Comal County; Pamela M. Hodges, Kendall County; Catherine Roberts McHaney, Victoria County; Frederick Sydney Schlather, Guadalupe County; John P. Schneider, Jr., Caldwell County; Stephen F. Wilson, D.V.M., Calhoun County.

Member, State Securities Board: Kenneth W. Anderson, Jr., Dallas County.

Member, Texas Optometry Board: Ann Appling Bradford, Midland County.

Members, Texas Diabetes Council: Maria C. Alen, M.D., Hidalgo County; Belinda Bazán-Lara, Bexar County; Gene Bell, R.N., Lubbock County; John Stuart Fitts, Dallas County; Victor Hugo Gonzalez, M.D., Hidalgo County; Judith E. Lowe Haley, Harris County; Jan B. Hamilton, Hale County; Lawrence B. Harkless, D.P.M., Bexar County; Richard S. Hayley, Nueces County; T. Ray McCann, Titus County; Mike Thompson, Jr., Travis County; Rosa M. Valenzuela, El Paso County.

Members, Interagency Council on Early Childhood Intervention: Timothy James Flannery, Galveston County; Tanya Huerta, Bexar County; Connie L. Hughes, Lubbock County; Susan C. Mengden, Bexar County; Patrick Joseph Oliver III, Harris County; Dimas Vasquez, Jr., El Paso County.

Members, Texas Commission on Fire Protection: Juan J. Adame, Nueces County; Pat Barrett, Brazos County; Marvin G. Dawson, Terry County; Michael D. Jolly, Williamson County; Alonzo Lopez, Jr., Kleberg County; Robert H. Price, Tarrant County; Gilbert Robinson, Galveston County; Ricardo Saldana, Hidalgo County; Kelley Martin Stalder, Collin County; Margaret Fritchey "Peggy" Trahan, Cameron County; Carl Dewayne Wren, Travis County.

Presiding Officer, Texas Commission on Fire Protection: David Abernathy, Camp County.

Members, Texas Emancipation Juneteenth Cultural and Historical Commission: Maceo Crenshaw Dailey, Jr., Ph.D., El Paso County; Byron Miller, Bexar County; Eddie Price Richardson, Lubbock County; Stella Wilson Roland, Travis County; Willard Stimpson, Dallas County; Lynda J. Tarr, Harris County.

Members, Texas State Board of Examiners of Marriage and Family Therapists: Joe Ann Clack, Fort Bend County; Waymon Ray Hinson, Ph.D., Taylor County; Marvarene Oliver, Ed.D., Nueces County; Carl S. Strain, Tom Green County; William H. Watson, Lubbock County; Jackie M. Weimer, Collin County.

Members, Texas Board of Occupational Therapy Examiners: Gail Blom, Collin County; Lonnie E. Cole, Bexar County; Jean E. Polichino, Harris County; Linda Diane Veale, Lubbock County; Jo Ann Wofford, Tarrant County.



Members, Texas Board of Orthotics and Prosthetics: Scott Bowden Atha, Travis County; Wanda Furgason, Brown County; Kenneth R. "Randy" Hart, Gregg County; Thomas Lunsford, Montgomery County; Stanley E. Thomas, Bexar County; Lupe M. Young, Bexar County.

Members, Texas Structural Pest Control Board: Madeline K. Gamble, Dallas County; Les Hoyt, Randall County; Jay D. Stone, Ph.D., Lubbock County.

Members, Texas State Board of Physician Assistant Examiners: Pamela W. Baker, Nueces County; Abigail Rios Barrera, M.D., Bexar County; Michael H. Belgard, Shelby County; G. Al Bendeck, Lubbock County; Stephen D. Benold, M.D., Williamson County; Jerry K. Clements, Dallas County; Glenn S. Forbes, Tarrant County.

Members, Texas Council on Purchasing from People with Disabilities: Byron Edward Johnson, El Paso County; John W. Luna, Tarrant County; Bobbie F. Templeton, Hays County.

Members, State Seed and Plant Board: Dick Lindsey Auld, Ph.D., Lubbock County; Joe M. Crane, Matagorda County; Charles A. Leamons, Washington County; Katherine Cave Patrick, Nueces County; W. David Worrall, Ph.D., Wilbarger County.

Chair, State Seed and Plant Board: Aubrey James Allison, Ph.D., Swisher County.

Member, Texas Board of Licensure for Professional Medical Physicists: Kumar Krishen, Ph.D., Harris County.

Members, Board of Protective and Regulatory Services: Naomi W. Ledé, Ed.D., Walker County; Edward Lee Wagner, Ph.D., Bell County.

Member, Evergreen Underground Water Conservation District Board of Directors: Amond Douglas Brownlow, Wilson County.

Member, On-site Wastewater Treatment Research Council: Teri Hada Mathis, Fort Bend County.

Members, Texas State Board of Examiners of Perfusionists: Gaye Jackson, Harris County; Thomas A. Rawles, Collin County; Thomas Kurt Wilkes, Lubbock County.

Member, Texas Healthy Kids Corporation Board of Directors: J. Coalter Baker, Travis County.

Member, Council on Workforce and Economic Competitiveness: Wanda Chandler Rohm, Bexar County.

Member, Nueces River Authority Board of Directors: Leslie L. W. Kinsel, La Salle County.

Member, Texas Woman's University Board of Regents: Linda R. Hughes, M.D., Dallas County.

Member, State Board of Dental Examiners: Karen Flo Hembry, Ph.D., Dallas County.

Member, State Board of Barber Examiners: William "Kirk" Kuykendall, Travis County.

Members, Texas Commission for the Blind: Joseph Muniz, Cameron County; Mary K. Norman, Lubbock County; Robert K. Peters, Smith County.

Members, State Employee Charitable Campaign Policy Committee: Maria L. "Mary" Banda, Hidalgo County; Mary Sue Goldwater, Brazos County; Robert Kenneth Skaggs, Galveston County.

Members, Texas Department of Economic Development Governing Board: Limas Jefferson, Harris County; Martha J. Wong, Ed.D., Harris County.

Members, Texas Municipal Retirement System Board of Trustees: Patricia Hernandez, Hale County; Isaac Duane Turner, Collin County.

Members, Commission on Jail Standards: Marvalette C. Fentress, Harris County; Gonzalo R. Gallegos, Bexar County; Jimmy L. Jackson, Dallas County; Adela S. Valdez, M.D., Cameron County.

Members, State Bar of Texas Board of Directors: George Edwards, Jr., Harris County; Elsie Lee Huang, Harris County.

#### NOTICE OF CONSIDERATION OF NOMINATIONS

Senator Wentworth gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

#### GUEST PRESENTED

The Presiding Officer, Senator Ogden in Chair, welcomed Governor George W. Bush to the Senate.

The Senate welcomed Governor Bush.

#### VOTE RECONSIDERED ON HOUSE BILL 1987

On motion of Senator Cain and by unanimous consent, the vote by which **HB 1987** was finally passed was reconsidered.

**HB 1987**, Relating to the examinations administered or accepted for licensure of physicians.

Question—Shall **HB 1987** be finally passed?

Senator Cain offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 1987** on third reading in SECTION 1 of the bill, in amended Section 3.05, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), by striking proposed Subsection (m) of that section and substituting the following:

(m) Notwithstanding Subsection (l) of this section, an applicant is considered to have satisfied the requirements of this section if the applicant:

(1) passed all but one part of an examination approved by the board within three attempts and passed the remaining part of the examination within five attempts;

(2) is specialty board certified by a specialty board that:  
(A) is a member of the American Board of Medical Specialties; or  
(B) is approved by the American Osteopathic Association; and  
(3) completed in this state an additional two years of postgraduate medical training approved by the board.

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

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

**HB 1987** as amended was again finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

#### **SENATE CONCURRENT RESOLUTION 84**

Senator Truan offered the following resolution:

WHEREAS, **SB 525** has passed the Texas Senate and the Texas House of Representatives and is now in the office of the governor; and

WHEREAS, Further consideration of the bill by the senate and the house of representatives is necessary; now, therefore, be it

RESOLVED by the 76th Legislature, That the governor be hereby requested to return **SB 525** to the senate for further consideration; and, be it further

RESOLVED, That the action of the President of the Senate and the Speaker of the House in signing **SB 525** be declared null and void and that the two presiding officers be authorized to remove their signatures from the enrolled bill.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

#### **MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 20, 1999

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HCR 282**, Recognizing May 20, 1999, as Gatesville Day at the Capitol.

**HCR 283**, Congratulating Sue Bounds on her retirement from the Lubbock Independent School District.

**SCR 82**, In memory of Sara Anne English, Margaret Nell Flynn, Sarah N. Johnson, Talitha Denita Beeman, Astyn Lee Qubty, and Heather Nicole Bauman.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

### **HOUSE CONCURRENT RESOLUTION 282**

The Presiding Officer, Senator Ogden in Chair, laid before the Senate the following resolution:

**HCR 282**, Recognizing May 20, 1999, as Gatesville Day at the Capitol.

FRASER

The resolution was read.

On motion of Senator Fraser and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

### **GUESTS PRESENTED**

Senator Fraser was recognized and introduced to the Senate a delegation of citizens from the City of Gatesville.

The Senate welcomed its guests.

### **CONCLUSION OF MORNING CALL**

The Presiding Officer at 10:50 a.m. announced the conclusion of morning call.

### **SENATE CONCURRENT RESOLUTION 72 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

**SCR 72**, Granting Dean Lumber Company, Inc., permission to sue the state and the Texas Natural Resource Conservation Commission.

The resolution was read second time and was adopted by a viva voce vote.

### **HOUSE BILL 1151 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1151**, Relating to the continuation and functions of the Office for the Prevention of Developmental Disabilities.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 1151** (senate committee report) as follows:

(1) Insert a new Section 1 of the bill (on page 1, between lines 10 and 11) to read as follows:

SECTION 1. Section 112.043, Human Resources Code, is amended to read as follows:

Sec. 112.043. OFFICE FOR THE PREVENTION OF DEVELOPMENTAL DISABILITIES; ADMINISTRATIVE ATTACHMENT. (a) The Office for the Prevention of Developmental Disabilities is administratively attached to the Texas Department of Mental Health and Mental Retardation [established].

(b) The Texas Department of Mental Health and Mental Retardation shall:

- (1) provide administrative assistance, services, and materials to the office;
- (2) accept, deposit, and disburse money made available to the office;
- (3) accept gifts and grants on behalf of the office from any public or private

entity;

(4) pay the salaries and benefits of the executive director and staff of the office;

(5) reimburse the travel expenses and other actual and necessary expenses of the executive committee, executive director, and staff of the office incurred in the performance of a function of the office, as provided by the General Appropriations Act;

(6) apply for and receive on behalf of the office any appropriations, gifts, or other money from the state or federal government or any other public or private entity, subject to limitations and conditions prescribed by legislative appropriation;

(7) provide the office with adequate computer equipment and support; and

(8) provide the office with adequate office space and permit the executive committee to meet in facilities of the department.

(c) The executive director and staff of the office are employees of the office and not employees of the Texas Department of Mental Health and Mental Retardation.

(2) In Section 3 of the bill, at the end of amended Section 112.052, Human Resources Code (page 2, line 69), insert the following:

In its review, the Sunset Commission shall specifically address the issue of whether the office should continue to be administratively attached to the Texas Department of Mental Health and Mental Retardation or whether the functions of the office should be transferred to that department.

(3) Renumber the sections of the bill accordingly.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### HOUSE BILL 1151 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1151** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1151** was read third time and was passed by a viva voce vote.

### HOUSE BILL 3084 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3084**, Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

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

**(President in Chair)**

### **HOUSE BILL 1799 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1799**, Relating to the assignment or deposit of certain lottery prizes.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Ament **HB 1799** by striking SECTION 3 of the bill (committee printing, page 1, lines 28-36) and substituting the following:

SECTION 3. Section 466.408(b), Government Code, is amended to read as follows:

(b) If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be deposited to the credit of the Texas Department of Health State-Owned Multi-categorical Teaching Hospital Account or the Tertiary Care Facility Account, according to the following provisions:

(1) No more than \$40 million each biennium may be deposited to or appropriated from the Texas Department of Health State-Owned Multi-categorical Teaching Hospital Account, which is an account in the general revenue fund. Money in the account may be appropriated to the department for the sole purpose of providing reimbursement for indigent health care services. The Department of Health shall validate each claim submitted for reimbursement from the account prior to making any payment for health care services;

(2) All prize money subject to this section in excess of \$40 million each biennium must be deposited to the Tertiary Care Facility Account. Money deposited in the Tertiary Care Facility Account may only be appropriated to the Department for purposes specified in Subtitle B, Title 2, Chapter 46, of the Health and Safety Code. [used to provide additional money to the state lottery account for the purposes prescribed by Section 466.355(b)(1)].

The amendment was read and was adopted by a viva voce vote.

### **RECORD OF VOTE**

Senator Wentworth asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 1.

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

The bill as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Wentworth asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 1799 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1799** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Wentworth.

Absent-excused: Luna.

**HB 1799** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Wentworth asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3697 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 3697**, Relating to the operation of the Texas Workers' Compensation Insurance Fund and the disposition of certain surpluses of that fund.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3697** by striking SECTION 6 (page 5, lines 27 through 33), and renumbering the subsequent SECTIONS appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator Sibley offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 3697** as follows:

(1) Insert a new SECTION 7 of the bill (page 5, between lines 33 and 34, senate committee report printing) to read as follows:

SECTION 7. (a) This section applies only if:

(1) on the date of the transfer described by Subsection (b) of this section there is a surplus in the Texas Workers' Compensation Insurance Fund established under Article 5.76-3, Insurance Code; and

(2) on the October 1, 1999, tax rate computation date, the amount of money in the unemployment compensation fund established under Subchapter B, Chapter 203, Labor Code, is less than the statutory floor of that fund under Section 204.061, Labor Code, thus triggering the assessment of a deficit tax under Section 204.063, Labor Code, in the absence of this section.

(b) Notwithstanding any other law, between October 1, 1999, and August 31, 2001, the comptroller shall transfer from the surplus of the Texas Workers' Compensation Insurance Fund to the unemployment compensation fund an amount, not to exceed 15 percent of that surplus, as necessary to increase the amount of the unemployment compensation fund equal to or above the statutory floor for that fund established under Section 204.061, Labor Code.

(c) This section expires September 1, 2001.

(2) Renumber the subsequent SECTIONS of the bill appropriately.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### RECORD OF VOTE

Senator Jackson asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

(Senator Truan in Chair)

### COMMITTEE SUBSTITUTE HOUSE BILL 3697 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3697** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0, Present-not voting 1.

Present-not voting: Jackson.

Absent: Ogden.

Absent-excused: Luna.

**CSHB 3697** was read third time and was passed by the following vote: Yeas 28, Nays 0, Present-not voting 1. (Same as previous roll call)

### HOUSE BILL 2070 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2070**, Relating to the administration and responsibilities of The University of Texas Medical Branch at Galveston.

The bill was read second time.

Senator Jackson offered the following committee amendment to the bill:

#### Committee Amendment No. 1

Amend **HB 2070** by adding the following language:

On page 4, line 12, after "businesses" add "or relating to the procurement of goods and services from persons with disabilities."

The committee amendment was read and was adopted by a viva voce vote.



Senator Jackson offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **HB 2070** in SECTION 1 by deleting Subsection (f) of the proposed Section 74.008, Education Code, and inserting in lieu thereof new subsections (f) and (g) to read as follows:

(f) This section does not apply to purchases of professional services subject to Chapter 2254, Government Code.

(g) Except as otherwise provided by this section, Subtitle D, Title 10, Government Code, does not apply to purchases of goods and services made under this section.

The committee amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 2070 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2070** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent: Ogden.

Absent-excused: Luna.

**HB 2070** was read third time and was passed by a viva voce vote.

**(President in Chair)**

**COMMITTEE SUBSTITUTE**

**HOUSE BILL 2307 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 2307**, Relating to assistance to certain low-performing public school districts.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 2307** as follows:

1. In SECTION 1, page 1, line 24, after "high-need", strike "companies" and insert "campuses".

2. In SECTION 1, page 2, line 36, after "district" and before "shall" insert the words "and the district".

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 2307**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2307 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2307** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 2307** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 1535 ON SECOND READING**

Senator Brown asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**HB 1535**, Relating to the eligibility for community supervision or parole for certain defendants convicted of sexual assault.

There was objection.

Senator Brown then moved to suspend the regular order of business and take up **HB 1535** for consideration at this time.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

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

**HOUSE BILL 1535 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1535** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1535** was read third time and was passed by a viva voce vote.

**HOUSE BILL 597 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 597**, Relating to preference to Texas and United States products in purchasing by school districts.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 597** as follows:

(1) In SECTION 1 of the bill (Senate committee printing, page 1, line 19), at the end of added Section 44.042(a), Education Code, strike "acceptable to the school district." and substitute "equal.".

(2) In SECTION 1 of the bill (Senate committee printing, page 1, lines 21-22), in added Section 44.042(b), Education Code, strike "not acceptable to the school district in quality." and substitute "quality to other products.".

(3) In SECTION 1 of the bill (Senate committee printing, page 1, lines 25-26), at the end of added Section 44.042(b), Education Code, strike "acceptable to the school district." and substitute "equal.".

(4) In SECTION 1 of the bill (Senate committee printing, page 1, line 30), at the end of added Section 44.042(c), Education Code, strike "acceptable to the school district." and substitute "not inferior.".

(5) In SECTION 1 of the bill (Senate committee printing, page 1, between lines 30 and 31), in added Section 44.042, Education Code, add the following new Subsection (d) and renumber the subsequent subsections of the section appropriately:

(d) The agency shall conduct an analysis of purchases by school districts to determine the effectiveness of this section and shall report the results of its analysis to the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

(6) Strike SECTION 2 of the bill (Senate committee printing, page 1, lines 44-49) and substitute the following:

SECTION 2. Section 2155.444, Government Code, is amended to read as follows:

Sec. 2155.444. PREFERENCE TO TEXAS AND UNITED STATES PRODUCTS. (a) The commission and all state agencies making purchases of goods, including agricultural products, shall give preference to those produced, processed, or grown in this state or offered by Texas bidders as follows:

(1) goods produced in this state or offered by Texas bidders shall equally be given preference if the cost to the state and quality are equal; and

(2) agricultural products processed or grown in this state shall be given first preference and agricultural products offered by Texas bidders shall be given second preference, if the cost to the state and quality are equal.

(b) If goods, including agricultural products, produced, processed, or grown in this state or offered by Texas bidders are not equal in cost and quality to other products, then goods, including agricultural products, produced, processed, or grown in other

states of the United States shall be given preference over foreign products if the cost to the state and quality are equal.

(c) ~~[In this section, "agricultural products" includes textiles and other similar products:~~

~~[(d)] The commission and all state agencies making purchase of vegetation for landscaping purposes, including plants, shall give preference to Texas vegetation [native to the region] if the cost to the state is not greater and the quality is not inferior.~~

~~(d) The comptroller shall conduct an analysis of purchases by the commission and state agencies to determine the effectiveness of this section and shall report the results of the analysis to the governor, lieutenant governor, and the speaker of the house of representatives not later than December 31 of each even-numbered year.~~

~~(e) In the implementation of this section, a state agency may receive assistance from and use the resources of the Texas Department of Agriculture, including information on availability of agricultural products.~~

~~(f) A state agency may not adopt product purchasing specifications that unnecessarily exclude goods produced, processed, or grown in this state.~~

~~(g) In this section:~~

~~(1) "Agricultural products" includes textiles and other similar products.~~

~~(2) "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of an agricultural product from its natural state to another form.~~

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 597 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 597** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 597** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 2165 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2165**, Relating to guardianships for incapacitated persons.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 2165** as follows:

In SECTION 4 of the bill, Senate committee report, page 2, lines 39-41, strike "include the name, address, telephone number, county of residence, social security

number, and date of birth of the person" and substitute "include the name, address, telephone number, county of residence, and date of birth of the person".

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 2165 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2165** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2165** was read third time and was passed by a viva voce vote.

### **GUESTS PRESENTED**

Senator Duncan was recognized and introduced to the Senate Sue Bounds, Principal at Murfee Elementary School in Lubbock, accompanied by her husband, Jack.

The Senate welcomed Mr. and Mrs. Bounds.

### **BILLS AND RESOLUTIONS SIGNED**

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**HB 145, HB 149, HB 595, HB 1237, HB 1462, HB 2208, HB 2615, HB 2619, HCR 203, HCR 209, HCR 210, HCR 211, HCR 212, HCR 213, HCR 214, HCR 215, HCR 216, HCR 217, HCR 218, HCR 219, HCR 221, HCR 222, HCR 223, HCR 224, HCR 226, HCR 227, HCR 228, HCR 274, HCR 280, HJR 16.**

(Senator Moncrief in Chair)

### **HOUSE BILL 2170 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2170**, Relating to investigations and protective services for elderly and disabled persons.

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

### **HOUSE BILL 2170 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2170** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2170** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 2424 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2424**, Relating to application of certain coverage requirements for serious mental illness.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 2424**, page 2, beginning at line 12, add new language to read as follows and renumber subsequent sections accordingly:

(5) with the exception of Section 1 of this article which shall apply, a plan offered under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) or the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code);

(6) a plan offered under or in accordance with Article 3.51-5A of this code; or

The amendment was read and was adopted by a viva voce vote.

Senator Carona offered the following amendment to the bill:

#### **Floor Amendment No. 2**

Amend **HB 2424** in SECTION 5, in amended Section 3(a)(1), Article 3.51-14, Insurance Code (senate committee printing, page 2, line 24), between "coverage" and "for the following treatment", by inserting "based on medical necessity".

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 2424 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2424** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2424** was read third time and was passed by a viva voce vote.

**HOUSE BILL 1833 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1833**, Relating to the issuance of a personal identification certificate to a justice of the peace or municipal court judge by the Department of Public Safety.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1833**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1833 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1833** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1833** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2202 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2202**, Relating to health centers on public school campuses.

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2202** (Senate Committee Printing) as follows:

On page 2, line 59 strike "of education and the commissioner".

On page 2, line 60 strike "jointly".

On page 2, line 63 strike "commissioners" and substitute "commissioner".

On page 3, line 7 strike "and".

On page 3, line 10 after "student" insert "(3) The commissioner of public health shall adopt rules establishing standards for health care centers funded through grants".

that place primary emphasis on delivery of health services and secondary emphasis on population-based models that prevent emerging health threats; and

(4) All programs should be designed to meet the following goals:

(A) reducing student absenteeism;

(B) increasing a student's ability to meet the student's academic potential; and

(C) stabilizing the physical well-being of a student."

On page 3, line 11 strike all of Subsection (q).

On page 3, line 34 strike "r" and insert "q".

On page 3, line 35 strike "education and the commissioner of".

On page 3, line 36 strike "jointly".

On page 3, line 44 strike "commissioners" and insert "commissioner".

On page 3, line 47 strike "s" and insert "t".

On page 3, line 47 strike "education and the commissioner of".

On page 3, line 51 strike "r" and insert "q".

On page 4, line 5 strike all of Subsection (c).

Renumber accordingly.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

#### **Floor Amendment No. 2**

Amend **HB 2202**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

#### **RECORD OF VOTES**

Senators Harris and Shapiro asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### **HOUSE BILL 2202 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2202** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris, Shapiro.

Absent-excused: Luna.



**HB 2202** was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

#### **HOUSE BILL 1826 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1826**, Relating to supplemental income benefits under the workers' compensation system.

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

#### **HOUSE BILL 1826 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1826** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1826** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 1492 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1492**, Relating to the classification of a motor-driven cycle or moped and to a driver's license issued for the operation of certain motorcycles.

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

#### **HOUSE BILL 1492 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1492** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1492** was read third time and was passed by a viva voce vote.

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 3515 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 3515**, Relating to the nature of certain contracts included in the cash price of motor vehicles sold at retail.

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

### RECORD OF VOTE

Senator Gallegos asked to be recorded as voting "Nay" on the passage of the bill to third reading.

### COMMITTEE SUBSTITUTE HOUSE BILL 3515 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3515** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Gallegos.

Absent-excused: Luna.

**CSHB 3515** was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

### HOUSE BILL 3746 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3746**, Relating to the replatting of a part of a subdivision.

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

### HOUSE BILL 3746 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3746** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3746** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### STATEMENT OF LEGISLATIVE INTENT

Senator Barrientos submitted the following statement of legislative intent:

**HB 3746** is a local bill that would apply to nonprofit corporations that assist children in at-risk situations through volunteer and individualized attention, such as Big Brothers Big Sisters of Central Texas, Inc. (BBBS).

The intent of **HB 3746** is as follows:

The purpose and intent of **HB 3746** is to provide nonprofit corporations like BBBS an administrative alternative from the cumbersome and expensive process associated with the states current replatting procedures.

The intent of this bill is to allow a nonprofit corporation like BBBS to replat part of a subdivision without vacation of the original plat, and without a public hearing, if

the replat is signed and acknowledged by only the owner of the property being replatted, if the plat meets the criteria set forth in this bill.

The intent of this bill is to clarify that any existing covenants or restrictions reflected on the original plat do not have to be amended or removed, and will have no effect on the property being replatted, if these covenants or restrictions were recorded more than 50 years before the date of the replat, and the property being replatted was continuously used by a nonprofit corporation for at least 10 years.

The intent of this bill also specifies that the public hearing and notice requirements, and other related requirements, as set forth in Section 212.014 and Section 212.015 do not apply to a replat accomplished as provided for under **HB 3746**.

Finally, this bill would also permit the governing body of a municipality to delegate to one or more persons the authority to approve the replat of part of a subdivision administratively, if the replat meets the criteria set out in the bill.

BARRIENTOS

### HOUSE BILL 1418 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1418**, Relating to optional career and technology education programs offered by public school districts and a study of career and technology education programs.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 1418** as follows:

1. On page 1, lines 19-20, after "district" strike "in addition to" and insert the following: ". The Certificate is not in lieu of"
2. On page 1, line 20, after "completion" and before "under" insert "issued".

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### HOUSE BILL 1418 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1418** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1418** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 2947 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2947**, Relating to the disposition of children adjudicated as having engaged in delinquent conduct.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2947** as follows:

(1) On page 2, line 14, strike the words "or correctional".

(2) On page 2, line 21, strike the words "or correctional".

The amendment was read and was adopted by a viva voce vote.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 2947** as follows:

(1) On page 2, line 59, strike "three" and substitute "two".

(2) On page 2, line 60, strike subsection (j)(2) in its entirety and substitute: "(2) of the previous adjudications, the conduct that was the basis for one of the adjudications occurred after the date of another previous adjudication."

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 2947 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2947** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2947** was read third time.

On motion of Senator Harris and by unanimous consent, further consideration of **HB 2947** was postponed to a time certain of 11:00 a.m. tomorrow.

Question—Shall **HB 2947** be finally passed?

**HOUSE BILL 3050 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3050**, Relating to the administration of certain loan programs by the Texas Agricultural Finance Authority, to limiting certain liability for activities in

programs funded by the authority, and to the promotion of the development of agriculture-related rural businesses.

The bill was read second time.

Senator Duncan offered the following committee amendment to the bill:

### **Committee Amendment No. 1**

1. Amend SECTION 10 of **HB 3050** in page 13, line 27 by adding the following after "board.":

"The authority may make, guarantee, participate in, insure, co-insure, or reinsure loans to an eligible agricultural business from the proceeds of revenue bonds issued in accordance with Section 58.033 in an amount approved by the board."

The committee amendment was read and was adopted by a viva voce vote.

Senator Duncan offered the following committee amendment to the bill:

### **Committee Amendment No. 2**

1. Amend SECTION 12 of **HB 3050** in page 14, line 25 through page 15, line 2, by striking the proposed Sec. 58.026, Agriculture Code, and replacing it with the following:

Sec. 58.026. LIMITATION OF LIABILITY FOR CERTAIN RECREATIONAL ACTIVITIES. Nothing in this chapter shall affect the applicability of Chapter 75, Civil Practice and Remedies Code.

The committee amendment was read and was adopted by a viva voce vote.

Senator Ogden offered the following amendment to the bill:

### **Floor Amendment No. 1**

(1) Amend **HB 3050** (Senate Committee Printing) on page 4, between lines 48 and 49 by adding a new SECTION 7 to read as follows:

"SECTION 7. Title 3, Agriculture Code, is amended by adding Chapter 46 to read as follows:

#### CHAPTER 46. AGRICULTURAL TECHNOLOGY PROGRAM

Sec. 46.001. DEFINITIONS. In this chapter:

(1) "Agricultural crisis" means an event or condition, including adverse weather conditions, water shortages, disruption in transportation, low commodity prices, an animal health issue, crop disease, or insect infestation, that could disrupt or jeopardize an aspect of the agricultural industry.

(2) "Agri-tech program" means the agricultural technology program established under this chapter.

(3) "Applied research" means research directed at gaining the knowledge or understanding necessary to meet a specific and recognized need, including the discovery of new scientific knowledge that has specific objectives relating to products or processes.

(4) "Eligible institution" means an institution of higher education, as that term is defined by Section 61.003, Education Code, that is designated as an eligible institution under Section 46.002(e).

Sec. 46.002. ADMINISTRATION; GUIDELINES AND PROCEDURES. (a) The department shall develop, maintain, and administer the agri-tech program to provide support for eligible institutions to conduct research projects on methods to address agricultural crises in this state.

(b) In awarding funds to support projects under this chapter, the department shall:

(1) give priority to applied research projects that the commissioner determines to be necessary to address an immediate agricultural crisis; and

(2) consider the recommendations of the Commodity Crisis Council for specific projects.

(c) The department shall award funds to support projects as needed to address agricultural crises in this state.

(d) The department shall develop and maintain guidelines and procedures to provide awards under this chapter for specific projects at eligible institutions on a competitive, peer-review basis.

(e) The department shall determine whether an institution of higher education qualifies as an eligible institution for the purposes of this chapter. To be designated as an eligible institution, an institution of higher education must demonstrate an exceptional capability to attract federal, state, and private funding for scientific and technical research and have an exceptionally strong research staff and the necessary equipment and facilities.

(f) In considering projects for selection, the commissioner shall give special consideration to projects that:

(1) leverage funds from other sources; and

(2) propose innovative, collaborative efforts:

(A) across academic disciplines;

(B) involving two or more eligible institutions; or

(C) involving eligible institutions, private industry, and the federal

government.

(g) The commissioner may adopt rules necessary to accomplish the purposes of this chapter.

Sec. 46.003. AGRICULTURAL TECHNOLOGY ACCOUNT. (a) The agricultural technology account is an account in the general revenue fund.

(b) The agricultural technology account consists of legislative appropriations, gifts and grants received under Subsection (c), and other money required by law to be deposited in the account.

(c) The department may solicit and accept gifts in kind and grants of money from the federal government, local governments, private corporations, or other persons to be used for the purposes of this chapter.

(d) Funds in the agricultural technology account may be used only as provided by this chapter. The account is exempt from the application of Section 403.095, Government Code.

(e) Income from money in the account shall be credited to the account.

Sec. 46.004. USE OF FUNDS IN AGRICULTURAL TECHNOLOGY ACCOUNT. (a) From funds appropriated for the agri-tech program, the comptroller shall issue warrants to each eligible institution in the amount certified by the department to the comptroller.

(b) Funds awarded from the agricultural technology account may be expended to support the particular research project for which the award is made and may not be expended for the general support of research and instruction at the institution conducting or sponsoring the project or for the construction or remodeling of a facility.

(c) Funds in the agricultural technology account shall be used, when practicable within the purposes of this chapter, to match grants provided by the federal government or private industry for specific collaborative research projects at eligible institutions.

(d) Supplies, materials, services, and equipment purchased with funds obtained under this section are not subject to State Purchasing and General Services Commission authority.

Sec. 46.005. PROGRESS REPORTS. An institution receiving funds under this chapter shall report on the progress of the funded research to the department not later than September 1 of each year.

Sec. 46.006. MERIT REVIEW. The commissioner shall appoint a committee consisting of representatives of the agricultural industry and of private enterprise advanced technology research organizations to evaluate the agri-tech program's effectiveness. The committee shall report its findings to the department not later than September 1 of the second year of each biennium."

(2) Renumber subsequent SECTIONS appropriately.

(3) Amend the caption to conform to the body of the bill.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **HB 3050**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

The bill as amended was passed to third reading by the following vote:  
Yeas 28, Nays 2.

Yeas: Armbrister, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Gallegos.

Absent-excused: Luna.

### **HOUSE BILL 3050 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3050** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Gallegos.

Absent-excused: Luna.

**HB 3050** was read third time and was passed by the following vote:  
Yeas 28, Nays 2. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1194 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 1194**, Relating to the operation of a statewide rural health care system.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1194 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1194** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 1194** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1535 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1535**, Relating to the creation of the Texas Rising Star Scholarship Program for deserving junior college and technical institute students.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1535** by adding a new SECTION 3, on page 3, line 8 the following:  
SECTION 3. This Act takes effect September 1, 1999, but only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, this Act has no effect.

Renumber accordingly.

The amendment was read and was adopted by a viva voce vote.



Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSSB 1535** by adding in SECTION 1, page 1, line 52 between the words "state" and "with" the following:

or from a private high school in this state accredited by an organization recognized for that purpose by the commissioner of education

Renumber accordingly.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1535 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1535** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1535** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 302 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 302**, Relating to mandatory restitution in offenses involving the abduction of or interference with the custody of children.

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

**HOUSE BILL 302 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 302** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 302** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2409 ON SECOND READING**

On motion of Senator Bernsen and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2409**, Relating to the issuance of a certificate of title for and the transfer of a motor vehicle that is not registered in this state.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2409** by adding the following appropriately numbered sections and by renumbering the remaining sections as appropriate:

SECTION \_\_\_\_\_. Section 548.052, Transportation Code, is amended to read as follows:

Sec. 548.052. VEHICLES NOT SUBJECT TO INSPECTION. This chapter does not apply to:

(1) a trailer, semitrailer, pole trailer, or mobile home moving under or bearing a current factory-delivery license plate or current in-transit license plate;

(2) a vehicle moving under or bearing a paper dealer in-transit tag, machinery license, disaster license, parade license, prorated tab, one-trip permit, antique license, temporary 24-hour permit, or permit license;

(3) a trailer, semitrailer, pole trailer, or mobile home having an actual gross weight or registered gross weight of 4,500 pounds or less;

(4) farm machinery, road-building equipment, a farm trailer, or a vehicle required to display a slow-moving-vehicle emblem under Section 547.703; ~~[or]~~

(5) a former military vehicle, as defined by Section 502.275(o); or

(6) a vehicle for which a certificate of title has been issued but that is not required to be registered.

SECTION \_\_\_\_\_. Section 548.256(a), Transportation Code, is amended to read as follows:

(a) Before a vehicle that is brought into this state by a person other than a manufacturer or importer may be registered ~~[may be issued a title under Section 501.030]~~, the owner must have the vehicle inspected and have the inspection station record the following information on a verification form prescribed and provided by the department:

(1) the vehicle identification number;

(2) the number appearing on the odometer of the vehicle at the time of the inspection, if the vehicle has an odometer; and

(3) other information the department requires.

SECTION \_\_\_\_\_. The section heading to Section 548.256, Transportation Code, is amended to read as follows:

Sec. 548.256. VERIFICATION FORM REQUIRED TO REGISTER ~~[AND TITLE]~~ VEHICLE.

The amendment was read and was adopted by a viva voce vote.

Senator Bernsen offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 2409** by adding the following appropriately numbered section and by renumbering the existing sections as appropriate:

SECTION \_\_\_\_\_. Section 501.023, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) The owner or a lessee of a commercial motor vehicle operating under the International Registration Plan or other agreement described by Section 502.054 that

is applying for a certificate of title for purposes of registration only must be made directly to the department. The fee for an application under this subsection is \$13 of which the department shall deposit:

(1) \$10 in the general revenue fund; and

(2) \$3 to the credit of the state highway fund to recover the expenses necessary to administer this chapter.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 2409 ON THIRD READING**

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2409** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2409** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 3029 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3029**, Relating to certain industrial development corporations, projects of industrial development corporations, and the taxes levied for projects.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 3029** by inserting the following new SECTION 8 and renumbering the following SECTIONS appropriately:

SECTION 8. Section 4B(k), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended as follows:

(k) The Legislature finds for all constitutional and statutory purposes that projects of the types added to the definition of that term by Subsection (a) of this section are owned, used, and held for public purposes for and on behalf of the eligible city incorporating the corporation, and Section 23(b) of this Act and Section 25.07(a), Tax Code, are not applicable to leasehold or other possessory interests granted by the corporation during the period projects are owned by the corporation on behalf of the eligible city. Projects are exempt from taxation under Section 11.11, Tax Code, for that period. After September 1, 1999, this Subsection applies only to corporations organized under this section where a majority of the qualified voters of the eligible city have authorized the levy of a sales and use tax pursuant to Subsection (d) of this section for the benefit of the corporation, except that a leasehold or other possessory interest in property constituting a project described by this subsection that is created under an agreement entered into by the corporation before September 1, 1999, is covered by the provisions of this

Subsection governing ad valorem taxation of the leasehold or other possessory interests that were in effect on the date on which the agreement was executed.

The amendment was read and was adopted by a viva voce vote.

Senator Sibley offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 3029** by striking SECTION 5 (page 3, lines 40 through 51, committee printing) and renumbering the subsequent SECTIONS appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **HB 3029** by striking SECTION 4 of the bill.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 3029 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3029** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: Luna.

**HB 3029** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the final passage of the bill.

**HOUSE BILL 564 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 564**, Relating to a border advocacy division established by the governor.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

### Floor Amendment No. 1

Amend **HB 564** as follows:

(1) In SECTION 1 of the bill, amend the heading of proposed Section 772.010 (page 1, line 12, SENATE COMMITTEE PRINT) by striking "ADVOCACY DIVISION" and substituting "COMMERCE COORDINATOR".

(2) In SECTION 1 of the bill, amend subsection (a) in proposed Section 772.010, Government Code, (page 1, line 13, SENATE COMMITTEE PRINT) by striking "establish a border advocacy division" and substituting "designate a border commerce coordinator".

(3) In SECTION 1 of the bill, amend subsection (a) of proposed Section 772.010, Government Code (page 1 line 15, SENATE COMMITTEE PRINT) by striking "division" and substituting "coordinator".

(4) In Section 1, amend subsection (b) of proposed Section 772.010, Government Code (page 1, line 33, SENATE COMMITTEE PRINT) by striking "director for the division" and substituting "border commerce coordinator."

(5) In SECTION 1 of the bill, amend subsection (b) of proposed Section 772.010, Government Code, by striking "director" and substituting "coordinator" (page 1, line 36, SENATE COMMITTEE PRINT).

(6) Strike SECTION 2 of the bill in its entirety and renumber the remaining SECTIONS accordingly.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### HOUSE BILL 564 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 564** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 564** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### HOUSE BILL 98 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 98**, Relating to the fiscal year of a school district and to the submission to a school district of an estimate of the taxable value of school district property.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 98** as follows:

(1) In SECTION 1 of the bill, in proposed Section 44.0011, Education Code (Senate Committee Report, page 1, line 16), between "July 1" and "of each year", insert "or September 1".

(2) In SECTION 1 of the bill, in proposed Section 44.0011, Education Code (Senate Committee Report, page 1, line 16), between "each year" and the period, insert ", as determined by the board of trustees of the district".

(3) In SECTION 1 of the bill, in proposed Section 44.0011, Education Code (Senate Committee Report, page 1, line 16), after the period, insert the following: The commissioner may adopt rules concerning the submission of information by a district under Chapter 39 or 42 based on the fiscal year of the district.

(4) Strike SECTION 3 of the bill (Senate Committee Report, page 1, lines 25 through 29).

(5) Renumber SECTIONS 4 and 5 of the bill as SECTIONS 3 and 4.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 98 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 98** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 98** was read third time and was passed by a viva voce vote.

**HOUSE BILL 1498 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1498**, Relating to the availability of health benefit coverage options for health maintenance organization eligible enrollees.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1498** in Art. 26.09(f), Insurance Code, as added by SECTION 1 of the bill (Committee Printing page 2, line 2) by inserting "or a "group model health maintenance organization" that is a state-certified health maintenance organization that provides the majority of its professional services through a single group medical practice which educates medical students or resident physicians through a contract with the medical school component of a Texas state-supported

college or university accredited by the Accrediting Council on Graduate Medical Education or the American Osteopathic Association."

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1498 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1498** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1498** was read third time and was passed by a viva voce vote.

#### **SENATE CONCURRENT RESOLUTION 79 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

**SCR 79**, Directing certain state agencies to lead an inquiry into youth violence in the State of Texas.

The resolution was read second time and was adopted by a viva voce vote.

#### **HOUSE BILL 1075 ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1075**, Relating to raising the speed limit for vehicles towing certain trailers.

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

#### **HOUSE BILL 1075 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1075** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1075** was read third time and was passed by a viva voce vote.

(Senator Truan in Chair)

**HOUSE BILL 3138 ON SECOND READING**

Senator Bivins asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**HB 3138**, Relating to the authority of a governing board of a public institution of higher education to reduce tuition or prorate fees charged to a student at that institution.

There was objection.

Senator Bivins then moved to suspend the regular order of business and take up **HB 3138** for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: Luna.

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

**RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 3138 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3138** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: Luna.

**HB 3138** was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**HOUSE BILL 2255 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2255**, Relating to the regulation of the sale of certain items used in funerals.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2255** by striking Section 2 of the bill and renumbering subsequent sections accordingly.

The amendment was read and was adopted by a viva voce vote.



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

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2255 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2255** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2255** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 908 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 908**, Relating to enforcement of screening requirements for vision, hearing, and other special senses and communication disorders of children in certain licensed child-care facilities.

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

#### **HOUSE BILL 908 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 908** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 908** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

#### **HOUSE BILL 3420 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3420**, Relating to prohibiting certain actions by school district employees concerning dietary supplements that contain performance enhancing compounds; providing a criminal penalty.

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

#### **HOUSE BILL 3420 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3420** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3420** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 211 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 211**, Relating to compliance by school districts and open-enrollment charter schools with the public information law and the open meetings law and to the governance of an open-enrollment charter school.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 211** by striking SECTION 7 of the bill and renumbering the remaining SECTIONS accordingly.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 211 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 211** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 211** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 1652 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1652**, Relating to an education and prevention program for hepatitis C.

The bill was read second time.

Senator Nelson offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 1652**, adding an appropriately numbered SECTION to read as follows:

"SECTION 3. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The committee amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1652 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1652** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1652** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2877 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2877**, Relating to the lease of certain facilities and the retirement options and health coverage of certain employees in connection with implementation of integrated enrollment services for health and human services programs.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2877**, Section 1, as follows:

1. On page 1, line 1-18, delete "lease" and insert "sublease";
2. On page 1, line 1-19, delete "sublease" and insert "lease";
3. On page 1, line 1-42, delete "TEXAS";
4. On page 1, line 1-45, delete "a" and insert "an";
5. On page 1, line 1-44, delete "Texas Integrated Enrollment Services" and insert "integrated enrollment services"; and
6. On page 1, line 1-48, between "call" and "centers" insert "or change".

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### HOUSE BILL 2877 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2877** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2877** was read third time and was passed by a viva voce vote.

### HOUSE BILL 1491 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1491**, Relating to the employment of certain physicians by a private medical school.

The bill was read second time.

Senator Nixon offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 1491** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter E, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by adding Section 5.12 to read as follows:

Sec. 5.12. EMPLOYMENT OF PHYSICIANS BY PRIVATE MEDICAL SCHOOL. (a) A private nonprofit medical school that is certified under Subsection (d) of this section, accredited by the Liaison Committee on Medical Education, and that was appropriated funds by the legislature in the 75th Legislature, Regular Session, 1997, may retain, in fulfilling its educational mission, all or part of the professional income generated by a physician for medical services if the physician is employed as a faculty member of the school and provides medical services as part of the physician's responsibilities.

(b) A private medical school subject to this section shall establish a committee consisting of at least five actively practicing physicians who provide care in the clinical program of the private medical school. The committee shall approve existing policies, or adopt new policies if none exist, to ensure that a physician whose professional income is retained under Subsection (a) of this section is exercising the physician's independent medical judgment in providing care to patients in the school's clinical programs. The policies adopted under this subsection must include policies relating to credentialing, quality assurance, utilization review, peer review, medical decision-making, governance of the committee, and due process.

(c) Each member of a committee under Subsection (b) of this section shall provide to the board biennially a signed and verified statement indicating that the member:

(1) is licensed by the board;

(2) will exercise independent medical judgment in all committee matters, specifically in matters relating to credentialing, quality assurance, utilization review, peer review, medical decision-making, and due process;

(3) will exercise the member's best efforts to ensure compliance with the private medical school's policies that are adopted or established by the committee; and

(4) shall report immediately to the board any action or event that the member reasonably and in good faith believes constitutes a compromise of the independent judgment of a physician in caring for a patient in the private medical school's clinical program or in carrying out the member's duties as a committee member.

(d) A private school that retains a physician's professional income under Subsection (a) of this section must be certified by the board as being in compliance with this section. The board shall prescribe an application form to be provided to the school and may adopt rules as necessary to administer this section. The board may prescribe and assess a fee for the certification of a school and for investigation and review of the school in an amount not to exceed the fee assessed on an organization described by Section 5.01(a) of this Act.

(e) A private medical school certified under Subsection (d) of this section must provide to the board a biennial report certifying that the board is in compliance with this section. If the board determines at any time that the private medical school has failed to comply with this section, the board may suspend or revoke the school's certification.

(f) A private medical school's authority to retain a physician's professional income does not apply to a physician providing care in a facility owned or operated by the school that is established outside the school's historical geographical service area as it existed on the effective date of this section.

(g) The board shall adopt rules requiring the disclosure of financial conflicts of interest by a committee member.

(h) This section does not affect the reporting requirements under Section 5.06(d) of this Act.

(i) This section does not apply to a private medical school certified under this section if all or substantially all of the school's assets are sold.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 1491 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1491** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1491** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 1779 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1779**, Relating to the eligibility of lodging establishments located near interchanges for specific information logo signs.

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

**HOUSE BILL 1779 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1779** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1779** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**LEAVE OF ABSENCE**

On motion of Senator Ratliff, Senator Harris was granted leave of absence for the remainder of today on account of important business.

**HOUSE BILL 1428 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1428**, Relating to the prosecution of and the punishment for the offense of unlawful restraint.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1428**, in SECTION 2 of the bill, (Senate Committee Printing, Page 1, lines 33-40), by striking amended Section 20.02(c), Penal Code, and substituting the following:

(c) An offense under this section is a Class A [~~B~~] misdemeanor unless:

(1) the person restrained was a child younger than 17 [~~14~~] years of age, in which event the offense is a state jail felony [~~Class A misdemeanor~~]; or

(2) the actor recklessly exposes the victim to a substantial risk of serious bodily injury, in which event it is a felony of the third degree.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1428 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1428** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**HB 1428** was read third time and was passed by a viva voce vote.

**VOTE RECONSIDERED ON  
HOUSE BILL 3050**

On motion of Senator Duncan and by unanimous consent, the vote by which **HB 3050** was finally passed today was reconsidered.

**HB 3050**, Relating to the administration of certain loan programs by the Texas Agricultural Finance Authority, to limiting certain liability for activities in programs funded by the authority, and to the promotion of the development of agriculture-related rural businesses.

Question—Shall **HB 3050** be finally passed?

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **HB 3050** by striking SECTION \_\_\_\_, as added by Floor Amendment No. 2, and substitute the following:

SECTION \_\_\_\_. Section 7 of this Act, adding Chapter 46, Agriculture Code, takes effect only if a specific appropriation for the implementation of that section is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, Section 7 of this Act, adding Chapter 46, Agriculture Code, has no effect.

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

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

**HB 3050** as again amended was again finally passed by the following vote: Yeas 27, Nays 2.

Yeas: Armbrister, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Gallegos.

Absent-excused: Harris, Luna.

**HOUSE BILL 1689 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1689**, Relating to student loan repayment assistance for certain child-care workers.

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

### **HOUSE BILL 1689 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1689** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**HB 1689** was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

### **HOUSE BILL 3693 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3693**, Relating to certification under the state Medicaid program of nursing home beds in certain nursing facilities.

The bill was read second time.

Senator Fraser offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **HB 3693** as follows:

(1) Between SECTION 1 and SECTION 2 of the bill (House engrossment, page 1, between lines 14 and 15), add the following new SECTION:

SECTION 2. (a) Notwithstanding Section 32.0213, Human Resources Code, as amended by this Act, or any other law relating to certification of Medicaid beds in nursing facilities, a person is not subject to any limitation controlling the number of Medicaid beds in nursing facilities and is entitled to contract with the appropriate state agency to participate in the state Medicaid program and provide beds in a nursing facility if the person:

(1) holds a state waiver from the limitation on the number of Medicaid beds that:

(A) was issued before May 1, 1999; and

(B) authorizes the operation of a 150-bed nursing facility;

(2) locates the nursing facility in a municipality with a population of more than 900,000;

(3) begins construction of the nursing facility not later than December 1, 1999; and

(4) meets all requirements for licensure and certification.

(b) Subsection (a) of this section authorizes a person to contract to provide only the number of Medicaid beds specified in the person's waiver described by Subsection (a)(1) of this section.



(2) In SECTION 2 of the bill (House engrossment, page 1, line 15), strike "2" and substitute "3".

The committee amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 3693 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3693** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**HB 3693** was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

#### **HOUSE BILL 3215 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3215**, Relating to the methods by which the Texas Department of Criminal Justice and the Texas Youth Commission obtain samples or specimens for the purpose of creating a DNA record.

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

#### **HOUSE BILL 3215 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3215** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**HB 3215** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 3467 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3467**, Relating to the disposition of the proceeds of fines collected for overweight vehicles.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3467** as follows:

In SECTION 1 of the bill, amend Section 621.506(g), Transportation Code on page 1, line 19, SENATE COMMITTEE PRINT, by inserting "for the purposes of road maintenance" between "deposited" and "in".

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Shapiro asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 3467 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3467** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Shapiro.

Absent-excused: Harris, Luna.

**HB 3467** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Shapiro asked to be recorded as voting "Nay" on the final passage of the bill.

**GUESTS PRESENTED**

Senator Ellis was recognized and introduced to the Senate a group of students from F. M. Black Middle School in Houston, representing Youth for Christ.

The Senate welcomed its guests.

**HOUSE BILL 1628 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1628**, Relating to requiring a health insurer to provide certain information to governmental entities with which the insurer contracts.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

### **Floor Amendment No. 1**

Amend **HB 1628** by adding appropriately numbered SECTIONS to read as follows and renumbering remaining SECTIONS accordingly:

SECTION \_\_. Subchapter H, Chapter 26, Insurance Code, is amended by adding Article 26.96 to read as follows:

Art. 26.96. REPORTING OF CLAIMS INFORMATION. (a) This article applies only to an insured employer health benefit plan.

(b) An employer carrier, on written request from an insured employer covered by that carrier, shall report to the employer information from the 12 months preceding the date of the report regarding:

(1) the total amount of charges submitted to the carrier for persons covered under the employer health benefit plan;

(2) the total amount of payments made by the carrier to health care providers for persons covered under the plan; and

(3) to the extent available, information on claims paid by type of health care provider, including the total hospital charges, physician charges, pharmaceutical charges, and other charges.

(c) An employer carrier shall provide information requested by an employer under this article annually not later than the 30th day before the anniversary or renewal date of the employer's health benefit plan.

(d) Notwithstanding Subsection (c) of this article, an employer is not required to provide information under Subsection (b) of this article earlier than the 30th day after the date of the initial written request.

(e) An employer carrier may not report any information required under this article the release of which is prohibited by federal law or regulation.

(f) Claim information provided by an employer carrier under this section shall be provided in the aggregate, without information through which a specific individual covered by the health insurance or evidence of coverage may be identified.

SECTION \_\_\_\_. Article 26.96, Insurance Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act. A contract entered into before that date is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 1628 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1628** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**HB 1628** was read third time and was passed by a viva voce vote.

## BILLS AND RESOLUTIONS SIGNED

The Presiding Officer, Senator Truan in Chair, announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**SB 21, SB 196, SB 314, SB 333, SB 354, SB 479, SB 518, SB 537, SB 569, SB 603, SB 681, SB 717, SB 749, SB 775, SB 841, SB 845, SB 890, SB 940, SB 1023, SB 1058, SB 1112, SB 1121, SB 1125, SB 1136, SB 1141, SB 1196, SB 1260, SB 1327, SB 1367, SB 1375, SB 1387, SB 1446, SB 1457, SB 1512, SB 1546, SB 1574, SB 1609, SB 1690, SB 1735, SB 1765, SB 1770, SB 1771, SB 1861, SCR 77, SJR 26.**

### HOUSE BILL 907 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 907**, Relating to attendance in public schools of persons over 18 years of age.

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

### HOUSE BILL 907 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 907** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**HB 907** was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

### HOUSE JOINT RESOLUTION 95 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HJR 95**, Proposing a constitutional amendment to provide a four-year term for the adjutant general and to provide that the term runs concurrently with the term of the governor.

The resolution was read second time.

Senator Brown offered the following amendment to the resolution:

#### Floor Amendment No. 1

Amend **HJR 95** by striking all below the resolving clause and substituting the following:

SECTION 1. Section 30, Article XVI, Texas Constitution, is amended by adding Subsection (e) to read as follows:

(e) If the legislature establishes an office, known as the office of the adjutant general or known by another title, that is filled by appointment by the governor and that is the single governing office, subordinate only to the governor, of the state military forces, the person holding that office serves at the pleasure of the governor notwithstanding Subsection (a) of this section or any time limit prescribed by other law.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 76th Legislature, Regular Session, 1999, that provides that the adjutant general serves at the pleasure of the governor.

(b) The person who holds office as the adjutant general on the effective date of that constitutional amendment is subject to that amendment.

(c) This temporary provision expires February 1, 2001.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 1999. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to provide that the adjutant general serves at the pleasure of the governor."

The amendment was read and was adopted by a viva voce vote.

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

The resolution as amended was passed to third reading by a viva voce vote.

### **HOUSE JOINT RESOLUTION 95 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 95** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**HJR 95** was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

### **HOUSE BILL 3620 ON SECOND READING**

On motion of Senator Bernsen and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3620**, Relating to the exchange and conveyance of lands by certain navigation districts.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3620** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill appropriately:

SECTION 3. (a) On or before January 1, 2001, the commissioner of the General Land Office on behalf of the state may transfer to the City of Texas City the right, title, and interest in and to the property described by Subsection (h) of this section.

(b) The transfer authorized by Subsection (a) of this section must be:

(1) for a cash consideration in an amount not less than the fair market value of the property as determined by the commissioner of the General Land Office after an appraisal performed by an appraiser employed by the General Land Office; and

(2) under other terms negotiated in a purchase and sale agreement between the parties.

(c) All terms of the transfer described by Subsection (b) must be completed before the General Land Office may transfer title to the property described by Subsection (h).

(d) The state expressly reserves for the benefit of the permanent school fund all oil, gas, and other minerals in, on, or under the property and the unrestricted right of ingress and egress to explore for and develop those minerals.

(e) If, after the transfer authorized by Subsection (a) of this section, the City of Texas City transfers or attempts to transfer title to all or part of the property, title to the property automatically reverts to the state.

(f) On payment of the consideration required by Subsection (b) of this section and the execution of an appropriate instrument of transfer, the title of the City of Texas City to the property becomes absolute, subject only to the reservations provided by this section. The City of Texas City may use, develop, or lease all or part of the property for public or private purposes subject only to applicable provisions of the Texas Constitution.

(g) Section 31.158, Natural Resources Code, does not apply to the transfer of property authorized by this section.

(h) The real property to which Subsection (a) of this section refers is described as follows:

(1) Tract 1 is 561.29 acres being part of and out of "Snake Island, and adjacent submerged lands of Galveston Bay, S.F. 14149, in Galveston County, Texas; said 561.29 acres being more particularly described by metes and bounds as follows, with all bearing referenced to the Texas Coordinate System, South Central Zone:

BEGINNING at the point of intersection of the southerly line of the Texas City Channel (400 foot wide at this point) with the easterly line of the City of Texas City called 375.75 Acre Tract as described in conveyance from the State of Texas to the City of Texas as per instrument recorded in Volume 1941, Page 750 of the Galveston County Deed Records, said beginning point having coordinates of X = 3,312,521.4507, Y = 585,317.1428 and being witnessed by found US Corps of Engineers (COE) Monument #4-3 with coordinates of X = 3,307,552.6629 and Y = 587,685.0209 at a course and distance reference of S 64 deg. 31' 11" E, at 5,504.15 feet;

THENCE, S 76 deg. 47' 18" E, along the southerly line of the Texas City Channel (400 feet wide), for a distance of 5,248.23 feet to a point for corner;

THENCE, S 13 deg. 12' 42" W, for a distance of 2,900.00 feet to a point for corner;

THENCE, S 60 deg. 01' 26" W, for a distance of 6,879.77 feet to a point for corner, on an easterly line of the said City of Texas City called 375.75 Acre Tract;

THENCE, N 02 deg. 24' 28" W, along the easterly line of the said City of Texas City called 375.75 Acre Tract, at a distance of 169.67 feet pass a 5/8-inch iron rod set for reference with coordinates of X = 3,311,001.3697 and Y = 578,026.5441, and continuing for a total distance of 2,166.62 feet to a re-entrant corner of said called 375.75 Acre Tract;

THENCE, N 87 deg. 35' 32" E, along a southerly line of said City of Texas City called 375.75 Acre Tract, for a distance of 1,825.01 feet to a point for corner, same being the most easterly Southeast corner of said called 375.75 Acre Tract;

THENCE, N 02 deg. 24' 28" W, along the easterly line of said City of Texas City called 375.75 Acre Tract, at a distance of 4,193.06 feet pass a 5/8-inch iron rod set for reference with coordinates of X = 3,312,564.7326 and Y = 584,287.7551, and continuing for a total distance of 5,223.36 feet to the POINT OF BEGINNING, of a tract containing 561.29 acres.

(2) Tract 2 is 49.55 acres being part of and out of "Snake Island, and adjacent submerged lands of Galveston Bay, S.F. 14149, in Galveston County, Texas; said 49.55 acres being more particularly described by metes and bounds as follows, with all bearing referenced to the Texas Coordinate System, South Central Zone:

BEGINNING at the point of intersection of the southerly line of a 650 foot wide Industrial Canal as indicated on US Corps of Engineers (COE) location map date June, 1978 (File 308-) with the westerly line of the City of Texas City called 375.75 Acre Tract as described in conveyance from the State of Texas to the City of Texas as per instrument recorded in Volume 1941, Page 750 of the Galveston County Deed Records, said beginning point having coordinates of X = 3,310,113.8424, Y = 580,092.3499;

THENCE, S 02 deg. 24' 28" E, along the westerly line of said City of Texas City called 375.75 Acre Tract, at a distance of 186.99 feet pass a 5/8-inch iron rod set for reference with coordinates of X = 3,310,121.6938 and Y = 579,905.5280, and continuing for a total distance of 2,104.34 feet to a point for corner, from which a 5/8-inch iron rod set for reference bears S 02 deg. 24' 28" E, a distance of 402.98 feet (said 5/8-inch iron rod having coordinates of X = 3,310,219.1737 and Y = 577,587.2396);

THENCE, S 87 deg. 35' 32" W, along a northerly line of said City of Texas City called 375.75 Acre Tract, for a distance of 1,539.99 feet to a point for corner, same being the most westerly Northwest corner of said City of Texas City called 375.75 Acre Tract;

THENCE, N 04 deg. 26' 32" E, for a distance of 944.90 feet to a point for corner, on the southerly line of the aforesaid Industrial Canal as shown on COE Location Map (File 308-) dated June, 1978;

THENCE in a generally NORTHEASTERLY direction along the southerly line of said Industrial Canal (called 650 feet wide at this point) as shown on COE Location Map (File 308-) dated June, 1978, being a curve to the left having a radius of 2,325.00 feet and a central angle of 36 deg. 00' 55", for an arc distance of 1,461.46 feet to an angle point;

THENCE, N 55 deg. 02' 36" E, continuing along the southerly line of said Industrial Canal (variable width), for a distance of 409.21 feet to the POINT OF BEGINNING, of a tract containing 49.55 acres.

The amendment was read.

Senator Jackson offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 2**

Amend Floor Amendment No. 1 to **HB 3620** (Senate Committee Report) as follows:

- (1) Add the following subdivisions to subsection (b) of the bill:
  - (3) completed before January 1, 2001 or as authorized by the 77th Legislature; and
  - (4) undertaken only after the City of Texas City and the land commissioner determine that the purchase is necessary for the intended purpose and that such purpose could not be achieved by leasing the real property described by Subsection (g) of this section.
- (2) Strike subsection (c) and substitute the following:
  - (c) The state expressly reserves for the benefit of the Permanent School Fund all oil, gas and other minerals in, on or under the property, together with the unrestricted right of ingress and egress to explore for and develop the minerals reserved herein.
  - (3) At the end of subsection (e) before the "." insert the following language:  
"and the terms negotiated in the purchase and sale agreement authorized by Subsection (b) of this section. The City or Port of Texas City shall not undertake or authorize activities that adversely affect the use or value of the contiguous state-owned tracts without the prior authorization of the School Land Board and compensation to the Permanent School Fund"

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

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

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 3620 ON THIRD READING**

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3620** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**HB 3620** was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**(President in Chair)**

**SENATE BILL 713 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**SB 713**, Relating to the county and road district highway fund.

The bill was read second time.



Senator Ogden offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 713** (Senate filed version) on page 3, line 4, by striking "\$50 million" and substituting "\$25 million".

The committee amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to engrossment by a viva voce vote.

**RECORD OF VOTES**

Senators Bernsen, Lindsay, and Moncrief asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**SENATE BILL 713 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 713** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lucio, Madla, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bernsen, Lindsay, Moncrief.

Absent: Carona.

Absent-excused: Harris, Luna.

**SB 713** was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senators Bernsen, Lindsay, and Moncrief asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1889 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 1889**, Relating to the regulation of pharmacy technicians, the reinstatement of certain licenses related to the practice of pharmacy, and the reporting of professional liability claims regarding the practice of pharmacy.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1889** as follows:

(1) Strike SECTION 3 of the bill (senate committee printing, page 3, lines 12-22) and renumber subsequent sections accordingly.

(2) Strike current SECTION 6 of the bill (senate committee printing, page 4, lines 40-44) and substitute the following:

SECTION 6. (a) Except as provided by Subsection (e) of this section, this Act takes effect September 1, 1999.

(b) On or after the effective date of this Act, a pharmacy technician must have a high school diploma, a high school equivalency certificate, or be working to achieve an equivalent diploma or certificate.

(c) On or after the effective date of this Act, a pharmacy may employ a pharmacy technician only if the ratio of pharmacy technicians to supervising pharmacists does not exceed two-to-one.

(d) The Texas State Board of Pharmacy may enforce this section. A violation of this section is a violation of the Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes).

(e) Section 20A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), as added by this Act, takes effect January 1, 2001. A rule adopted under Section 20A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), as added by this Act, may not take effect before September 1, 2001. Section 20B, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), as added by this Act, takes effect September 1, 2001.

The amendment was read and was adopted by a viva voce vote.

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

The bill as amended was passed to engrossment by a viva voce vote.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1889 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1889** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**CSSB 1889** was read third time and was passed by a viva voce vote.

#### **COMMITTEE SUBSTITUTE SENATE BILL 128 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**CSSB 128**, Relating to the civil and criminal consequences of possessing or consuming an alcoholic beverage in a motor vehicle or operating a motor vehicle while intoxicated.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 128 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 128** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**CSSB 128** was read third time and was passed by a viva voce vote.

**CONFERENCE COMMITTEE ON HOUSE BILL 676**

Senator Bivins called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 676** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 676** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Bivins, Chair; Cain, Shapiro, Bernsen, and Ogden.

**SENATE BILL 1207 WITH HOUSE AMENDMENTS**

Senator Cain called **SB 1207** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Amendment No. 1**

Amend **SB 1207** by inserting the following in Sec. 3.04(5) at the end of the word "board" and before ";":

, except as provided in Sec. 3.05(k), (l), and (m)

**Floor Amendment No. 1 on Third Reading**

Amend **SB 1207** on third reading in SECTION 2 of the bill, in amended Section 3.04(5), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), by striking "in Section 3.05(k), (l), and (m)" and substituting "by Sections 3.05(k) and (l) of this Act".

The amendments were read.

Senator Cain moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 1207** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Cain, Chair; Nelson, Moncrief, Nixon, and Bernsen.

### SENATE BILL 1107 WITH HOUSE AMENDMENT

Senator Shapleigh called **SB 1107** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### Amendment

Amend **SB 1107** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to information on certain programs and services to assist certain communities and entities impacted by the North American Free Trade Agreement.

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

SECTION 1. Subchapter K, Chapter 481, Government Code, is amended by adding Section 481.1665 to read as follows:

Sec. 481.1665. INFORMATION ON PROGRAMS AND SERVICES FOR CERTAIN COMMUNITIES AND ENTITIES. (a) At least once each two-year period, the Texas Business and Community Economic Development Clearinghouse shall provide written notice in English and in Spanish regarding those programs and services described by Section 481.167(b) that will benefit and assist communities and entities that have experienced significant job losses associated with the implementation of the North American Free Trade Agreement (NAFTA). The clearinghouse shall provide the notice to each of the governing bodies of the municipalities and counties, chambers of commerce, small business development centers, and economic development centers located in the border region. The clearinghouse shall also provide the information contained in the notice on the department's Internet website.

(b) The notice required by Subsection (a) must contain:

- (1) the Internet address of the department's website; and
- (2) the toll-free telephone number of the clearinghouse.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

On motion of Senator Shapleigh, the Senate concurred in the House amendment to **SB 1107** by a viva voce vote.

**SENATE BILL 1303 WITH HOUSE AMENDMENTS**

Senator Brown called **SB 1303** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Floor Amendment No. 1**

Amend **SB 1303**, engrossed version, to read as follows:

(1) On page 2, line 5, strike "and possesses that license on board" and substitute "in their immediate possession".

(2) On page 2, line 12, strike "and possesses that license on board" and substitute "in their immediate possession".

(3) On page 6, lines 4 and 5, strike "the person is aboard a boat operating under a license issued by the commission and".

(4) On page 6, line 6, strike "possesses on board the boat" and substitute "has in their immediate possession".

(5) On page 6, line 12, strike "boat operator" and substitute "person".

(6) On page 6, line 21, strike "possesses on board" and substitute "has in their immediate possession".

(7) On page 6, line 23, strike "possesses on board" and substitute "has in their immediate possession".

**Floor Amendment No. 2**

Amend **SB 1303**, engrossed version, to read as follows:

(1) On page 5, line 16, strike "December 17, 1998" and substitute "April 20, 1999".

(2) On page 6, line 25, strike "may" and substitute "shall".

(3) On page 7, line 3, strike "December 17, 1998" and substitute "April 20, 1999".

(4) On page 7, line 17 and 18, strike "one license" and substitute "three licenses".

(5) On page 8, lines 6 through 17, strike proposed Section 47.079(c), (d), and (e), and substitute the following:

"(c) The commission by proclamation shall allow a license to be transferred at any time."

(6) On page 10, line 10 strike proposed Section 47.080(e)(3) and substitute the following:

"(3) exceeding trotline length limits by a length greater than 10 percent in violation of this code or of a proclamation of the commission issued under this code;"

(7) On page 10, line 14, strike proposed Section 47.080(e)(5) and substitute the following:

"(5) exceeding the number of trotlines the holder of a commercial finfish fisherman's license may use in violation of this code or of a proclamation of the commission issued under this code; or"

(8) On page 11, between lines 24 and 25, add Section 47.081(g) to read as follows:

"(g) The commission shall consider the social and economic viability of the finfish industry, and input from the finfish license management review board regarding the reissue of finfish licenses through auction or lottery."

The amendments were read.

On motion of Senator Brown, the Senate concurred in the House amendments to **SB 1303** by a viva voce vote.

### **SENATE BILL 365 WITH HOUSE AMENDMENTS**

Senator Brown called **SB 365** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **Amendment**

Amend **SB 365** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the continuation and the functions of the Texas Department of Criminal Justice, the administration of the Private Sector Prison Industries Oversight Authority, and the administration of the Texas Council on Offenders with Mental Impairments.

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

#### ARTICLE 1

SECTION 1.01. Section 492.003, Government Code, is amended to read as follows:

Sec. 492.003. **ELIGIBILITY FOR MEMBERSHIP; REMOVAL.** (a) Each member of the board must be representative of the general public. A person is not eligible for appointment as member if the person or the person's spouse:

(1) is a person, other than a judge participating in the management of a community supervision and corrections department, who is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;

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

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) ~~In [An employee or paid officer or consultant of a trade association in the field of criminal justice may not be a member or employee of the board. A person who is the spouse of any employee or paid consultant of a trade association in the field of criminal justice may not be a member of the board and may not be an employee, including an employee exempt from the state's classification plan, who is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule. For the purposes of] this section, "Texas trade association" means a [trade association is a nonprofit,] cooperative[;] and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.~~

(c) A person may not be a member of the board and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the

overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal justice; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal justice.

(d) A person who is required to register as a lobbyist under Chapter 305 because [by virtue] of the person's activities for compensation in or on behalf of a profession related to the operation of the board[-] may not serve as a member of the board or act as the general counsel to the board or the department.

(e) [(d)] Appointments to the board shall be made without regard to the race, color, disability [handicap], sex, religion, age, or national origin of the appointees.

(f) [(e)] It is a ground for removal from the board if a member:

(1) does not have at the time of taking office [appointment] the qualifications required by Subsection (a) for appointment to the board;

(2) does not maintain during the member's service on the board the qualifications required by Subsection (a) for appointment to the board;

(3) is ineligible for membership under Subsection (c) or (d) [violates a prohibition established by Subsection (b) or (c)];

(4) is unable to discharge the member's duties for a substantial part of the term for which the member was appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during each calendar year or is absent from more than two consecutive regularly scheduled board meetings that the member is eligible to attend, except when the absence is excused by majority vote of the board.

(g) [(f)] The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

(h) [(g)] If the executive director has knowledge that a potential ground for removal exists, the director shall notify the chairman of the board of the ground. The chairman shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chairman, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 1.02. Chapter 492, Government Code, is amended by adding Section 492.0031 to read as follows:

Sec. 492.0031. TRAINING PROGRAM FOR MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

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

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

(2) the programs operated by the department;

(3) the role and functions of the department;

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

(5) the current budget for the department;

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

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

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

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

laws; and

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

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 1.03. Section 492.004, Government Code, is amended to read as follows:

Sec. 492.004. NOTICE OF QUALIFICATIONS, RESPONSIBILITIES. The executive director or the executive director's designee shall provide to members of the board and to agency employees, [board shall inform its members] as often as necessary, information regarding requirements for office or employment under this subtitle, including information regarding a person's [of:

[1] the qualifications for office prescribed by this chapter; and

[2] their] responsibilities under applicable law relating to standards of conduct for state officers or employees.

SECTION 1.04. Section 492.006, Government Code, is amended to read as follows:

Sec. 492.006. BOARD MEETINGS. (a) The board shall meet at least once in each quarter of the calendar year at a site determined by the chairman. ~~[The chairman shall provide the chairman of the Legislative Criminal Justice Board with notice of the board's regularly scheduled meetings and facilitate the attendance of the Legislative Criminal Justice Board at the regularly scheduled meetings.]~~

(b) The board may meet at other times at the call of the chairman or as provided by the rules of the board.

(c) At each regularly scheduled meeting of the board, the board shall allow:

(1) the presiding officer of the Board of Pardons and Paroles or a designee of the presiding officer to present to the board any item relating to the operation of the parole system determined by the presiding officer to require the board's consideration; and

(2) the chairman of the judicial advisory council to the community justice assistance division and to the board to present to the board any item relating to the operation of the community justice system determined by the chairman to require the board's consideration.

SECTION 1.05. Section 492.012, Government Code, is amended to read as follows:

Sec. 492.012. SUNSET PROVISION. The Texas Board of Criminal Justice and the Texas Department of Criminal Justice are subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished September 1, 2011 ~~[1999]~~.

SECTION 1.06. Section 492.013, Government Code, is amended to read as follows:



Sec. 492.013. GENERAL POWERS AND DUTIES OF BOARD. (a) The board may adopt rules as necessary for its own procedures and for operation of the department.

(b) The board shall employ an executive director. The board shall supervise the executive director's administration of the department.

(c) The board shall approve the operating budget of the department and the department's request for appropriations.

(d) The board shall appoint the members of any advisory committees to the department.

(e) ~~The board shall provide to the employees of the department, as often as is necessary, information regarding their qualifications for employment and their responsibilities under applicable laws relating to standards of conduct for state employees.~~

~~(f)~~ (f) The board shall develop and implement policies that clearly separate the policymaking [define the respective] responsibilities of the board and the management responsibilities of the executive director and the staff of the department.

~~(g)~~ (g) The board may apply for and accept gifts or grants from any public or private source for use in maintaining and improving correctional programs and services.

SECTION 1.07. Chapter 492, Government Code, is amended by adding Section 492.0131 to read as follows:

Sec. 492.0131. PAROLE RULES, POLICIES, PROCEDURES. The board and the Board of Pardons and Paroles Policy Board shall jointly review all rules, policies, and procedures of the department and the Board of Pardons and Paroles that relate to or affect the operation of the parole process. The board and the policy board shall identify areas of inconsistency between the department and the Board of Pardons and Paroles and shall amend rules or change policies and procedures as necessary for consistent operation of the parole process.

SECTION 1.08. Section 493.001, Government Code, is amended to read as follows:

Sec. 493.001. DEPARTMENT MISSION. The mission of the department is to provide public safety, promote positive change in offender behavior, ~~and~~ reintegrate offenders into society, and assist victims of crime.

SECTION 1.09. Chapter 493, Government Code, is amended by adding Section 493.0021 to read as follows:

Sec. 493.0021. ORGANIZATIONAL FLEXIBILITY. (a) Notwithstanding Sections 493.002, 493.003, 493.004, 493.005, 493.0051, 493.0052, as added by Chapter 1360, Acts of the 75th Legislature, Regular Session, 1997, and 493.0052, as added by Chapter 490, Acts of the 75th Legislature, Regular Session, 1997, the executive director, with the approval of the board, may:

(1) create divisions in addition to those listed in Section 493.002 and assign to the newly created divisions any duties and powers imposed on or granted to an existing division or to the department generally;

(2) eliminate any division listed in Section 493.002 or created under this section and assign any duties or powers previously assigned to the eliminated division to another division listed in Section 493.002 or created under this section; or

(3) eliminate all divisions listed in Section 493.002 or created under this section and reorganize the distribution of powers and duties granted to or imposed on

a division in any manner the executive director determines is best for the proper administration of the department.

(b) The executive director may not take an action under this section with potential impact on the administration of community corrections programs by community supervision and corrections departments without requesting and considering comments from the judicial advisory council to the community justice assistance division of the Texas Department of Criminal Justice and the Texas Board of Criminal Justice as to the effect of the proposed action.

SECTION 1.10. Section 493.007, Government Code, is amended to read as follows:

Sec. 493.007. PERSONNEL. (a) ~~[Each division director shall hire the employees for the director's division.~~

~~[(b)]~~ The executive director shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public postings.

~~(b) [(e)]~~ The executive director shall develop a system of annual performance evaluations. All merit pay for department employees must be based on the system established under this subsection.

~~(c) [(d)]~~ The executive director ~~or the executive director's designee~~ shall prepare and maintain a written policy statement ~~that implements [to assure implementation of]~~ a program of equal employment opportunity ~~to ensure that [under which]~~ all personnel ~~decisions [transactions]~~ are made without regard to race, color, ~~disability [handicap]~~, sex, religion, age, or national origin. The policy statement must include:

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

(2) ~~an [a comprehensive]~~ analysis of the ~~extent to which the composition of the department's personnel is in accordance with state and federal law and [department work force that meets federal and state guidelines;~~

~~[(3) procedures by which a determination can be made of significant underutilization in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and~~

~~[(4)]~~ reasonable methods to ~~achieve compliance with state and federal law [appropriately address those areas of significant underutilization].~~

~~(d) [(e)]~~ A policy statement ~~[prepared under Subsection (d)]~~ must:

(1) ~~[cover an annual period,]~~ be updated at least annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection ~~(c)(1);[;]~~ and

(3) be filed with the governor's office.

~~[(f)]~~ The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection ~~(e)~~. The report may be made separately or as a part of other biennial reports made to the legislature.]

SECTION 1.11. Section 493.016, Government Code, is amended to read as follows:

Sec. 493.016. INFORMATION OF PUBLIC INTEREST; COMPLAINTS.

(a) The department shall prepare information of public interest describing the functions of the department and the procedures by which complaints are filed with and

resolved by the department. The department shall make the information available to the general public and appropriate state agencies.

(b) The department shall establish methods by which interested persons are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department.

(c) The department shall keep an information file on [about] each written complaint filed with the department by a member of the general public that relates to the operations of the department. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the department;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and

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

(d) The department shall provide a written copy of the department's policies and procedures relating to complaint investigation and resolution to:

- (1) all department employees; and
- (2) each person filing a complaint.

(e) The [If a written complaint is filed with the department by a member of the general public that relates to the operations of the department, the] department, at least [as frequently as] quarterly [and] until final disposition of the complaint, shall notify the person filing the complaint [complainant] of the status of the investigation [complaint] unless the notice would jeopardize an undercover investigation.

SECTION 1.12. Subdivision (2), Subsection (b), Section 497.001, Government Code, is amended to read as follows:

(2) "Articles and products" includes [include] services provided through the use of work program participant [inmate] labor.

SECTION 1.13. Subsection (b), Section 497.001, Government Code, is amended by adding Subdivision (3) to read as follows:

(3) "Work program participant" means a person who:

(A) is an inmate confined in a facility operated by or under contract with the department or a defendant or releasee housed in a facility operated by or under contract with the department; and

(B) works at a job assigned by the office.

SECTION 1.14. Subsection (a), Section 497.002, Government Code, is amended to read as follows:

(a) The purposes of the office are to implement this subchapter and Subchapter B to:

(1) provide work program participants with marketable job skills to help reduce recidivism through a coordinated program of job skills training, documentation of work history, and access to resources provided by Project RIO and the Texas Workforce Commission; and [adequate, regular, and suitable employment for the vocational training and rehabilitation of inmates, consistent with proper correctional purposes;]

(2) reduce department costs by providing products and articles for the department and providing [use the labor of inmates for self-maintenance;

~~[(3) reimburse the state for expenses caused by the crimes of inmates and the cost of their imprisonment;~~

~~[(4) provide for the requisition and disbursement of department articles and products through established state authorities to eliminate the possibility of unlawful private profit from the distribution of those articles and products;~~

~~[(5) provide materials,] products[;] or articles for sale on a for-profit basis to the public[; to private enterprises,] or to agencies of the state or political subdivisions of the state[; and~~

~~[(6) develop and expand public and private prison industry operations].~~

SECTION 1.15. Subsection (c), Section 497.003, Government Code, is amended to read as follows:

(c) The prison industries advisory committee shall advise the board on all aspects of prison industry operations[;] and shall make recommendations to the board on the effective use of prison industries programs to assist work program participants [inmates] in the development of job skills necessary for successful reintegration into the community after release from imprisonment.

SECTION 1.16. Section 497.004, Government Code, is amended to read as follows:

Sec. 497.004. ~~[INMATE] LABOR, PAY.~~ (a) ~~[The department shall use inmate labor in prison industries to the greatest extent feasible and shall develop and expand prison industries by pursuing arrangements with business for the use of inmate labor.~~

~~[(b)]~~ The board may develop by rule and the department may administer an incentive pay scale for work program participants consistent with rules adopted by the Private Sector Prison Industries Oversight Authority under Subchapter C [inmates who participate in prison industries]. Prison industries may be financed through contributions donated for this purpose by private businesses contracting with the department. The department shall apportion pay earned by a work program participant [an inmate] in the same manner as is required by rules adopted by the Private Sector Prison Industries Oversight Authority under Section 497.0581 [497.051].

~~[(b) [(e)]]~~ In assigning work program participants [inmates] to available job training positions in ~~[prison]~~ factories, the department shall consider each participant's classification and availability for work. The department shall give priority to work program participants closest to release from imprisonment or supervision in making assignment to those job training positions that provide the most marketable skills [inmate's needs and projected release date].

SECTION 1.17. Section 497.005, Government Code, is amended to read as follows:

Sec. 497.005. ~~INDUSTRIAL RECEIPTS [REVOLVING ACCOUNT].~~ ~~[(a) The legislature may appropriate money to an industrial revolving account in the general revenue fund:~~

~~[(b) The office shall administer the industrial revolving account.~~

~~[(e)]~~ The office may use money appropriated to the office in amounts corresponding to receipts from the sale of articles and products under this subchapter and Subchapter B [in the industrial revolving account] to purchase real property, erect buildings, improve facilities, buy equipment and tools, install or replace equipment, buy industrial raw materials and supplies, and pay for other necessary expenses for the administration of this subchapter and Subchapter B.

~~[(d) The office shall remit money received from the sale of articles and products produced under this subchapter and Subchapter B to the comptroller to be deposited in the industrial revolving account.~~

~~[(e) When the governor and the Legislative Budget Board determine that the industrial revolving account contains money in an amount that exceeds the amount necessary for the administration of this subchapter and Subchapter B, the governor and the Legislative Budget Board shall certify that fact to the comptroller, who shall transfer the excess amount to the unobligated portion of the general revenue fund.~~

~~[(f) Section 403.095, Government Code, does not apply to the industrial revolving account.]~~

SECTION 1.18. Section 497.006, Government Code, is amended to read as follows:

Sec. 497.006. **CONTRACTS WITH PRIVATE BUSINESS.** To encourage the development and expansion of prison industries, the prison industries office may enter into necessary contracts related to the prison industries program. With the approval of the board, the office may enter into a contract with a private business to conduct a program on or off property operated by the department. A contract entered into under this section must comply with the Private Sector/Prison Industry Enhancement Certification Program operated by the Bureau of Justice Assistance and authorized by 18 U.S.C. Section 1761. In determining under Section 497.062 ~~[497.051]~~ the number of participants participating ~~[inmates employed]~~ in private sector prison industries ~~[conditional work]~~ programs, the department shall count the number of work program participants ~~[inmates]~~ participating in a [work] program under a contract entered into under this section. Not more than 500 work program participants ~~[250 inmates]~~ may participate in [work] programs under contracts entered into under this section.

SECTION 1.19. Section 497.007, Government Code, is amended to read as follows:

Sec. 497.007. **GRANTS.** The office may accept any grant designated for work program participant ~~[inmate]~~ vocational rehabilitation. The office shall maintain records relating to the receipt and disbursement of grant funds[-] and shall annually report to the board on the administration of grant funds.

SECTION 1.20. Section 497.009, Government Code, is amended to read as follows:

Sec. 497.009. **CERTIFICATION FOR FRANCHISE TAX CREDIT.** The department or the office on behalf of the department shall prepare and issue a certification that a corporation requires to establish eligibility for the franchise tax credit for wages paid to work program participants ~~[inmates]~~ or employees who were work program participants ~~[inmates]~~ under Subchapter L, Chapter 171, Tax Code.

SECTION 1.21. Subsection (a), Section 497.025, Government Code, is amended to read as follows:

(a) An agency of the state that purchases articles and products under this subchapter must requisition the purchase through the General Services Commission except for purchases of articles or products not included in an established contract. The purchase of articles or products not included in an established contract and that do not exceed the dollar limits established under Section 2155.132 may be acquired directly from the office on the agency's obtaining an informal or a formal quotation for the item and issuing a proper purchase order to the office. The General Services Commission and the department shall enter into an agreement to expedite the process

by which agencies are required to requisition purchases of articles or products through the commission.

SECTION 1.22. Subsection (b), Section 497.051, Government Code, is amended to read as follows:

(b) In this subchapter:

(1) "Authority" [~~,"authority"~~] means the Private Sector Prison Industries Oversight Authority.

(2) "Participant" means a participant in a private sector prison industries program.

SECTION 1.23. (a) Section 497.052, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The authority is composed of nine members appointed by the governor:

(1) one of whom is representative of organized labor;

(2) one of whom is representative of employers;

(3) one of whom is representative of groups advocating the rights of victims of criminal offenses;

(4) one of whom is representative of groups advocating the rights of inmates;

(5) one of whom is experienced in the field of vocational rehabilitation; and

(6) four [~~one of whom is an employer in the private sector prison industries program that is certified as in compliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761; and~~

~~(7) three~~] of whom are public members.

(c) The governor shall appoint as an employer liaison to the authority one person who is an employer in the private sector prison industries program that is certified as in compliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761. The employer liaison is entitled to attend meetings of the authority and offer advice to the authority from the perspective of a prison industries employer. The employer liaison serves at the pleasure of the governor, is not entitled to vote on any issue considered by the authority, and is entitled to reimbursement for travel expenses in the same manner as is a member of the authority under Section 497.055.

(b) On or before January 1, 2000, the governor shall appoint a new public member to the Private Sector Prison Industries Oversight Authority. The member of the authority serving as an employer in the private sector prison industries program ceases to serve as a member of the authority on the appointment of the new public member, and the term of the new public member expires on the date the term of the employer in the industries program would have expired had that member remained on the authority.

SECTION 1.24. Section 497.056(b), Government Code, is amended to read as follows:

(b) The authority shall forward fees collected under this section to the comptroller. The comptroller shall deposit the fees to the credit of an account in the general revenue fund to be known as the private sector prison industries oversight account. The legislature may appropriate funds from the account only for the purpose of paying the costs of the authority and the department in implementing this subchapter, including the cost to the department of paying the reimbursable expenses of authority members under Section 497.055 and the employer liaison as provided by Section 497.052(c). At the end of each fiscal year, the comptroller shall transfer the

excess funds in the account to the state treasury to the credit of the crime victims compensation fund.

SECTION 1.25. Section 497.058, Government Code, is amended to read as follows:

Sec. 497.058. PREVAILING WAGE. (a) The authority by rule shall require that participants [~~inmate employees~~] at each private sector prison industries program be [~~are~~] paid not less than the prevailing wage as computed by the authority, except that the authority may permit employers to pay a participant [~~an employee~~] the minimum wage for the two-month period beginning on the date participation [~~employment~~] begins.

(b) For the purposes of computations required by this section:

(1) the prevailing wage is the wage paid by the employer for work of a similar nature in the location in which the work is performed;

(2) in the event that the employer has no employees other than those employed under this subchapter performing work of a similar nature within the location, the prevailing wage for work of a similar nature is determined by reference to openings and wages by occupation data collected by the labor market information [~~economic research and analysis~~] department of the Texas Workforce Commission; and

(3) the location in which work is performed is the local workforce development area [~~council of government region~~] in which the work is performed.

SECTION 1.26. Section 497.0581, Government Code, is amended to read as follows:

Sec. 497.0581. PARTICIPANT [~~INMATE~~] CONTRIBUTIONS. The authority by rule shall require a participant [~~an inmate~~] to contribute a percentage of the wages received by the participant [~~inmate~~] under this subchapter to be deposited in the private sector prison industries oversight account. In establishing the percentage of the wages required to be contributed by participants [~~inmates~~] under this section, the authority shall ensure that the percentage does not place the private sector prison industries programs in the department in noncompliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761.

SECTION 1.27. Section 497.059, Government Code, is amended to read as follows:

Sec. 497.059. LIMITING IMPACT ON NON-PRISON INDUSTRY. (a) The authority may not grant initial certification to a private sector prison industries program if the authority determines that the operation of the program would result in the loss of existing jobs provided by the employer in this state.

(b) The authority shall adopt rules to determine whether a program would cause the loss of existing jobs provided by the employer in this state.

SECTION 1.28. Section 497.060, Government Code, is amended to read as follows:

Sec. 497.060. WORKERS' COMPENSATION. The authority by rule shall require private sector prison industries program employers to meet or exceed all federal requirements for providing compensation to participants [~~inmates~~] injured while working.

SECTION 1.29. Section 497.061, Government Code, is amended to read as follows:

Sec. 497.061. RECIDIVISM STUDIES. The authority, with the cooperation of the Criminal Justice Policy Council, shall gather data to determine whether participation in a private sector prison industries program is a factor that reduces recidivism among participants [~~inmates~~].

SECTION 1.30. Section 497.062, Government Code, is amended to read as follows:

Sec. 497.062. LIMITATION ON NUMBER OF PARTICIPANTS. The authority may certify any number of private sector prison industries programs that meet or exceed the requirements of federal law and the rules of the authority, but in no event may the authority permit more than 2,000 participants [~~1,500 inmates to participate~~] in the program at any one time.

SECTION 1.31. Subsection (a), Section 497.094, Government Code, is amended to read as follows:

(a) The department shall implement a job training program [~~programs~~] for each job performed by an inmate [~~inmates~~] confined in a facility [~~facilities~~] operated by or under contract with the department or a defendant or releasee housed in a facility operated by or under contract with the department and monitor the success of those programs. The department shall also establish a permanent record for each inmate, defendant, or releasee. The record must describe the types of job training provided to the inmate, defendant, or releasee by the department. On release from imprisonment or supervision, the department shall provide the inmate, defendant, or releasee with a copy of the record. The department shall collect information relating to the employment histories of inmates released from the institutional division on parole and mandatory supervision.

SECTION 1.32. Section 497.095, Government Code, is amended to read as follows:

Sec. 497.095. INMATE'S WORK RECORD. The department [~~institutional division~~] shall establish a permanent record for each inmate confined, and for each defendant or releasee housed, in a facility operated by or under contract with the department [~~in the division~~] who participates in a department work [~~an on-the-job training~~] program [~~of the division~~]. The record must describe the type or types of work performed by the inmate, defendant, or releasee during the person's [~~inmate's~~] confinement or supervision and must contain evaluations of the performance of and [~~inmate's~~] proficiency at tasks assigned and a record of the [~~inmate's~~] attendance at work by the inmate, defendant, or releasee. On release from imprisonment or supervision, the department shall provide the [~~institutional division, an~~] inmate, defendant, or releasee with [~~is entitled to~~] a copy of a record made by the department [~~division~~] under this section.

SECTION 1.33. Subchapter E, Chapter 497, Government Code, is amended by adding Section 497.099 to read as follows:

Sec. 497.099. PARTICIPATION IN WORK PROGRAM REQUIRED. The department shall require each inmate and each defendant or releasee housed in a facility operated by or under contract with the department to work in an agricultural, industrial, or other work program to the extent that the inmate, defendant, or releasee is physically and mentally capable of working. The department may waive the work requirement for an inmate, defendant, or releasee as necessary to maintain security or to permit the inmate, defendant, or releasee to participate in rehabilitative programming.



SECTION 1.34. (a) Subsection (a), Section 498.003, Government Code, is amended to read as follows:

(a) Good conduct time applies only to eligibility for parole or mandatory supervision as provided by Section 508.145 or 508.147 and does not otherwise affect an inmate's term. Good conduct time is a privilege and not a right. Regardless of the classification of an inmate, the department may grant good conduct time to the inmate only if the department finds that the inmate is actively engaged in an agricultural, vocational, or educational endeavor, ~~or~~ in an industrial program or other work program, or in a treatment program, unless the department finds that the inmate is not capable of participating in such a program or ~~an~~ endeavor.

(b) Subsection (f), Section 498.003, Government Code, is repealed.

(c) The change in law to Section 498.003, Government Code, made by this section applies to an inmate serving a sentence in the Texas Department of Criminal Justice on or after the effective date of this Act, regardless of whether the inmate committed the offense for which the inmate is serving the sentence before, on, or after the effective date of this Act.

SECTION 1.35. Section 509.011, Government Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) If the Texas Department of Criminal Justice determines that at the end of a biennium a department maintains in reserve an amount greater than six months' basic supervision operating costs for the department, the Texas Department of Criminal Justice in the succeeding biennium may reduce the amount of per capita and formula funding provided under Subsection (a) so that in the succeeding biennium the department's reserves do not exceed six months' basic supervision operating costs. The Texas Department of Criminal Justice may adopt policies and standards permitting a department to maintain reserves in an amount greater than otherwise permitted by this subsection as necessary to cover emergency costs or implement new programs with the approval of the Texas Department of Criminal Justice. The Texas Department of Criminal Justice may distribute unallocated per capita or formula funds to provide supplemental funds to individual departments to further the purposes of this chapter.

(h) A community supervision and corrections department at any time may transfer to the Texas Department of Criminal Justice any unencumbered state funds held by the department. The Texas Department of Criminal Justice may distribute funds received from a community supervision and corrections department under this subsection to provide supplemental funds to individual departments to further the purposes of this chapter.

SECTION 1.36. Chapter 509, Government Code, is amended by adding Section 509.015 to read as follows:

Sec. 509.015. FEASIBILITY STUDY: COMMUNITY JUSTICE PLANS. (a) The division shall conduct a study to determine whether the documentation a community justice council is required to provide to the division as a part of the submission of a community justice plan is excessive or redundant and shall suggest a streamlined process to reduce duplication of efforts on the part of the council.

(b) The division, not later than January 1, 2001, shall provide a copy of the study and the suggestions for a streamlined process to the executive director, the board, and the legislature.

(c) This section expires January 15, 2001.

SECTION 1.37. Subdivision (8), Section 2251.001, Government Code, is amended to read as follows:

(8) "Vendor" means a person who supplies goods or services to a governmental entity. The term includes Texas Correctional Industries.

SECTION 1.38. Subsection (a), Section 8, Article 42.09, Code of Criminal Procedure, is amended to read as follows:

(a) A county that transfers a defendant to the Texas Department of Criminal Justice under this article shall deliver to an officer designated by the department:

(1) a copy of the judgment entered pursuant to Article 42.01 of this code, completed on a standardized felony judgment form described by Section 4 of that article;

(2) a copy of any order revoking community supervision and imposing sentence pursuant to Section 23, Article 42.12, of this code, including:

(A) any amounts owed for restitution, fines, and court costs, completed on a standardized felony judgment form described by Section 4, Article 42.01, of this code; and

(B) a copy of the client supervision plan prepared for the defendant by the community supervision and corrections department supervising the defendant, if such a plan was prepared;

(3) a written report that states the nature and the seriousness of each offense and that states the citation to the provision or provisions of the Penal Code or other law under which the defendant was convicted;

(4) a copy of the victim impact statement, if one has been prepared in the case under Article 56.03 of this code;

(5) a statement as to whether there was a change in venue in the case and, if so, the names of the county prosecuting the offense and the county in which the case was tried;

(6) a copy of the record of arrest for each offense;

(7) if requested, information regarding the criminal history of the defendant, including the defendant's state identification number if the number has been issued;

(8) a copy of the indictment or information for each offense;

(9) a checklist sent by the department to the county and completed by the county in a manner indicating that the documents required by this subsection and Subsection (c) of this section accompany the defendant; and

(10) if prepared, a copy of a presentence or postsentence investigation report prepared under Section 9, Article 42.12 of this code.

SECTION 1.39. Subsection (k), Section 9, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(k) If a presentence report in a felony case is not required under this section, the judge may [~~shall~~] direct the officer to prepare a postsentence report containing the same information that would have been required for the presentence report, other than a proposed client supervision plan and any information that is reflected in the judgment. If the postsentence report is ordered, the [~~The~~] officer shall send the [~~postsentence~~] report to the clerk of the court not later than the 30th day after the date on which sentence is pronounced or deferred adjudication is granted, and the clerk shall deliver the postsentence report with the papers in the case to a designated officer of the Texas Department of Criminal Justice, as described [~~required~~] by Section 8(a), Article 42.09.

SECTION 1.40. Section 14, Article 42.12, Code of Criminal Procedure, as amended by Chapter 321, Acts of the 74th Legislature, Regular Session, 1995, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) If a judge requires as a condition of community supervision that the defendant serve a term of confinement and treatment in a substance abuse treatment facility under this section, the judge shall also require as a condition of community supervision that on release from the facility the defendant:

(1) participate in a drug or alcohol abuse continuum of care treatment plan; and

(2) pay a fee in an amount established by the judge for residential aftercare required as part of the treatment plan.

(e) The clerk of a court that collects a fee imposed under Subsection (c)(2) shall remit the fee to the comptroller, and the comptroller shall deposit the fee into the general revenue fund. In requiring the payment of a fee under Subsection (c)(2), the judge shall consider fines, fees, and other necessary expenses for which the defendant is obligated in establishing the amount of the fee. The judge may not:

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

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

SECTION 1.41. Section 501.024, Labor Code, is amended to read as follows:

Sec. 501.024. EXCLUSIONS FROM COVERAGE. The following persons are excluded from coverage as an employee under this chapter:

(1) a person performing personal services for the state as an independent contractor or volunteer;

(2) a member of the state military forces as defined by Section 431.001, Government Code;

(3) a person who at the time of injury was performing services for the federal government and who is covered by some form of federal workers' compensation insurance;

(4) a prisoner or inmate of a prison or correctional institution, other than a work program participant participating in a Texas Correctional Industries contract described by Section 497.006, Government Code;

(5) a client or patient of a state agency;

(6) a person employed by the Texas Department of Transportation who is covered under Chapter 505;

(7) a person employed by The University of Texas System who is covered by Chapter 503; and

(8) a person employed by The Texas A&M University System who is covered by Chapter 502.

SECTION 1.42. Subdivision (2), Section 171.651, Tax Code, is amended to read as follows:

(2) "Work program participant" has the meaning assigned by Section 497.001(b) ["Inmate" means an inmate in a prison industries program operated by the prison industries office of the department under Subchapter A, Chapter 497], Government Code.

SECTION 1.43. Section 171.653, Tax Code, is amended to read as follows:

Sec. 171.653. CREDIT FOR WAGES PAID TO WORK PROGRAM PARTICIPANT [~~INMATE~~]. (a) The amount of the credit for wages paid by a corporation to a work program participant [~~an inmate~~] is equal to 10 percent of that portion of the wages paid that the department apportions to the state [~~under Section 497.004(b)(3), Government Code,~~] as reimbursement for the cost of the participant's [~~inmate's~~] confinement.

(b) A corporation is eligible for the credit under this section only if it receives before the due date of its franchise tax report for the privilege period for which the credit is claimed a written certification from the department stating the amount of the wages that the corporation paid to a work program participant [~~an inmate~~] during the privilege period and the amount of those wages that the department apportioned to the state as reimbursement for the cost of the participant's [~~inmate's~~] confinement.

(c) A corporation is eligible for the credit under this section only if the work program participant [~~inmate~~] for whom it is paid has been continuously employed for not less than six months.

SECTION 1.44. Section 171.654, Tax Code, is amended to read as follows:

Sec. 171.654. CREDIT FOR WAGES PAID TO EMPLOYEE WHO WAS WORK PROGRAM PARTICIPANT [~~AN INMATE~~]. (a) The amount of the credit for wages paid by a corporation to an employee who was employed by the corporation when the employee was a work program participant [~~an inmate~~] is equal to 10 percent of that portion of the wages paid that, were the employee still a participant [~~an inmate~~], the department would apportion to the state [~~under Section 497.004(b)(3), Government Code,~~] as reimbursement for the cost of the participant's [~~inmate's~~] confinement.

(b) A corporation is eligible for the credit under this section only if:

(1) the employee who was formerly a work program participant [~~an inmate~~] was continuously employed for not less than six months while a participant [~~an inmate~~] and has been continuously employed by the corporation for at least one year after the date that the employee was released from prison or department supervision;

(2) the nature of the employment is substantially similar to the employment the employee had with the corporation when the employee was a work program participant [~~an inmate~~] or the employment requires more skills or provides greater opportunities for the employee;

(3) the corporation has provided the department a statement of the amount of wages paid the employee during the accounting period on which the credit is computed; and

(4) the corporation receives before the due date of its franchise tax report for the privilege period for which the credit is claimed a written certification from the department stating the amount of the wages that, were the employee still a work program participant [~~an inmate~~], the department would have apportioned to the state as reimbursement for the cost of the participant's [~~inmate's~~] confinement.

(c) A corporation may claim a credit under this section only for:

(1) wages paid an employee after the employee has been employed by the corporation for more than one year after the date of the employee's release from prison or supervision; and

(2) wages paid the employee for not longer than one year.

SECTION 1.45. The heading of Subchapter L, Chapter 171, Tax Code, is amended to read as follows:

SUBCHAPTER L. TAX CREDIT FOR WAGES PAID TO  
TEXAS DEPARTMENT OF CRIMINAL JUSTICE WORK PROGRAM  
PARTICIPANTS [INMATES] OR FORMER PARTICIPANTS [INMATES]

SECTION 1.46. Section 497.090, Government Code, is repealed.

SECTION 1.47. Section 19.005(a), Education Code, is amended to read as follows:

(a) Any [Only a] person confined or imprisoned in the department who is not a high school graduate is eligible for programs or services under this chapter paid for with money from the foundation school fund. To the extent space is available, the district may also offer programs or services under this chapter paid for with money from the foundation school fund to persons confined or imprisoned in the department who are high school graduates.

ARTICLE 2

SECTION 2.01. Section 497.052, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A person may not be a public member of the authority if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the authority;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the authority; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the authority other than compensation or reimbursement authorized by law for authority membership, attendance, or expenses.

(d) Appointments to the authority shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

SECTION 2.02. Subchapter C, Chapter 497, Government Code, is amended by adding Sections 497.0521 through 497.0527 to read as follows:

Sec. 497.0521. CONFLICTS OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the authority and may not be an authority employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of private sector prison industries; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of private sector prison industries.

(c) A person may not be a member of the authority or act as the general counsel to the authority if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the authority.

Sec. 497.0522. REMOVAL PROVISIONS. (a) It is a ground for removal from the authority that a member:

(1) does not have at the time of taking office the qualifications required by Section 497.052(a);

(2) does not maintain during service on the authority the qualifications required by Section 497.052(a);

(3) is ineligible for membership under Section 497.052(c) or 497.0521(b) or (c);

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled authority meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the authority.

(b) The validity of an action of the authority is not affected by the fact that it is taken when a ground for removal of an authority member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the authority of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the authority, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 497.0523. INFORMATION: REQUIREMENTS FOR OFFICE OR EMPLOYMENT. The executive director or the executive director's designee shall provide to members of the authority and to agency employees, as often as necessary, information regarding the requirements for office or employment under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 497.0524. TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a member of the authority may not vote, deliberate, or be counted as a member in attendance at a meeting of the authority until the person completes a training program that complies with this section.

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

(1) the legislation that created the authority;

(2) the programs operated by the authority;

(3) the role and functions of the authority;

(4) the rules of the authority;

(5) the current budget for the authority;

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

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

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

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

laws; and

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

(c) A person appointed to the authority is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 497.0525. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The authority shall develop and implement policies that clearly separate the policymaking responsibilities of the authority and the management responsibilities of the staff of the authority.

Sec. 497.0526. PUBLIC ACCESS. The authority shall develop and implement policies that provide the public with a reasonable opportunity to appear before the authority and to speak on any issue under the jurisdiction of the authority.

Sec. 497.0527. COMPLAINTS. (a) The authority shall maintain a file on each written complaint filed with the authority. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the authority;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and

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

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

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

### ARTICLE 3

SECTION 3.01. Section 614.002, Health and Safety Code, is amended to read as follows:

Sec. 614.002. COMPOSITION OF COUNCIL. (a) The Texas Council on Offenders with Mental Impairments is composed of 30 [~~29~~] members.

(b) The governor shall appoint, with the advice and consent of the senate:

- (1) four at-large members who have expertise in mental health, mental retardation, or developmental disabilities, one of whom must be a psychiatrist;
- (2) one at-large member who is the judge of a court with criminal jurisdiction;
- (3) one at-large member who is a prosecuting attorney;
- (4) one at-large member who is a criminal defense attorney;
- (5) one at-large member from an established pretrial services agency; and
- (6) one at-large member who has expertise in the criminal justice system.

(c) A person may not be an at-large member of the council if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the council;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the council; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the council other than compensation or reimbursement authorized by law for council membership, attendance, or expenses.

(d) A person may not be a member of the council or act as the general counsel to the council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the council.

(e) The executive head of each of the following agencies, divisions of agencies, or associations, or that person's designated representative, shall serve as a member of the council:

- (1) the institutional division of the Texas Department of Criminal Justice;
- (2) the Texas Department of Mental Health and Mental Retardation;
- (3) the pardons and paroles division of the Texas Department of Criminal Justice;
- (4) the community justice assistance division of the Texas Department of Criminal Justice;
- (5) the state jail division of the Texas Department of Criminal Justice;
- (6) the Texas Juvenile Probation Commission;
- (7) the Texas Youth Commission;
- (8) the Texas Rehabilitation Commission;
- (9) the Texas Education Agency;
- (10) the Criminal Justice Policy Council;
- (11) the Mental Health Association in Texas;
- (12) the Texas Commission on Alcohol and Drug Abuse;
- (13) the Commission on Law Enforcement Officer Standards and Education;
- (14) the Texas Council of Community Mental Health and Mental Retardation Centers;
- (15) the Commission on Jail Standards;
- (16) the Texas Planning Council for Developmental Disabilities;
- (17) the Texas Association for Retarded Citizens;
- (18) the Texas Alliance for the Mentally Ill;
- (19) the Parent Association for the Retarded of Texas, Inc.;
- (20) the Texas Department of Human Services; and
- (21) the Texas Department on Aging.

(f) ~~(d)~~ In making the appointments under Subsection (b), the governor shall attempt to reflect the geographic and economic diversity of the state. Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

- (g) It is a ground for removal from the council that an at-large member:
- (1) does not have at the time of taking office the qualifications required by Subsections (b), (c), and (k);
  - (2) does not maintain during service on the council the qualifications required by Subsections (b), (c), and (k);
  - (3) is ineligible for membership under Subsection (c) or (d);
  - (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;



(5) is absent from more than half of the regularly scheduled council meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the council; or

(6) is absent from more than two consecutive regularly scheduled council meetings that the member is eligible to attend.

(h) The validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a council member exists.

(i) If the director of the council has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the council of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the council, who shall then notify the governor and the attorney general that a potential ground for removal exists.

(j) [(e) It is a ground for removal if an at large member:

[(1) is not eligible for appointment at the time of appointment as provided by Subsections (b) and (g);

[(2) is absent from more than half of the regularly scheduled council meetings that the member is eligible to attend during each calendar year; or

[(3) is absent from more than two consecutive regularly scheduled council meetings that the member is eligible to attend.

[(f)] A representative designated by the executive head of a state agency must be an officer or employee of the agency when designated and while serving on the council, except the representative designated by the director of the Criminal Justice Policy Council must be an employee of that council.

(k) [(g)] Members who are not associated with a state agency or division must have expertise in the rehabilitation of persons with mental illness, mental retardation, or a developmental disability when appointed or designated and while serving on the council.

SECTION 3.02. Chapter 614, Health and Safety Code, is amended by adding Sections 614.003 and 614.0031 to read as follows:

Sec. 614.003. INFORMATION: REQUIREMENTS FOR OFFICE OR EMPLOYMENT. The executive director of the Texas Department of Criminal Justice or the executive director's designee shall provide to members of the council and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 614.0031. TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

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

(1) the legislation that created the council;

(2) the programs operated by the council;

(3) the role and functions of the council;

(4) the rules of the council;

(5) the current budget for the council;

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

(7) the requirements of:

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

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

(C) the administrative procedure law, Chapter 2001, Government

Code; and

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

laws; and

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

(c) A person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 3.03. Subsection (a), Section 614.005, Health and Safety Code, is amended to read as follows:

(a) The governor shall designate a member of the council as the presiding officer of the council to serve in that capacity at the pleasure of the governor [council shall elect a presiding officer from its members at the first meeting of each calendar year].

SECTION 3.04. Section 614.007, Health and Safety Code, is amended to read as follows:

Sec. 614.007. POWERS AND DUTIES. (a) The council shall:

(1) determine the status of offenders with mental impairments in the state criminal justice system;

(2) identify needed services for offenders with mental impairments;

(3) develop a plan for meeting the treatment, rehabilitative, and educational needs of offenders with mental impairments that includes a case management system and the development of community-based alternatives to incarceration;

(4) cooperate in coordinating procedures of represented agencies for the orderly provision of services for offenders with mental impairments;

(5) evaluate programs in this state and outside this state for offenders with mental impairments and recommend to the directors of state programs methods of improving the programs;

(6) collect and disseminate information about available programs to judicial officers, law enforcement officers, probation and parole officers, providers of social services or treatment, and the public;

(7) provide technical assistance to represented agencies and organizations in the development of appropriate training programs;

(8) apply for and receive money made available by the federal or state government or by any other public or private source to be used by the council to perform its duties;

(9) distribute to political subdivisions, private organizations, or other persons money appropriated by the legislature to be used for the development, operation, or evaluation of programs for offenders with mental impairments;

(10) develop and implement pilot projects to demonstrate a cooperative program to identify, evaluate, and manage outside of incarceration offenders with mental impairments; and

(11) assess the need for demonstration projects and provide management for approved projects.

(b) The council shall develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the staff of the council.

SECTION 3.05. Chapter 614, Health and Safety Code, is amended by adding Sections 614.010, 614.0101, and 614.0102 to read as follows:

Sec. 614.010. PERSONNEL. (a) The executive director of the Texas Department of Criminal Justice or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

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

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

(c) The policy statement must:

(1) be updated annually;

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

(3) be filed with the governor's office.

Sec. 614.0101. PUBLIC ACCESS. The council shall develop and implement policies that provide the public with a reasonable opportunity to appear before the council and to speak on any issue under the jurisdiction of the council.

Sec. 614.0102. COMPLAINTS. (a) The council shall maintain a file on each written complaint filed with the council. The file must include:

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

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

(3) the subject matter of the complaint;

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

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

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

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

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

SECTION 3.06. Section 614.017, Health and Safety Code, is amended to read as follows:

Sec. 614.017. EXCHANGE OF INFORMATION. (a) An agency [authorized by this chapter to provide continuity of care for a special needs offender] may:

(1) receive information relating to a special needs offender regardless of whether other state law makes that information confidential, if the agency receives the information to further the purposes of this chapter; or

(2) disclose information relating to a special needs offender, including information about the offender's identity, needs, treatment, social, criminal, and vocational history, supervision status and compliance with conditions of supervision, and medical and mental health history, if the agency discloses the information to further the purposes of this chapter.

(b) This section is not intended to conflict with a federal law that restricts the disclosure of information described by Subsection (a).

(c) In this section:

(1) "Agency" includes any of the following entities [a division within an agency], a person with an agency relationship with one of the following entities [an agency], and a person who contracts with one or more of the following entities:

(A) the institutional division of the Texas Department of Criminal Justice;

(B) the pardons and paroles division of the Texas Department of Criminal Justice;

(C) the community justice assistance division of the Texas Department of Criminal Justice;

(D) the state jail division of the Texas Department of Criminal Justice;

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

(F) the Texas Juvenile Probation Commission;

(G) the Texas Youth Commission;

(H) the Texas Rehabilitation Commission;

(I) the Texas Education Agency;

(J) the Criminal Justice Policy Council;

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

(L) the Commission on Jail Standards;

(M) the Texas Department of Human Services;

(N) the Texas Department on Aging;

(O) the Texas School for the Blind and Visually Impaired;

(P) the Texas Department of Health;

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

(R) community supervision and corrections departments;

(S) personal bond pretrial release offices established under Article 17.42, Code of Criminal Procedure; and

(T) local jails regulated by the Commission on Jail Standards [an agency].

(2) "Special needs offender" means an individual who after conviction or adjudication is in custody or under any form of criminal justice supervision [a convicted felon or an individual who is placed on community supervision after a grant of deferred adjudication under Section 5, Article 42.12, Code of Criminal Procedure].

SECTION 3.07. Chapter 614, Health and Safety Code, is amended by adding Section 614.018 to read as follows:

Sec. 614.018. USE OF COUNTY JAIL FACILITIES. (a) The council shall conduct a study on strategies for reducing the use of county jails to provide mental health treatment to persons with mental illness.

(b) The study must include an examination of:

(1) arrest rates of persons with mental illness and incarceration practices regarding those persons;

(2) the feasibility of establishing a regional mental health detention facility as a pilot facility; and

(3) operational issues regarding the establishment of a pilot facility, including funding strategies and the use of existing facilities.

(c) The council shall file a copy of the study, a synopsis of the results of the study, and the council's recommendations with the legislature not later than February 1, 2001.

(d) This section expires March 1, 2001.

#### ARTICLE 4

SECTION 4.01. This Act takes effect September 1, 1999.

SECTION 4.02. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### Floor Amendment No. 1

Amend **CSSB 365** in SECTION 2.01 of the bill (House Committee Printing, page 34) as follows:

(1) In the introductory language to SECTION 2.01 (line 7), strike "Subsections (c) and (d)" and substitute "Subsections (d) and (e)".

(2) In added Section 497.052(c) (line 8), strike "(c)" and substitute "(d)".

(3) In added Section 497.052(d) (line 20), strike "(d)" and substitute "(e)".

#### Floor Amendment No. 2

Amend **CSSB 365** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_. Section 495.007, Government Code, is amended to read as follows:

Sec. 495.007. LIMITATION. The board may not enter into contracts under this subchapter for more than 4,580 [~~4,080~~] beds.

#### Floor Amendment No. 3

Amend **CSSB 365** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_. (a) Subchapter A, Chapter 501, Government Code, is amended by adding Section 501.0081 to read as follows:

Sec. 501.0081. DISPUTE RESOLUTION: TIME-SERVED CREDITS. (a) The department shall develop a system that allows resolution of a complaint by an inmate who alleges that time credited on the inmate's sentence is in error and does not accurately reflect the amount of time-served credit to which the inmate is entitled.

(b) Except as provided by Subsection (c), an inmate may not in an application for a writ of habeas corpus under Article 11.07, Code of Criminal Procedure, raise as a claim a time-served credit error until:

(1) the inmate receives a written decision issued by the highest authority provided for in the resolution system; or

(2) if the inmate has not received a written decision described by Subdivision (1), the 180th day after the date on which under the resolution system the inmate first alleges the time-served credit error.

(c) Subsection (b) does not apply to an inmate who, according to the department's computations, is within 180 days of the inmate's presumptive parole date, date of release on mandatory supervision, or date of discharge. An inmate described by this subsection may raise a claim of time-served credit error by filing a complaint under the system described by Subsection (a), or if an application for a writ of habeas corpus is not otherwise barred, by raising the claim in that application.

(b) The change in law made by this section applies only to a claim made on or after January 1, 2000, that alleges a time-served credit error, as described by Section 501.0081, Government Code, as added by this section. A claim made before January 1, 2000, that alleges a time-served credit error, is covered by the law in effect when the claim is made, and the former law is continued in effect for this purpose.

#### **Floor Amendment No. 4**

Amend **CSSB 365** in SECTION 1.33, in added Section 497.099, Government Code (House Committee Printing, page 24), as follows:

(1) Between "**REQUIRED.**" and "**The**" (line 15), insert "(a)".

(2) At the end of the section (between lines 23 and 24), insert the following:

"(b) The board may develop by rule and the department may administer an incentive pay scale program for inmates required to work in agricultural, industrial, or other work programs. In developing the program, the board shall set pay levels not to unjustly reward inmates, but rather to instruct inmates on the virtues of diligent participation in the workplace. The department shall deposit an amount earned by an inmate under this subsection into the inmate's trust fund, and may deduct not more than 80 percent of the amount deposited under this subsection for payment of restitution and dependent care owed by the inmate. This subsection does not apply to the compensation of an inmate participating in a Texas Correctional Industries program under Subchapter A or an inmate participating in a private sector prison industries program under Subchapter C."

#### **Floor Amendment No. 5**

Amend **CSSB 365** by adding the following appropriately numbered SECTION to the bill to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 493, Government Code, is amended by adding Section 493.023 to read as follows:

Sec. 493.023. CHARITABLE FUND-RAISING. (a) Under policies established by the department, a department employee may participate in fund-raising activities conducted on department property on the employee's own time for the benefit of an eligible charitable organization. The department shall adopt policies under this section which address:

(1) minimum qualifications of eligible charitable organizations;

(2) limitations on the use of funds;

(3) handling and distribution of the proceeds of fund-raising activity to eligible charitable organizations located in the county where the fund-raising takes place; and

(4) ensuring that participation in fund-raising is voluntary and not coercive.

(b) Funds collected under this section are not subject to Section 404.094.

(c) This section does not affect the department's participation in the state employees charitable campaign under Subchapter H, Chapter 659.

### **Floor Amendment No. 1 on Third Reading**

Amend **CSSB 365**, on third reading, in SECTION 1.14 of the bill, in amended Section 497.002(a), Government Code, by striking Subdivision (1) of that subsection, as amended by the bill, and substituting the following:

(1) provide work program participants with marketable job skills to help reduce recidivism through a coordinated program of:

(A) job skills training;

(B) documentation of work history; and

(C) access to resources provided by Project RIO and the Texas Workforce Commission, including access to resources provided through assistance to local workforce development boards in referring work program participants to the Project RIO employment referral services provided under Section 306.002, Labor Code; and [adequate, regular, and suitable employment for the vocational training and rehabilitation of inmates, consistent with proper correctional purposes;]

### **Floor Amendment No. 2 on Third Reading**

Amend **CSSB 365** on third reading by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_ Section 497.091(d), Government Code, is amended to read as follows:

(d) The department shall make reasonable efforts to [may] contract with nonprofit organizations that provide services to the general public and enhance social welfare and the general well-being of the community to provide inmate labor to those organizations. In entering contracts under this subsection, the department should give preference to nonprofit organizations that will use the inmate labor in a manner that increases the inmates' vocational skills.

### **Floor Amendment No. 3 on Third Reading**

Amend **CSSB 365** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_ Chapter 244, Local Government Code, is amended by adding Section 244.0055 to read as follows:

Sec. 244.0055. ADDITIONAL REQUIREMENTS FOR CERTAIN STATE FACILITIES. (a) In this section:

(1) "Department" means the Texas Department of Criminal Justice.

(2) "Facility" means a correctional or rehabilitation facility that:

(A) is used to house persons arrested for, charged with, or convicted of misdemeanors or felonies; and

(B) is located within one mile of a property described by Section 244.002(a).

(b) The requirements of this section are in addition to the requirements of this chapter.

(c) The department may not construct or operate a facility under this section unless:

(1) the department provides notice and a public hearing in accordance with this section; and

(2) consent to the construction or operation of the facility is given as provided by Subsection (h).

(d) Notwithstanding Sections 244.002 and 244.005, the department shall provide notice of a proposal to construct or operate a facility under this section to:

(1) the commissioners court of a county with an unincorporated area that includes all or part of the land that is within one mile of the proposed facility;

(2) the governing body of a municipality that includes within its boundaries all or part of the land that is within one mile of the proposed facility; and

(3) the governing body of each neighborhood association for a neighborhood within one mile of the proposed facility.

(e) Notice under Subsection (d) must:

(1) describe the proposed facility and the proposed location;

(2) provide the date, time, and location of a public hearing on the proposal; and

(3) contain the following statement in bold letters: "Under state law, consent to operate the proposed facility at the proposed location may be granted only by a unanimous vote of the commissioners court of the county, the governing body of the municipality, or both, as appropriate, and by a majority vote of the governing body of each neighborhood association for a neighborhood within one mile of the proposed facility."

(f) A copy of the notice described by Subsection (e) must be published in a newspaper of general circulation in the county or municipality where the proposed facility is to be located.

(g) Not later than the 60th day after the date the department provides notice under Subsection (d), the department shall hold a public hearing on the proposal in a public meeting facility that is located within 1-1/4 miles of the proposed location of the facility.

(h) Following the public hearing, the department may construct or operate the facility only if:

(1) the governing body of each neighborhood association for a neighborhood within one mile of the proposed facility, by majority vote, consents to the construction or operation of the proposed facility; and

(2) the commissioners court of the county and the governing body of the municipality that are entitled to receive notice under Subsection (d) determine each by unanimous vote that the construction or operation of the proposed facility is in the best interest of the county or the municipality, as appropriate.

(i) Any affected person, including a person residing within one mile of the proposed facility, may maintain an action to halt the construction or operation of a facility in violation of this section. A court may grant an injunction or any other necessary relief.

The amendments were read.

Senator Brown moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.



The President asked if there were any motions to instruct the conference committee on **SB 365** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Armbrister, Nelson, Whitmire, and Jackson.

### SENATE BILL 483 WITH HOUSE AMENDMENT

Senator Duncan called **SB 483** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### Amendment

Amend **SB 483** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to procedures for retirement of the Texas flag.

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

SECTION 1. The Texas Flag Code (Article 6139c, Revised Statutes) is amended by adding Section 6 to read as follows:

Sec. 6. (a) A state flag, when it is no longer used or useful as an emblem for display, should be destroyed, preferably by burning, in a ceremony or other dignified way that emphasizes its honor as a fitting emblem for this state.

(b) A retirement ceremony for a state flag should be conducted with the honor and respect inherent in the traditions of this state. While the state flag may be retired in a private ceremony, it is encouraged that a retirement be a public ceremony under the direction of uniformed personnel representing a state or national military service or a patriotic society.

(c) During a retirement ceremony, a person in uniform should render the military salute at the appropriate time as designated by the ceremony. A nonuniformed individual present should stand at attention with the right hand over the heart. When not in uniform, an individual who is wearing a headdress that is easily removable should remove the headdress with the right hand and hold the headdress at the left shoulder, with the right hand over the heart. An individual who is not a citizen of this state should stand at attention.

(d) In a retirement ceremony in which the flag is to be either burned or buried, the flag may be retired as a whole or the colors of the flag may be separated for individual dedication, with the separation taking place immediately before the retirement and dedication ceremony.

(e) The official retirement ceremony for the state flag encouraged for public use is:

I am your Texas flag!

I was born January 25, 1839.

I am one of only two flags of an American state that has also served as the symbol of an independent nation—The Republic of Texas.

While you may honor me in retirement, the spirit I represent will never retire!

I represent the spirit of Texas—Yesterday, Today, and Tomorrow!  
I represent the bravery of the Alamo and the Victory at San Jacinto.  
My spirit rode with the Texas Rangers over the Forts Trail of the Big Country,  
and herded cattle through the Fort Worth stockyards. I have sailed up  
Galveston Bay and kept a watchful eye over our El Paso del Norte.  
My colors are in the waters of the Red River and in the Bluebonnets of the  
Texas Hill Country.

You'll find my spirit at the Light House of Palo Duro and in the sands of Padre Island:

I am in the space station at Houston and atop the oil wells of West Texas.  
From the expanse of the Big Bend to the Riverwalk of San Antonio—all of  
Texas is my home!

I wave over the cotton and grain fields of the High Plains, and I am deep in the  
rich soil of the Rio Grande Valley.

I am proudly displayed under the Capitol Dome, and I fly high above the  
concrete canyons of downtown Dallas.

You'll find my spirit in the East Texas piney woods and along the Grandeur  
of the Rio Grande.

I represent Texas—every Child, Woman, and Man!

The blue field in me stands for the valor of our ancestors in the battles for our  
country.

Let us retire the blue—Salute!

My white field stands for the purity in all our Texas hearts! It represents the  
honor that each of us should pay to our state each day.

Let us retire the white—Salute!

The red is for all of the men and women who have died in service of our  
state—whether as members of the armed services or as citizen Samaritans.

Let us retire the red—Salute!

My lone, independent star is recognized worldwide because it represents  
ALL of Texas and stands for our unity as one for God, State, and Country.

Let us retire the lone star—Salute!

Join in the pledge to the Texas Flag:

"Honor the Texas Flag; I Pledge Allegiance to thee, Texas, One and  
Indivisible."

SECTION 2. Subsections (ff) and (gg), Section 3, Texas Flag Code (Article 6139c, Revised Statutes), are amended to read as follows:

(ff) [~~The state flag, when it is in such a condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning.~~

[~~(gg)~~] During the ceremony of hoisting or lowering the state flag or when the state flag is passing in a parade or in review, all individuals present except those in uniform should face the state flag and stand at attention with the right hand over the heart. Those present in uniform should render the military salute. When not in uniform, individuals who are wearing a headdress that is easily removeable should remove their headdress with their right hand and hold it at the left shoulder, with the hand over the heart. Individuals who are not citizens of this state should stand at attention. The salute to the state flag in a moving column should be rendered at the moment the state flag passes.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Duncan moved to concur in the House amendment to **SB 483**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Harris, Luna.

**SENATE RULE 7.21 SUSPENDED  
(Printing Rule)**

On motion of Senator Ratliff and by unanimous consent, Senate Rule 7.21 was suspended as it relates to the printing of the House amendment to **SB 178**.

**SENATE BILL 178 WITH HOUSE AMENDMENT**

Senator Ratliff called **SB 178** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**Amendment**

Amend **SB 178** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to codification of certain state agency practices and duties currently prescribed by the General Appropriations Act.

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

SECTION 1. Subsection (a), Section 101.027, Civil Practice and Remedies Code, is amended to read as follows:

(a) Each governmental unit other than a unit of state government may purchase insurance policies protecting the unit and the unit's employees against claims under this chapter. A unit of state government may purchase such a policy only to the extent that the unit is authorized or required to do so under other law.

SECTION 2. Section 106.001, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not prohibit the adoption of a program designed to increase the participation of businesses owned and controlled by women, minorities, or disadvantaged persons in public contract awards.

SECTION 3. Chapter 306, Government Code, is amended by adding Section 306.007 to read as follows:

Sec. 306.007. MINUTES AND REPORTS ELECTRONICALLY AVAILABLE TO LEGISLATURE. A state officer or board, commission, or other agency in the executive branch of state government, and an agency in the judicial branch of state government other than a court, shall make reports required by law and minutes of meetings of the agency's governing body available to members of the legislature and

to agencies in the legislative branch of state government in an electronic format determined by the Texas Legislative Council.

SECTION 4. Subsection (c), Section 321.013, Government Code, is amended to read as follows:

(c) The State Auditor shall recommend ~~[determine]~~ the audit plan for the state for each fiscal year to the committee. In devising the plan, the State Auditor shall consider recommendations concerning coordination of agency functions made jointly by representatives ~~[the committee composed]~~ of the Legislative Budget Board, Sunset Advisory Commission, and State Auditor's Office. The State Auditor shall also consider the extent to which a department has received a significant increase in appropriations, including a significant increase in federal or other money passed through to the department, and shall review procurement activities for compliance with Section 2161.123. The plan shall provide for auditing of federal programs at least once in each fiscal biennium and shall ensure that audit requirements of all bond covenants and other credit or financial agreements are satisfied. The committee shall review and approve the plan.

SECTION 5. Subsection (c), Section 321.014, Government Code, is amended to read as follows:

(c) The State Auditor shall submit each report to the committee prior to publication. The State Auditor shall file a copy of each report prepared under this section with:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the secretary of state;
- (5) the Legislative Reference Library;
- (6) each member of ~~[the chairman of]~~ the governing body and the administrative head of each entity that is the subject of the report; and
- (7) members of the legislature on a committee with oversight responsibility for the entity or program that is the subject of the report.

SECTION 6. Section 325.011, Government Code, is amended to read as follows:

Sec. 325.011. CRITERIA FOR REVIEW. The commission and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees:

- (1) the efficiency with which the agency or advisory committee operates;
- (2) an identification of the objectives intended for the agency or advisory committee and the problem or need that the agency or advisory committee was intended to address, the extent to which the objectives have been achieved, and any activities of the agency in addition to those granted by statute and the authority for these activities;
- (3) an assessment of less restrictive or alternative methods of performing any regulation that the agency performs that could adequately protect the public;
- (4) the extent to which the advisory committee is needed and is used;
- (5) the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;

(6) whether the agency has recommended to the legislature statutory changes calculated to be of benefit to the public rather than to an occupation, business, or institution that the agency regulates;

(7) the promptness and effectiveness with which the agency disposes of complaints concerning persons affected by the agency;

(8) the extent to which the agency has encouraged participation by the public in making its rules and decisions as opposed to participation solely by those it regulates and the extent to which the public participation has resulted in rules compatible with the objectives of the agency;

(9) the extent to which the agency has complied with applicable requirements of:

(A) an agency of the United States or of this state regarding equality of employment opportunity and the rights and privacy of individuals; and

(B) state law and applicable rules of any state agency regarding purchasing goals and programs for historically underutilized businesses;

(10) the extent to which changes are necessary in the enabling statutes of the agency so that the agency can adequately comply with the criteria listed in this section;

(11) the extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees;

(12) the extent to which the agency complies with Chapter 552, and with Chapter 551; and

(13) the effect of federal intervention or loss of federal funds if the agency is abolished.

SECTION 7. Subchapter F, Chapter 403, Government Code, is amended by adding Section 403.097 to read as follows:

Sec. 403.097. FUNDS EXPENDED IN PROPORTION TO METHOD OF FINANCING. (a) The comptroller may prescribe rules to ensure that, when it is necessary to preserve cash balances in the funds and accounts in the state treasury, appropriations are drawn from the treasury in proportion to the methods of financing specified in the Acts authorizing the appropriations.

(b) The rules may include procedures relating to the deposit of receipts and the issuance of warrants.

(c) This section does not affect other powers of the comptroller under this subchapter, Subchapter H of Chapter 404, or other law.

(d) This section does not apply if the method of financing specified for an agency or an institution of higher education in the Act authorizing appropriations includes interest earned or to be earned on local funds of the agency or institution.

SECTION 8. Subsection (b), Section 403.245, Government Code, is amended to read as follows:

(b) The replenishment of a petty cash account is an expenditure from the corresponding fund and shall be drawn from the appropriation from which the expenditure would otherwise have been made.

SECTION 9. Section 771.008, Government Code, is amended by adding Subsection (d) to read as follows:

(d) This subsection applies only if the services or resources are provided under a written contract or agreement. The receiving agency shall reimburse the providing agency within 30 days after the date by which the services or resources are provided and an invoice is received. If the receiving agency does not accept the services or

resources or finds an error in the invoice, it shall notify the providing agency of the fact in writing as soon as possible within the 30-day period and make payment within 10 days after the date the agencies agree the problems are corrected or the error resolved. If the agencies cannot agree on the amount of the reimbursement, the comptroller shall determine the appropriate amount. If the receiving agency does not, within the 30-day period, reimburse the providing agency or give the providing agency written notice of a problem or error, the comptroller on request of the providing agency may transfer from amounts appropriated to the receiving agency the appropriate amount in accordance with this section.

SECTION 10. Subdivision (7), Section 811.001, Government Code, is amended to read as follows:

(7) "Compensation" means the base salary of a person; amounts that would otherwise qualify as compensation but are not received directly by a person pursuant to a good faith, voluntary, written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the Internal Revenue Code of 1986 (26 U.S.C. Section 125); longevity and hazardous duty pay; nonmonetary compensation, the value of which is determined by the retirement system; amounts by which a person's salary is reduced under a salary reduction agreement authorized by Chapter 610; and the benefit replacement pay a person earns under Subchapter H, Chapter 659, as added by Chapter 417, Acts of the 74th Legislature, 1995, except for the benefit replacement pay a person earns as a result of a payment made under Subchapter B, C, or D, Chapter 661. The term excludes overtime pay and a cleaning or clothing allowance.

SECTION 11. (a) Subchapter B, Chapter 2001, Government Code, is amended by adding Section 2001.039 to read as follows:

Sec. 2001.039. AGENCY REVIEW OF EXISTING RULES. (a) A state agency shall review and consider for readoption each of its rules in accordance with this section.

(b) A state agency shall review a rule not later than the fourth anniversary of the date on which the rule takes effect and every four years after that date. The adoption of an amendment to an existing rule does not affect the dates on which the rule must be reviewed except that the effective date of an amendment is considered to be the effective date of the rule if the agency formally conducts a review of the rule in accordance with this section as part of the process of adopting the amendment.

(c) The state agency shall readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.

(d) The procedures of this subchapter relating to the original adoption of a rule apply to the review of a rule and to the resulting repeal, readoption, or readoption with amendments of the rule, except as provided by this subsection. Publishing the Texas Administrative Code citation to a rule under review satisfies the requirements of this subchapter relating to publishing the text of the rule unless the agency readopts the rule with amendments as a result of the review.

(e) A state agency's review of a rule must include an assessment of whether the reasons for initially adopting the rule continue to exist.

(b) The duties prescribed by this subsection apply only to state agency rules that are in effect on September 1, 1999, and that have not already been reviewed in accordance with Section 167, Article IX, Chapter 1452, Acts of the 75th Legislature,

Regular Session, 1997 (General Appropriations Act). A state agency shall review each of those rules in accordance with Section 2001.039, Government Code, as added by this Act, and in accordance with this subsection not later than August 31, 2003. Not later than August 31, 2000, each state agency shall develop and send to the secretary of state for publication in the Texas Register a plan under which the agency will review its existing rules. The plan must state for each of those rules the date by which the state agency will begin the review required by Section 2001.039, Government Code, as added by this Act.

(c) For purposes of subsequent reviews under Section 2001.039, Government Code, as added by this Act, the effective date of an existing rule initially reviewed under Subsection (b) of this section or under Section 167, Article IX, Chapter 1452, Acts of the 75th Legislature, Regular Session, 1997 (General Appropriations Act), is considered to be the date on which the state agency begins the review of the rule by publishing in the Texas Register the notice for the review required under Section 2001.024, Government Code, through either Subsection (d), Section 2001.039 or Section 167.

SECTION 12. Subchapter D, Chapter 2052, Government Code, is amended by adding Section 2052.304 to read as follows:

Sec. 2052.304. USE OF CERTAIN PRINTING STOCK. (a) A state officer or board, court, commission, or other agency in the executive or judicial branch of state government may not publish a report or other printed materials on enamel-coated, cast-coated, or dull-coated printing stock unless the agency imposes a fee for receipt of the printed materials.

(b) This section does not apply to a publication that promotes tourism or economic development.

SECTION 13. Subdivision (6), Section 2054.003, Government Code, is amended to read as follows:

(6) "Information resources" means the procedures, equipment, and software that are employed, designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information, and associated personnel including consultants and contractors.

SECTION 14. Subchapter F, Chapter 2054, Government Code, is amended by adding Sections 2054.121 and 2054.122 to read as follows:

Sec. 2054.121. COORDINATION AMONG INSTITUTIONS OF HIGHER EDUCATION. An institution of higher education shall coordinate its use of information technologies with other such institutions to more effectively provide education, research, and community service.

Sec. 2054.122. COORDINATED TECHNOLOGY TRAINING. A state agency each calendar quarter shall coordinate agency training for the use of information resources technologies with training offered or coordinated by the department. The agency shall use training offered or coordinated by the department if it meets agency requirements and is cost-competitive.

SECTION 15. Subchapter C, Chapter 2101, Government Code, is amended by adding Section 2101.0377 to read as follows:

Sec. 2101.0377. REPORTING ACCOUNTING IRREGULARITIES TO STATE AUDITOR. On determining that a state agency, as defined by Section 658.001, or an institution of higher education, as defined by Section 61.003, Education Code, has inaccurately reported the expenditure of appropriated funds or engaged in recurring

accounting irregularities, the comptroller shall report the agency or institution to the state auditor for appropriate action, including a comprehensive financial audit.

SECTION 16. Subchapter B, Chapter 2155, Government Code, is amended by adding Section 2155.084 to read as follows:

Sec. 2155.084. PURCHASES FROM FEDERAL GOVERNMENT. (a) The commission or the governing body of an institution of higher education may negotiate purchases of goods of any kind needed by a state agency or the institution of higher education with the appropriate agency of the federal government. The governing body of an institution of higher education may act under this section either directly or through the commission or another state agency.

(b) The price of goods that are purchased from the federal government may not exceed the fair market value of the goods.

(c) In negotiating purchases of goods from the federal government under this section or under Subchapter G, Chapter 2175, the commission or the governing body of the institution of higher education may waive the requirement of a bidder's bond and performance bond that otherwise would be required.

SECTION 17. Subsection (a), Section 2155.132, Government Code, is amended to read as follows:

(a) A state agency is delegated the authority to purchase goods and services if the purchase does not exceed \$15,000. If the commission determines that a state agency has not followed the commission's rules or the laws related to the delegated purchases, the commission shall report its determination to the members of the state agency's governing body and to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board.

SECTION 18. Section 2155.268, Government Code, is amended to read as follows:

Sec. 2155.268. USE OF STATE AGENCY BIDDERS LIST. (a) A state agency may not maintain and use its own bidders list [~~only if the commission determines by rule that the agency has specialized needs that can best be met through maintaining and using its own specialized bidders list~~]. The prohibition of this subsection does not apply to the Texas Department of Transportation or to an institution of higher education as defined by Section 61.003, Education Code, but an institution of higher education should use the master bidders list when possible.

(b) [~~The commission by rule may prescribe the categories of purchases or other acquisitions for which a state agency's specialized bidders list may be used.~~

[~~(c)~~] A state agency may supplement the bidders list with its own list of historically underutilized businesses if it determines that the supplementation will increase the number of historically underutilized businesses that submit bids.

(c) [~~(d)~~] A state agency may purchase goods and services from a vendor who is not on the bidders list if the purchase price does not exceed \$5,000.

SECTION 19. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.4441 to read as follows:

Sec. 2155.4441. PREFERENCE UNDER SERVICE CONTRACTS. A state agency that contracts for services shall require the contractor, in performing the contract, to purchase products and materials produced in this state when they are available at a price and time comparable to products and materials produced outside this state.

SECTION 20. Subchapter A, Chapter 2158, Government Code, is amended by adding Section 2158.0031 to read as follows:



Sec. 2158.0031. PURCHASE PREFERENCE FOR AMERICAN VEHICLES. A state agency authorized to purchase passenger vehicles or other ground transportation vehicles for general use shall purchase economical, fuel-efficient vehicles assembled in the United States unless such a purchase would have a significant detrimental effect on the use to which the vehicles will be put.

SECTION 21. Sections 2161.001(2) and (3), Government Code, are amended to read as follows:

(2) "Historically underutilized business" means an entity with its principal place of business in this state that is:

(A) a corporation formed for the purpose of making a profit in which 51 percent or more of all classes of the shares of stock or other equitable securities are owned by one or more economically [~~socially~~] disadvantaged persons who have a proportionate interest and actively participate in the corporation's control, operation, and management;

(B) a sole proprietorship created for the purpose of making a profit that is completely owned, operated, and controlled by an economically [~~a socially~~] disadvantaged person;

(C) a partnership formed for the purpose of making a profit in which 51 percent or more of the assets and interest in the partnership are owned by one or more economically [~~socially~~] disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management;

(D) a joint venture in which each entity in the venture is a historically underutilized business, as determined under another paragraph of this subdivision; or

(E) a supplier contract between a historically underutilized business as determined under another paragraph of this subdivision and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the goods or otherwise warehouses and ships the goods.

(3) "Economically [~~Socially~~] disadvantaged person" means a person who is economically [~~socially~~] disadvantaged because of the person's identification as a member of a certain group, including Black Americans, Hispanic Americans, women, Asian Pacific Americans, and Native Americans, and who has suffered the effects of discriminatory practices or other similar insidious circumstances over which the person has no control.

SECTION 22. Section 2161.002, Government Code, is amended by adding Subsection (c) to read as follows:

(c) In adopting rules to administer this chapter, the commission shall adopt rules that are based on the results of the "State of Texas Disparity Study, A Report to the Texas Legislature as Mandated by H.B. 2626, 73rd Legislature, December 1994" (prepared by National Economic Research Associates, Inc.). The commission shall revise the rules in response to the findings of any updates of the study that are prepared on behalf of the state.

SECTION 23. Subchapter A, Chapter 2161, Government Code, is amended by adding Sections 2161.003, 2161.004, and 2161.005 to read as follows:

Sec. 2161.003. AGENCY RULES. A state agency, including an institution of higher education, shall adopt the commission's rules under Section 2161.002 as the agency's or institution's own rules. Those rules apply to the agency's construction projects and purchases of goods and services paid for with appropriated money without regard to whether a project or purchase is otherwise subject to this subtitle.

Sec. 2161.004. APPLICABILITY; INTENT. (a) This chapter and rules adopted by the commission under this chapter apply to state agency construction projects and purchases of goods and services that are paid for with appropriated money and made under the authority of this subtitle or other law.

(b) The legislature intends that all qualified businesses have access to compete for business from the state.

Sec. 2161.005. TRANSFER OF FUNDS FOR PURCHASING. If the state auditor reports to the commission under Section 2161.123(d) that a state agency is not complying with Section 2161.123, the commission shall report that fact to the Legislative Budget Board. If the Legislative Budget Board determines that, one year after the date of the state auditor's report to the commission, the agency is still not complying with Section 2161.123, the budget board may, under Section 69, Article XVI, Texas Constitution, direct the emergency transfer of the agency's appropriated funds for making purchases under purchasing authority delegated under Section 2155.131 or 2155.133 to the appropriate state agency. The amount transferred from the agency's funds to the appropriate agency shall be an amount determined by the Legislative Budget Board.

SECTION 24. Section 2161.122, Government Code, is amended by adding a new Subsection (c) and redesignating Subsections (c) and (d) as Subsections (d) and (e) to read as follows:

(c) Each state agency shall report to the commission in accordance with Section 2161.125 the following information with regard to the expenditure of both treasury and nontreasury funds:

(1) the total dollar amount of purchases and payments made under contracts awarded to historically underutilized businesses;

(2) the number of businesses participating in any issuance of state bonds by the agency;

(3) the number of contracts awarded to businesses with regard to the agency's acquisition, construction, or equipping of a facility or implementation of a program; and

(4) the number of bids, proposals, or other applicable expressions of interest made by historically underutilized businesses with regard to the agency's acquisition, construction, or equipping of a facility or implementation of a program.

(d) A state agency participating in a group purchasing program described under Section 2155.139(b) shall send to the commission in the agency's report under Section 2161.121 a separate list of purchases from historically underutilized businesses that are made through the group purchasing program, including the dollar amount of each purchase allocated to the reporting agency.

(e) ~~(d)~~ A state agency's report is a record of the agency's purchases for which the agency selected the vendor. If the vendor was selected by the commission as part of its state contract program, the commission shall include the purchase in the commission's report of its own purchases unless the commission made a sole source purchase for the agency under Section 2155.067. The state agency for which the purchase was made shall report the selection of the vendor on its report as if the agency selected the vendor when the agency drew specifications for goods or services that are proprietary to one vendor.

SECTION 25. Section 2161.123, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The commission and the state auditor shall cooperate to develop procedures to periodically monitor state agency compliance with this section. The state auditor shall report to the commission a state agency that is not complying with this section. In determining whether a state agency is making a good faith effort to comply, the state auditor shall consider whether the agency:

(1) has adopted rules under Section 2161.003; and

(2) has used the commission's directory under Section 2161.064 and other resources to identify historically underutilized businesses that are able and available to contract with the agency.

(e) If the state auditor reports to the commission that a state agency is not complying with this section, the commission shall assist the agency in complying.

SECTION 26. Section 2161.181, Government Code, is amended to read as follows:

Sec. 2161.181. GOALS FOR PURCHASES OF GOODS AND SERVICES. A state agency, including the commission, shall make a good faith effort to increase the ~~[assist historically underutilized businesses to receive not less than 30 percent of the total value of all]~~ contract awards for the purchase of goods or services that the agency expects to make during a fiscal year to historically underutilized businesses based on rules adopted by the commission to implement the disparity study described by Section 2161.002(c).

SECTION 27. Section 2161.182(a), Government Code, is amended to read as follows:

(a) A state agency that contracts for a construction project, including a project under Section 2166.003, shall make a good faith effort to increase the construction contract awards ~~[assist historically underutilized businesses to receive not less than 30 percent of the total value of each construction contract award]~~ that the agency expects to make during a fiscal year to historically underutilized businesses based on rules adopted by the commission to implement the disparity study described by Section 2161.002(c).

SECTION 28. Subsection (c), Section 2165.104, Government Code, is amended to read as follows:

(c) To the extent possible without sacrificing critical public or client services, the commission may not allocate usable office space, as defined by the commission, to a state agency under Article I, ~~[or] II, V, VI, VII, or VIII~~ of the General Appropriations Act or to the Texas Higher Education Coordinating Board, the Texas Education Agency, the State Board for Educator Certification, the Telecommunications Infrastructure Fund Board, or the Office of Court Administration of the Texas Judicial System in an amount that exceeds an average of 153 square feet per agency employee for each agency site. To the extent that any of those agencies allocates its own usable office space, as defined by the commission, the agency shall allocate the space to achieve the required ratio. This subsection does not apply to:

(1) an agency site at which fewer than 16 employees are located;

(2) warehouse space;

(3) laboratory space;

(4) storage space exceeding 1,000 gross square feet;

(5) library space;

(6) space for hearing rooms used to conduct hearings required under the administrative procedure law, Chapter 2001; or

(7) another type of space specified by commission rule, if the commission determines that it is not practical to apply this subsection to that space.

SECTION 29. Subchapter A, Chapter 2170, Government Code, is amended by adding Sections 2170.009 and 2170.010 to read as follows:

Sec. 2170.009. PAY TELEPHONES AUTHORIZED. (a) A pay telephone may be located in the Capitol Complex only with the approval of the commission. The commission shall collect the revenue from the installation and operation of the pay telephone and deposit it to the credit of the general revenue fund.

(b) In a state-owned or state-leased building or on state-owned land to which Subsection (a) does not apply, a pay telephone may be installed only with the approval of the governing body of the state entity that has charge and control of the building or land. The entity shall collect the revenue from the installation and operation of the pay telephone and deposit it to the credit of the general revenue fund unless the disposition of the revenue is governed by other law.

(c) The commission or other state entity shall account for the revenue collected under this section in the entity's annual report.

Sec. 2170.010. UNLISTED TELEPHONE NUMBERS PROHIBITED. A state agency and its officers and employees may not buy, rent, or pay toll charges for a telephone for which the telephone number is not listed or available from directory assistance to the general public unless the unlisted telephone number is used:

(1) to provide access to computers, telephone system control centers, long-distance networks, elevator control systems, and other tone-controlled devices for which restricted access to the telephone number is justified for security or other purposes;

(2) in narcotics undercover operations; or

(3) in the detection of illegal sales of securities.

SECTION 30. Section 2170.051, Government Code, is amended to read as follows:

Sec. 2170.051. MANAGEMENT AND USE OF SYSTEM. (a) The commission shall manage the operation of a system of telecommunications services for all state agencies. Each agency shall identify its particular requirements for telecommunications services and the site at which the services are to be provided.

(b) The commission shall fulfill the telecommunications requirements of each state agency to the extent possible and to the extent that money is appropriated or available for that purpose.

(c) A state agency shall use the consolidated telecommunications system to the fullest extent possible. A state agency may not acquire telecommunications services unless the telecommunications planning group determines that the agency's requirement for telecommunications services cannot be met at a comparable cost by the consolidated telecommunications system.

(d) A state agency may not enter into or renew a contract with a carrier or other provider of telecommunications services without obtaining a waiver from the telecommunications planning group certifying that the requested telecommunications services cannot be provided at a comparable cost on the consolidated telecommunications system. The telecommunications planning group shall evaluate requests for waivers based on cost-effectiveness to the state government as a whole. A waiver may be granted only for a specific period and will automatically expire on the stated expiration date unless an extension is approved by the telecommunications

planning group. A contract for telecommunications services obtained under waiver may not extend beyond the expiration date of the waiver. If the telecommunications planning group becomes aware of any state agency receiving telecommunications services without a waiver, the telecommunications planning group shall notify the agency and the comptroller. The state agency shall have 60 days after notification by the telecommunications planning group in which to submit a waiver request to the telecommunications planning group documenting the agency's reasoning for bypassing the consolidated telecommunications system and otherwise providing all information required by the waiver application form.

SECTION 31. Subsection (b), Section 2170.057, Government Code, is amended to read as follows:

(b) The comptroller shall establish in the state treasury a revolving fund account for the administration of this chapter. The account shall be used as a depository for money received from entities served. Receipts attributable to the centralized capitol complex telephone system shall be deposited into the account but separately identified within the account.

SECTION 32. Section 2201.002, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The fund may not be used to pay salaries.

SECTION 33. Chapter 2203, Government Code, is amended by adding Sections 2203.004 and 2203.005 to read as follows:

Sec. 2203.004. REQUIREMENT TO USE STATE PROPERTY FOR STATE PURPOSES. State property may be used only for state purposes. A person may not entrust state property to a state officer or employee or to any other person if the property is not to be used for state purposes.

Sec. 2203.005. VENDING MACHINES AUTHORIZED. (a) In a state-owned or state-leased building or on state-owned or state-leased property that is not served by a vendor operating under the supervision of the Texas Commission for the Blind, a vending machine may be located in the building or on the property only with the approval of the governing body of the state agency that has charge and control of the building or property. The approval must be recorded in the minutes of a meeting of the governing body.

(b) The state agency shall file with the General Services Commission a copy of all contracts between the state agency and the vendor related to the vending machine and a written description of the location of the vending machine.

(c) All rentals, commissions, or other net revenue the state agency receives in connection with the vending machine shall be accounted for as state money and deposited to the credit of the general revenue fund unless the disposition of the revenue is governed by other law. The state agency shall account for the revenue received under this section in the agency's annual report.

(d) In a state-owned or state-leased building or on state-owned or state-leased property that is served by a vendor operating under the supervision of the Texas Commission for the Blind, a vending machine may be located and operated in the building or on the property only under a joint contract with the owners of the vending machine and the vendor operating under the supervision of the Texas Commission for the Blind.

SECTION 34. Subchapter A, Chapter 2204, Government Code, is amended by adding Sections 2204.002 and 2204.003 to read as follows:

Sec. 2204.002. RESTRICTION ON ACQUISITION OF REAL PROPERTY. A state agency, as defined by Section 658.001, may not accept a gift or devise of real property or spend appropriated money to purchase real property without statutory authority or other legislative authorization.

Sec. 2204.003. GIFTS OF REAL PROPERTY TO INSTITUTIONS OF HIGHER EDUCATION. An institution of higher education, as defined by Section 61.003, Education Code, may accept a gift or devise of real property from a private entity to establish scholarships or professorships or to be held in trust for other educational purposes only if done consistently with rules and regulations adopted by the Texas Higher Education Coordinating Board pursuant to its power to adopt such rules and regulations under Chapter 61, Education Code.

SECTION 35. Section 2251.030, Government Code, is amended to read as follows:

Sec. 2251.030. PROMPT OR EARLY PAYMENT DISCOUNT. (a) The intent of the legislature is that a governmental entity should take advantage of an offer for an early payment discount. A state agency shall when possible negotiate a prompt payment discount with a vendor.

(b) A governmental entity may not take an early payment discount a vendor offers unless the governmental entity makes a full payment within the discount period.

(c) If a governmental entity takes an early payment discount later, the unpaid balance accrues interest beginning on the date the discount offer expires.

(d) A state agency, when paying for goods and services purchased under an agreement that includes a prompt or early payment discount, shall submit the necessary payment documents or information to the comptroller sufficiently in advance of the prompt or early payment deadline to allow the comptroller or the agency to pay the vendor in time to obtain the discount.

SECTION 36. Section 2252.901, Government Code, is amended to read as follows:

Sec. 2252.901. CONTRACTS WITH FORMER OR RETIRED AGENCY EMPLOYEES. (a) A state agency may not enter into an employment contract, a professional services contract under Chapter 2254, or a consulting services contract under Chapter 2254 with a former or retired employee of the agency before the first anniversary of the last date on which the individual was employed by the agency, if appropriated money will be used to make payments under the contract. This section does not prohibit an agency from entering into a professional services contract with a corporation, firm, or other business entity that employs a former or retired employee of the agency within one year of the employee's leaving the agency, provided that the former or retired employee does not perform services on projects for the corporation, firm, or other business entity that the employee worked on while employed by the agency.

(b) A state agency that contracts at any time with a retired agency employee to perform services substantially similar to the services the retiree performed for the agency during the last 12 months of service before retirement may not make payments under the contract from any source of revenue at an annualized rate that exceeds the lesser of:

- (1) the rate of compensation the retiree received from the state during the last 12 months of service before retirement; or
- (2) \$60,000.

(c) ~~(b)~~ The contract payment limitation provided by Subsection (b) ~~(a)~~ does not apply during the first six months a retiree performs services under a contract after retirement, except that if a retiree performs services under the contract for more than six months, the limitation applies to the entire term of the contract.

(d) ~~(c)~~ In this section:

(1) "Employment contract" includes a personal services contract regardless of whether the performance of the contract involves the traditional relationship of employer and employee. The term does not apply to an at-will employment relationship that involves the traditional relationship of employer and employee.

(2) "Retired agency employee" means a person:

(A) whose last state service before retirement was for the state agency with which the retiree contracts to perform services; and

(B) who is a retiree of:

(i) the employee class of membership of the Employees Retirement System of Texas; or

(ii) the Teacher Retirement System of Texas, the majority of whose service was credited in that system in a position with a state agency.

(3) ~~(2)~~ "State agency" includes a "public senior college or university," as that term is defined by Section 61.003, Education Code.

SECTION 37. Subchapter A, Chapter 2254, Government Code, is amended by adding Section 2254.0031 to read as follows:

Sec. 2254.0031. INDEMNIFICATION. A state governmental entity may require a contractor selected under this subchapter to indemnify or hold harmless the state from claims and liabilities resulting from the negligent acts or omissions of the contractor or persons employed by the contractor. A state governmental entity may not require a contractor to indemnify or hold harmless the state for claims or liabilities resulting from the negligent acts or omissions of the state governmental entity or its employees.

SECTION 38. Subchapter B, Chapter 205, Labor Code, is amended by adding Section 205.019 to read as follows:

Sec. 205.019. REIMBURSEMENT FROM NON-TREASURY FUNDS. (a) A branch, department, or other instrumentality of this state that reimburses the commission with funds that are held outside the state treasury shall reimburse the commission by writing a check to the commission for deposit into the appropriate unemployment compensation account. A deposit under this section shall be made not later than the 30th day after the date the instrumentality receives the commission's statement of amounts due.

(b) The commission shall send a copy of each statement of amounts due from a branch, department, or other instrumentality of this state that reimburses the commission with funds that are held outside the state treasury to the comptroller and the state auditor.

(c) A branch, department, or other instrumentality affected by this section may allocate appropriate funds to a revolving account on its books to receive contributions from funds other than general revenue funds, based on an assessment it determines to be appropriate for the purpose of reimbursing the appropriate unemployment compensation account for benefits paid.

(d) The state auditor shall review affected entities for compliance with this section.

SECTION 39. The chapter heading to Chapter 506, Labor Code, is amended to read as follows:

CHAPTER 506. MISCELLANEOUS PROVISIONS APPLICABLE TO GOVERNMENT EMPLOYEES [PAYMENT OF CERTAIN JUDGMENTS]

SECTION 40. Chapter 506, Labor Code, is amended by adding Section 506.002 to read as follows:

Sec. 506.002. REIMBURSEMENT FROM NON-TREASURY FUNDS. (a) An agency or other instrumentality of state government that, with funds that are held outside the state treasury, reimburses the general revenue fund for workers' compensation payments made out of the general revenue fund to former or current employees of the agency or other instrumentality shall reimburse the general revenue fund by writing a check to the comptroller:

- (1) for deposit into the appropriate account in the general revenue fund; and
- (2) not later than 30 days after receiving the statement of amounts due.

(b) The workers' compensation division of the office of the attorney general shall send to the comptroller and the state auditor a copy of each statement of amounts due from an agency or other instrumentality of state government that, with funds that are held outside the state treasury, reimburses the general revenue fund for workers' compensation payments made out of the general revenue fund.

(c) An agency or other instrumentality of state government affected by this section may allocate appropriate funds to a revolving account on its books to receive contributions from funds other than general revenue funds, based on an assessment it determines to be appropriate for the purpose of reimbursing the general revenue fund for the workers' compensation payments made to its current or former employees.

(d) The state auditor shall review affected entities for compliance with this section.

SECTION 41. Subchapter D, Chapter 11, Natural Resources Code, is amended by adding Section 11.0791 to read as follows:

Sec. 11.0791. OTHER PROVISIONS REGARDING ACCESS TO STATE LANDS. When a state governmental entity sells state land, the entity shall require that the state have the right of ingress and egress to remaining state land in the immediate area by an easement to a public thoroughfare.

SECTION 42. Subchapter D, Chapter 11, Natural Resources Code, is amended by adding Section 11.083 to read as follows:

Sec. 11.083. RETENTION OF MINERAL RIGHTS. The state shall retain the mineral rights to state land that is sold unless it is impractical to do so.

SECTION 43. Section 31.401, Natural Resources Code, is amended to read as follows:

Sec. 31.401. NATURAL GAS ACQUISITION CONTRACTS. (a) The land office shall review and must approve any contract entered into by a state agency for the acquisition of an annual average of 100 MCF per day or more of natural gas used to meet its [in the production of] energy requirements.

(b) Before approving a contract described by Subsection (a) of this section, the land office shall ensure that the agency, to meet its energy requirements, is using, to the greatest extent practical, natural gas produced from land leased from:

- (1) the school land board;
- (2) a board for lease other than the Board for Lease of University Lands; or
- (3) the surface owner of Relinquishment Act land.



(c) If the land office is able to substitute a contract using in-kind royalty gas from state-owned lands or using other gas for a contract under which a state agency acquires or proposes to acquire its natural gas supplies, the commissioner shall inform the comptroller each month of the amount of savings attributable to the substitution.

(d) In this section, "state agency" has the meaning assigned by Subchapter A, Chapter 572, Government Code.

SECTION 44. Subsection (d), Section 403.273, Government Code, is repealed.

SECTION 45. Subsection (c), Section 2165.104, Government Code, as amended by this Act, does not apply to the Texas Higher Education Coordinating Board or the State Board for Educator Certification until the expiration of all leases under which the board occupies office space on the effective date of this Act.

SECTION 46. This Act does not affect the authority of an institution of higher education to collect, account for, and control local funds and institutional funds in the manner authorized by Subchapter A, Chapter 51, Education Code.

SECTION 47. This section provides, for information purposes only, a derivation table for the provisions of the General Appropriations Act that are codified in general law by other sections of this Act. The first column identifies the codified law; all references are to the Government Code unless otherwise noted. The second column identifies for each codified law the applicable source provision in Article IX of the General Appropriations Act for the fiscal biennium ending August 31, 1999 (Chapter 1452, Acts of the 75th Legislature, Regular Session, 1997).

| <u>Codified Law</u>                               | <u>Source Provision</u> |
|---|-------------------------|
| Sec. 101.027(a), Civil Practice and Remedies Code | Sec. 61                 |
| Sec. 106.001(c), Civil Practice and Remedies Code | Sec. 124.11             |
| Sec. 306.007                                      | Sec. 40.2               |
| Sec. 321.013(c)                                   | Sec. 176, 124.8 (part)  |
| Sec. 321.014(c)                                   | Sec. 91                 |
| Sec. 325.011(9)(b)                                | Sec. 124.10             |
| Sec. 403.097                                      | Sec. 32.2               |
| Sec. 403.245(b)                                   | Sec. 126                |
| Sec. 771.008(d)                                   | Sec. 78                 |
| Sec. 811.001(7)                                   | Sec. 181, last sent.    |
| Sec. 2001.039                                     | Sec. 167                |
| Sec. 2052.304                                     | Sec. 40.3               |
| Sec. 2054.003(6)                                  | Sec. 43.1.a             |
| Sec. 2054.121                                     | Sec. 43.5               |
| Sec. 2054.122                                     | Sec. 156                |
| Sec. 2101.0377                                    | Sec. 70                 |
| Sec. 2155.084                                     | Sec. 135, 1st 2 par.    |
| Sec. 2155.132(a)                                  | Sec. 90                 |
| Sec. 2155.268                                     | Sec. 56                 |
| Sec. 2155.4441                                    | Sec. 53                 |
| Sec. 2158.0031                                    | Sec. 20.3, 1st sent.    |
| Sec. 2161.001(2), (3)                             | Sec. 124.3              |

|                                      |                               |
|--------------------------------------|-------------------------------|
| Sec. 2161.002(c)                     | Sec. 124.5                    |
| Sec. 2161.003                        | Sec. 124.2, 124.5             |
| Sec. 2161.004                        | Sec. 124.1, 124.2             |
| Sec. 2161.005                        | Sec. 124.9                    |
| Sec. 2161.122(c)                     | Sec. 124.6, 124.7             |
| Sec. 2161.123(d)-(e)                 | Sec. 124.8, 124.9             |
| Sec. 2161.181                        | Sec. 124.5                    |
| Sec. 2161.182(a)                     | Sec. 124.5                    |
| Sec. 2165.104(c)                     | Sec. 154, except last sent.   |
| Sec. 2170.009                        | Sec. 111 (most)               |
| Sec. 2170.010                        | Sec. 141                      |
| Secs. 2170.051(c), (d)               | Sec. 140                      |
| Sec. 2170.057(b)                     | Sec. 139, 2nd par.            |
| Sec. 2201.002(c)                     | Sec. 150.2                    |
| Sec. 2203.004                        | Sec. 149                      |
| Sec. 2203.005                        | Sec. 110 (most)               |
| Sec. 2204.002                        | Sec. 135, 3rd par., 1st sent. |
| Sec. 2204.003                        | Sec. 135, 3rd par., 2nd sent. |
| Sec. 2251.030                        | Sec. 79                       |
| Sec. 2252.901                        | Sec. 52                       |
| Sec. 2254.0031                       | Sec. 51                       |
| Sec. 205.019, Labor Code             | Sec. 80 (part)                |
| Sec. 506.002, Labor Code             | Sec. 81 (part)                |
| Sec. 11.0791, Natural Resources Code | Sec. 148, 1st par.            |
| Sec. 11.083, Natural Resources Code  | Sec. 147                      |
| Sec. 31.401, Natural Resources Code  | Sec. 144 (part)               |

SECTION 48. This Act takes effect September 1, 1999.

SECTION 49. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Ratliff moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 178** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ratliff, Chair; Truan, Duncan, Moncrief, and Fraser.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1272**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 17, 1999

Honorable Rick Perry  
President of the Senate

Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1272** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WENTWORTH  
LUCIO  
ARMBRISTER  
BROWN  
BIVINS

B. TURNER  
KEEL  
WALKER  
F. BROWN

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the authority of a political subdivision to prepare and implement a regional habitat conservation plan or habitat conservation plan or to enter into a conservation agreement.

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

SECTION 1. Chapter 83, Parks and Wildlife Code, is amended by designating Sections 83.001 through 83.004 as Subchapter A and adding a heading to Subchapter A to read as follows:

SUBCHAPTER A. FEDERAL-STATE AGREEMENTS

SECTION 2. Subchapter A, Chapter 83, Parks and Wildlife Code, as designated by this Act, is amended by adding Section 83.005 to read as follows:

Sec. 83.005. CONSERVATION AGREEMENTS FOR PROTECTION OF SPECIES. (a) Any conservation agreement between a political subdivision of the state and the United States Department of the Interior must be developed in consultation with the Parks and Wildlife Department.

(b) In this section, "conservation agreement" includes an agreement between the state or a political subdivision of the state and the United States Department of the Interior under the federal act that does not relate to a federal permit as defined by Section 83.011.

SECTION 3. Chapter 83, Parks and Wildlife Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. HABITAT  
PROTECTION BY POLITICAL SUBDIVISIONS

Sec. 83.011. DEFINITIONS. In this chapter:

(1) "Biological advisory team" means three or more professional biologists retained to provide biological guidance to plan participants.

(2) "Endangered species" means a species listed by the United States Department of the Interior as endangered or threatened under the federal act.

(3) "Federal act" means the federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.), as amended.

(4) "Federal permit" means a permit issued under Section 7 or 10(a) of the federal act.

(5) "Governmental entity" means a political subdivision of the state, including:

(A) a municipality; and

(B) a county.

(6) "Habitat conservation plan" means a plan or program to protect endangered species by habitat preserves or other protection strategies developed in order to obtain a federal permit:

(A) that does not require the regulation of non-habitat preserve land; and

(B) for which the land to be used as habitat preserves, at the time of application for the federal permit:

(i) is owned by a plan participant; or

(ii) is subject to a contract agreed to by each owner of land in the habitat preserve or proposed habitat preserve providing that all or part of the owner's land be used or managed as a habitat preserve.

(7) "Habitat preserve" means land set aside or managed for the protection of endangered species under a federal permit.

(8) "Harm" means significant habitat modification or degradation that, by significantly impairing essential behavioral patterns, including breeding, feeding, sheltering, or migrating, is the proximate cause of:

(A) the death of a member of an endangered species; or

(B) the physical injury of a member of an endangered species.

(9) "Land development standards" means rules or ordinances regulating the development of land, including impervious cover limitations, building setbacks, zoning, floor-to-area ratios, building coverage, water quality controls and regulations, landscaping, building height, development setbacks, compatibility standards, traffic analyses, driveway cuts, impact fees, and transfer of development rights. The term does not include fire or building codes or restrictions on the withdrawal of groundwater.

(10) "Mitigation fee" means a charge or in-kind contribution that is based on the amount of harm and is paid or provided to a plan participant in exchange for mitigation credit to be used to comply with the federal act.

(11) "Plan participant" means a governmental entity that develops, attempts to develop, adopts, approves, or participates in a regional habitat conservation plan or habitat conservation plan.

(12) "Regional habitat conservation plan" means a plan or program to protect endangered species by habitat preserves or other protection strategies developed in order to obtain a federal permit that requires the acquisition or regulation of land or interests in land not owned by a plan participant at the time of application for a federal permit.

Sec. 83.012. PURPOSE. The purpose of this subchapter is to:

(1) establish the requirements for and authority of a governmental entity to regulate wildlife through the development, financing, and implementation of a regional habitat conservation plan or a habitat conservation plan;

(2) encourage governmental entities to use the authority under this subchapter to develop and implement habitat conservation plans instead of regional habitat conservation plans;

(3) coordinate, to the greatest extent practicable, habitat preserves with lands set aside or to be set aside under local, state, or federal laws or regulations;

(4) prohibit plan participants from devaluing land containing endangered species or endangered species habitat through plan participant actions; and

(5) require plan participants of existing regional habitat conservation plans to comply with the requirements of this subchapter so that existing regional habitat conservation plans become habitat conservation plans as quickly as possible.

Sec. 83.013. AUTHORITY OF DEPARTMENT OR POLITICAL SUBDIVISION. (a) The department or a political subdivision may participate in the study and preparation for and creation of a habitat conservation plan.

(b) Subject to this subchapter, the department or a political subdivision may participate in the study and preparation for and creation of a regional habitat conservation plan.

(c) Subject to this subchapter, a political subdivision, including a municipality acting within its corporate limits or its extraterritorial jurisdiction, in order to facilitate the creation of a habitat preserve and the setting aside of land to protect a species protected under a conservation agreement, may:

(1) purchase land, easements, or leases; and

(2) enter into an agreement with a landowner to establish alternative land development standards for a tract of land.

(d) A plan participant may apply for a federal permit in conjunction with a regional habitat conservation plan only if the qualified voters of a plan participant have authorized the issuance of bonds or other debt financing in an amount equal to the estimated cost of acquiring all land for habitat preserves within the time required by this subchapter or the plan participant has demonstrated that adequate sources of funding exist to acquire all land for habitat preserves within the time required by this subchapter.

(e) A governmental entity may not implement a regional habitat conservation plan or apply for a federal permit in conjunction with a regional habitat conservation plan if:

(1) the federal act is repealed; or

(2) the endangered species that are subject to conservation and protection under the federal permit cease to be listed as endangered or threatened by the United States Department of the Interior.

Sec. 83.014. LIMITATION OF POWERS. (a) A governmental entity may not impose a regulation, rule, or ordinance related to endangered species unless the regulation, rule, or ordinance is necessary to implement a habitat conservation plan or regional habitat conservation plan for which the governmental entity was issued a federal permit. This subsection does not limit the authority of a governmental entity to adopt a rule, regulation, or ordinance restricting the withdrawal of groundwater.

(b) A governmental entity may not discriminate against a permit application, permit approval, or the provision of utility service for land that:

(1) is or has been designated as habitat preserve or potential habitat preserve in a regional habitat conservation plan or habitat conservation plan;

(2) is designated as critical habitat under the federal act; or

(3) has endangered species or endangered species habitat.

(c) A governmental entity may not deny or limit available water or wastewater service to land in the service area of the governmental entity that has been designated as habitat preserve or potential habitat preserve in a regional habitat conservation plan or in a habitat conservation plan. For purposes of this subsection, a governmental entity may not remove land from its water or wastewater utility service areas after the date established under Section 83.018(b).

(d) A governmental entity may not, as a condition for the issuance of a permit, approval, or service, require a person to:

(1) pay a mitigation fee to a plan participant;

(2) set aside, lease, or convey land as habitat preserve; or

(3) pay a mitigation fee for land set aside or restricted from development under local, state, or federal law or regulation.

Sec. 83.015. BIOLOGICAL REVIEW; CRITERIA. (a) A regional habitat conservation plan, including any mitigation fee, shall be based on the amount of harm to each endangered species to be protected under the regional habitat conservation plan.

(b) The size of proposed habitat preserves shall be based solely on the amount of harm to the endangered species to be protected in the regional habitat conservation plan.

(c) The plan participants, together with the commission and the landowner members of the citizens advisory committee, shall appoint a biological advisory team. At least one member shall be appointed by the commission and one member by the landowner members of the citizens advisory committee. The member appointed by the commission serves as presiding officer of the team. The team shall assist in:

(1) the calculation of harm to the endangered species; and

(2) the sizing and configuring of the habitat preserves.

(d) Meetings of the biological advisory team are subject to the open meetings law, Chapter 551, Government Code, and all work product of the biological advisory team is subject to the open records law, Chapter 552, Government Code.

Sec. 83.016. CITIZENS ADVISORY COMMITTEE. (a) The plan participants shall appoint a citizens advisory committee to assist in preparing the regional habitat conservation plan and the application for a federal permit.

(b) At least four members or 33 percent of the citizens advisory committee, whichever is greater in number, must own undeveloped land or land in agricultural use in the regional habitat conservation plan area. A landowner member may not be an employee or elected official of a plan participant or any other local, state, or federal governmental entity.

(c) Not later than the 90th day after the initial identification of the proposed preserve system for the regional habitat conservation plan, the plan participants shall appoint one additional landowner, who owns land within the proposed habitat preserve system, to the citizens advisory committee. The additional landowner member must comply with Subsection (b).

(d) The commission shall appoint one representative to the citizens advisory committee. The commission's representative is a voting member of the committee.

Sec. 83.017. DEVELOPMENT OF REGIONAL HABITAT CONSERVATION PLAN. (a) Meetings of the citizens advisory committee and meetings of the plan participants regarding planning, development, and implementation of the regional habitat conservation plan are subject to the open meetings law, Chapter 551, Government Code.

(b) All data, reports, and other information regarding the regional habitat conservation plan, including field notes, lab notes, and any other information relied on by the biological advisory team, are subject to the open records law, Chapter 552, Government Code.

(c) Not later than the 60th day after the initial identification of the proposed habitat preserve system for the federal permit, the plan participants shall notify in writing each owner of land identified by the plan participants as habitat preserve or potential habitat preserve. The plan participants shall use the county tax rolls to identify the owners of land identified as habitat preserve or potential habitat preserve. The written notice must include at least the following information:

(1) the tax identification and parcel numbers;

(2) the owner's name and address;

(3) an explanation of the designation or possible designation of the tract as habitat preserve or potential habitat preserve under the regional habitat conservation plan;

(4) identification of the citizens advisory committee members, including telephone numbers, addresses, and the group that each committee member represents;

(5) identification of employees or agents of plan participants who can provide information about the regional habitat conservation plan;

(6) the date of the next citizens advisory committee meeting or plan participant meeting regarding the regional habitat conservation plan; and

(7) a description of the status of the regional habitat conservation plan.

Sec. 83.018. PRESERVE ACQUISITION. (a) The designation of a tract of land as habitat preserve or potential habitat preserve or the presence of endangered species or endangered species habitat may not be considered in determining the fair market value of the property for acquisition as a habitat preserve.

(b) A change to plan participant rules and regulations, including land development standards, that occurs after the earliest date that the biological advisory team, citizens advisory committee, or plan participant initially identifies a tract of land as habitat preserve or potential habitat preserve may not be considered in determining the fair market value of the land for acquisition as a habitat preserve.

(c) The plan participants shall make offers based on fair market value to the landowners for the acquisition of fee simple or other interest in land designated in the regional habitat conservation plan as habitat preserve not later than two years after the issuance of the federal permit or three years after the initial application for the federal permit, whichever is earlier. Acquisition of all habitat preserves must be completed not later than the fourth anniversary of the date on which the federal permit was issued. A plan participant subject to this subsection who does not meet an applicable deadline shall file an application to amend the federal permit to remove the nonacquired habitat preserve land from the regional habitat conservation plan as a habitat preserve not later than the 60th day after the fourth anniversary of the date on which the federal permit was issued.

Sec. 83.019. NOTICE AND HEARING REQUIREMENTS. (a) A plan participant must comply with the notice and hearing requirements of this section before adopting any regional habitat conservation plan, plan amendment, ordinance, budget, fee schedule, rule, regulation, or order to implement this subchapter.

(b) The plan participant, individually or through interlocal contract, shall publish a notice, including a brief description of the proposed action and the time and place of

a public hearing on the proposed action, not later than the 30th day before the public hearing in the newspaper of largest general circulation in the county in which the plan participant proposing the action is located.

(c) A public hearing on the proposed action shall be held at the time and place specified in the notice.

Sec. 83.020. GRIEVANCE WITH DEVELOPMENT OF REGIONAL HABITAT CONSERVATION PLAN. (a) An individual appointed to a citizens advisory committee under Section 83.016(b) may file a grievance with the commission regarding the development of a regional habitat conservation plan under this subchapter if the individual believes that the plan is being developed in violation of this subchapter. The individual filing the grievance must have been a member of the citizens advisory committee for the plan named in the grievance.

(b) A grievance must be filed under this section not later than the 60th day after the date the plan is approved by the plan participants. The grievance must cite each provision of this subchapter alleged to have been violated during the development of the plan and must describe each act alleged to have violated this subchapter.

(c) The commission shall review a grievance filed under this section to determine whether the plan is being developed in compliance with this subchapter. If after reviewing the grievance the commission finds that the grievance has no merit, the commission may dismiss the grievance. If the commission finds that the grievance does have merit, the commission must hold a public hearing in accordance with Chapter 551, Government Code. The commission shall take testimony from each plan participant and from the individual filing the grievance. On conclusion of testimony, the commission shall vote on whether to approve or dismiss the grievance or to schedule a public hearing not later than the 30th day after the conclusion of the initial public hearing and to vote after the conclusion of that hearing whether to approve or dismiss the grievance.

(d) If the commission approves the grievance, the commission shall instruct the plan participant or participants to amend the plan so that it will comply with this subchapter. The plan participant may not submit an application for a federal permit until the commission is satisfied that its instructions to amend the plan to comply with this subchapter have been carried out.

(e) A plan participant in a plan that is the subject of a grievance filed with the commission may not submit an application for a federal permit before the commission:

(1) has dismissed the grievance; or

(2) if the commission approves the grievance, has determined that the commission's recommended amendments to the plan have been made.

(f) If an individual files a grievance under this section, that individual may not file a subsequent grievance.

SECTION 4. (a) Section 83.006, Parks and Wildlife Code, is repealed.

(b) The repeal by this Act of Section 83.006, Parks and Wildlife Code, notwithstanding, a county may continue to enforce a regional habitat conservation plan that has been formally approved by the United States Fish and Wildlife Service as authorized by Section 83.006(c)(2), Parks and Wildlife Code, as that section existed immediately before its repeal by this Act, and that former law is continued in effect for that purpose.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act applies only to a regional habitat conservation plan for which an application for a federal permit was submitted on or after January 1, 1999.



(b) Subsections (a) and (b), Section 83.018, Parks and Wildlife Code, as added by this Act, apply to the acquisition of land by a regional habitat conservation plan for which a federal permit was issued before September 1, 1999, regardless of the date the application was submitted.

SECTION 6. This Act takes effect September 1, 1999.

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 445**

Senator Moncrief submitted the following Conference Committee Report:

Austin, Texas  
May 20, 1999

Honorable Rick Perry  
President of the Senate

Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 445** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MONCRIEF

RATLIFF

SHAPLEIGH

MADLA

NELSON

On the part of the Senate

GRAY

AVERITT

COLEMAN

MAXEY

MARCHANT

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to a child health plan for certain low-income children.

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

SECTION 1. Subtitle C, Title 2, Health and Safety Code, is amended by adding Chapters 62 and 63 to read as follows:

CHAPTER 62. CHILD HEALTH PLAN  
FOR CERTAIN LOW-INCOME CHILDREN  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 62.001. OBJECTIVE OF THE STATE CHILD HEALTH PLAN. The principal objective of the state child health plan is to provide primary and preventative health care to low-income, uninsured children of this state, including children with special health care needs, who are not served by or eligible for other state assisted health insurance programs.

Sec. 62.002. DEFINITIONS. In this chapter:

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

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

(3) "Health plan provider" means an insurance company, health maintenance organization, or other entity that provides health benefits coverage under the child health plan program. The term includes a primary care case management provider network.

(4) "Net family income" means the amount of income established for a family after reduction for offsets for expenses such as child care and work-related expenses, in accordance with standards applicable under the Medicaid program.

Sec. 62.003. NOT AN ENTITLEMENT; TERMINATION OF PROGRAM. (a) This chapter does not establish an entitlement to assistance in obtaining health benefits for a child.

(b) The program established under this chapter terminates at the time that federal funding terminates under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, unless a successor program providing federal funding for a state-designed child health plan program is created.

(c) Unless the legislature authorizes the expenditure of other revenue for the program established under this chapter, the program terminates on the date that money obtained by the state as a result of the Comprehensive Settlement Agreement and Release filed in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas, is no longer available to provide state funding for the program.

Sec. 62.004. FEDERAL LAW AND REGULATIONS. The commissioner shall monitor federal legislation affecting Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.) and changes to the federal regulations implementing that law. If the commissioner determines that a change to Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.) or the federal regulations implementing that law conflicts with this chapter, the commissioner shall report the changes to the governor, lieutenant governor, and speaker of the house of representatives, with recommendations for legislation necessary to implement the federal law or regulations, seek a waiver, or withdraw from participation.

[Sections 62.005 to 62.050 reserved for expansion]

#### SUBCHAPTER B. ADMINISTRATION OF CHILD HEALTH PLAN PROGRAM

Sec. 62.051. DUTIES OF COMMISSION. (a) The commission shall develop a state-designed child health plan program to obtain health benefits coverage for children in low-income families. The commission shall ensure that the child health plan program is designed and administered in a manner that qualifies for federal funding under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, and any other applicable law or regulations.

(b) The commission is the agency responsible for making policy for the child health plan program, including policy related to covered benefits provided under the child health plan. The commission may not delegate this duty to another agency or entity.

(c) The commission shall oversee the implementation of the child health plan program and coordinate the activities of each agency necessary to the implementation of the program, including the Texas Department of Health, Texas Department of Human Services, and Texas Department of Insurance.

(d) The commission shall adopt rules as necessary to implement this chapter. The commission may require the Texas Department of Health, the Texas Department of

Human Services, or any other health and human services agency to adopt, with the approval of the commission, any rules that may be necessary to implement the program. With the consent of another agency, including the Texas Department of Insurance, the commission may delegate to that agency the authority to adopt, with the approval of the commission, any rules that may be necessary to implement the program.

(e) The commission shall conduct a review of each entity that enters into a contract under Section 62.055 or Section 62.155, to ensure that the entity is available, prepared, and able to fulfill the entity's obligations under the contract in compliance with the contract, this chapter, and rules adopted under this chapter.

(f) The commission shall ensure that the amounts spent for administration of the child health plan program do not exceed any limit on those expenditures imposed by federal law.

Sec. 62.052. DUTIES OF TEXAS DEPARTMENT OF HEALTH. (a) The commission may direct the Texas Department of Health to:

(1) implement contracts with health plan providers under Section 62.155;

(2) monitor the health plan providers, through reporting requirements and other means, to ensure performance under the contracts and quality delivery of services;

(3) monitor the quality of services delivered to enrollees through outcome measurements including:

(A) rate of hospitalization for ambulatory sensitive conditions, including asthma, diabetes, epilepsy, dehydration, gastroenteritis, pneumonia, and UTI/kidney infection;

(B) rate of hospitalization for injuries;

(C) percent of enrolled adolescents reporting risky health behavior such as injuries, tobacco use, alcohol/drug use, dietary behavior, physical activity, or other health related behaviors; and

(D) percent of adolescents reporting attempted suicide; and

(4) provide payment under the contracts to the health plan providers.

(b) The commission, or the Texas Department of Health under the direction of and in consultation with the commission, shall adopt rules as necessary to implement this section.

Sec. 62.053. DUTIES OF TEXAS DEPARTMENT OF HUMAN SERVICES. (a) Under the direction of the commission, the Texas Department of Human Services may:

(1) accept applications for coverage under the child health plan and implement the child health plan program eligibility screening and enrollment procedures;

(2) resolve grievances relating to eligibility determinations; and

(3) coordinate the child health plan program with the Medicaid program.

(b) If the commission contracts with a third party administrator under Section 62.055, the commission may direct the Texas Department of Human Services to:

(1) implement the contract;

(2) monitor the third party administrator, through reporting requirements and other means, to ensure performance under the contract and quality delivery of services; and

(3) provide payment under the contract to the third party administrator.

(c) The commission, or the Texas Department of Human Services under the direction of and in consultation with the commission, shall adopt rules as necessary to implement this section.

Sec. 62.054. DUTIES OF TEXAS DEPARTMENT OF INSURANCE. (a) At the request of the commission, the Texas Department of Insurance shall provide any necessary assistance with the development of the child health plan. The department shall monitor the quality of the services provided by health plan providers and resolve grievances relating to the health plan providers.

(b) The commission and the Texas Department of Insurance may adopt a memorandum of understanding that addresses the responsibilities of each agency in developing the plan.

(c) The Texas Department of Insurance, in consultation with the commission, shall adopt rules as necessary to implement this section.

Sec. 62.055. CONTRACTS FOR IMPLEMENTATION OF CHILD HEALTH PLAN. (a) It is the intent of the legislature that the commission maximize the use of private resources in administering the child health plan created under this chapter. In administering the child health plan, the commission may contract with:

(1) a third party administrator to provide enrollment and related services under the state child health plan; or

(2) another entity, including the Texas Healthy Kids Corporation under Subchapter F, Chapter 109, to obtain health benefit plan coverage for children who are eligible for coverage under the state child health plan.

(b) If the commission contracts with the Texas Healthy Kids Corporation under Subchapter F, Chapter 109, to administer any part of the child health plan created under this chapter, the commission, prior to entering into any contract with the corporation, shall conduct a readiness review of the corporation to determine that the corporation and its contractors are able to implement the child health plan on a statewide basis. Notwithstanding the foregoing, if the board of directors of the corporation, by a vote of the board, determines that the corporation is unable to implement the child health plan on a statewide basis, the commission may not contract with the corporation under this section.

(c) The commission's review of the corporation and its contractors under Subsection (b) shall be based at a minimum on the following criteria:

(1) adequate and appropriate staffing, including contracts with third parties;

(2) adequate and properly documented policies and procedures;

(3) fiscal soundness;

(4) compliance with all applicable federal and state standards, rules, and regulations;

(5) necessary accommodations for the needs of families with special needs children;

(6) necessary partnerships with other programs addressing children's health care needs; and

(7) adequate information systems, electronic interfaces, and business processes.

(d) A third party administrator or other entity may perform tasks under the contract that would otherwise be performed by the Texas Department of Health or Texas Department of Human Services under this chapter.

(e) The commission shall:

(1) retain all policymaking authority over the state child health plan;

(2) procure all contracts with a third party administrator or other entity through a competitive procurement process in compliance with all applicable federal and state laws or regulations; and

(3) ensure that all contracts with child health plan providers under Section 62.155 are procured through a competitive procurement process in compliance with all applicable federal and state laws or regulations.

Sec. 62.056. COMMUNITY OUTREACH CAMPAIGN; TOLL-FREE HOTLINE. (a) The commission shall conduct a community outreach and education campaign to provide information relating to the availability of health benefits for children under this chapter. The commission shall conduct the campaign in a manner that promotes enrollment in, and minimizes duplication of effort among, all state administered child health programs and, subject to the approval of the board of the Texas Healthy Kids Corporation, the program offered under Chapter 109.

(b) The community outreach campaign must include:

(1) outreach efforts that involve school-based health clinics; and

(2) a toll-free telephone number through which families may obtain information about health benefits coverage for children.

(c) The commission shall contract with community-based organizations or coalitions of community-based organizations to implement the community outreach campaign and shall also promote and encourage voluntary efforts to implement the community outreach campaign. The commission shall procure the contracts through a process designed by the commission to encourage broad participation of organizations, including those organizations that target population groups with high levels of uninsured children.

(d) The commission may direct that the Texas Department of Health or the Texas Department of Human Services perform all or part of the community outreach campaign.

Sec. 62.057. REGIONAL ADVISORY COMMITTEES. (a) Not later than the 180th day before the date on which the commission plans to begin to provide health coverage to recipients through the child health plan program, the commission shall appoint regional advisory committees to provide recommendations on the implementation and operation of the child health plan program.

(b) The advisory committees, to the extent possible, must be composed of representatives of:

(1) hospitals;

(2) insurance companies and health maintenance organizations eligible to offer the health benefits coverage under the child health plan;

(3) primary care providers;

(4) consumer advocates, including advocates for children with special health care needs;

(5) parents of children who are enrolled in the child health plan;

(6) rural health care providers;

(7) specialty health care providers, including pediatric providers;

(8) community-based organizations that provide community outreach under Section 62.056; and

(9) state agencies.

(c) The commission shall establish the regional advisory committees, consistent with Subsection (b), in regions of this state in a manner that ensures geographic representation.

(d) In implementing this section, the commission may use other regional advisory structures, augmented to ensure the representation required by Subsection (b), to the extent necessary to avoid duplication of administrative activities.

(e) The advisory committees shall meet at least quarterly and are subject to Chapter 551, Government Code.

(f) Section 2110.008, Government Code, does not apply to the advisory committees.

Sec. 62.058. FRAUD PREVENTION. The commission shall develop and implement rules for the prevention and detection of fraud in the child health plan program.

[Sections 62.059 to 62.100 reserved for expansion]

SUBCHAPTER C. ELIGIBILITY FOR  
COVERAGE UNDER CHILD HEALTH PLAN

Sec. 62.101. ELIGIBILITY. (a) A child is eligible for health benefits coverage under the child health plan if the child:

(1) is younger than 19 years of age;

(2) is not eligible for medical assistance under the Medicaid program;

(3) is not covered by a health benefits plan offering adequate benefits, as determined by the commission;

(4) has a family income that is less than or equal to the income eligibility level established under Subsection (b); and

(5) satisfies any other eligibility standard imposed under the child health plan program in accordance with 42 U.S.C. Section 1397bb, as amended, and any other applicable law or regulations.

(b) The commission shall establish income eligibility levels consistent with Title XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, and any other applicable law or regulations, and subject to the availability of appropriated money, so that a child who is younger than 19 years of age and whose net family income is at or below 200 percent of the federal poverty level is eligible for health benefits coverage under the program.

(c) The commissioner shall evaluate enrollment levels and program impact every six months during the first 12 months of implementation and at least annually thereafter and shall submit a finding of fact to the Legislative Budget Board and the Governor's Office of Budget and Planning as to the adequacy of funding and the ability of the program to sustain enrollment at the eligibility level established by Subsection (b). In the event that appropriated money is insufficient to sustain enrollment at the authorized eligibility level, the commissioner shall:

(1) suspend enrollment in the child health plan;

(2) establish a waiting list for applicants for coverage; and

(3) establish a process for periodic or continued enrollment of applicants in the child health plan program as the availability of money allows.

Sec. 62.102. CONTINUOUS COVERAGE. The commission shall provide that an individual who is determined to be eligible for coverage under the child health plan remains eligible for those benefits until the earlier of:

(1) the end of a period, not to exceed 12 months, following the date of the eligibility determination; or

(2) the individual's 19th birthday.

Sec. 62.103. APPLICATION FORM AND PROCEDURES. (a) The commission, or the Texas Department of Human Services at the direction of and in consultation with the commission, shall adopt an application form and application procedures for requesting child health plan coverage under this chapter.

(b) The form and procedures must be coordinated with forms and procedures under the Medicaid program and those used by the Texas Healthy Kids Corporation to ensure that, to the extent possible, there is a single consolidated application to seek assistance under this chapter or the Medicaid program or from the corporation.

(c) To the extent possible, the application form shall be made available in languages other than English.

(d) The commission may permit application to be made by mail, over the telephone, or through the Internet.

Sec. 62.104. ELIGIBILITY SCREENING AND ENROLLMENT. (a) The commission, or the Texas Department of Human Services at the direction and in consultation with the commission, shall develop eligibility screening and enrollment procedures for children that comply with the requirements of 42 U.S.C. Section 1397bb, as amended, and any other applicable law or regulations. The procedures shall ensure that Medicaid-eligible children are identified and referred to the Medicaid program.

(b) The Texas Integrated Enrollment Services eligibility determination system or a compatible system may be used to screen and enroll children under the child health plan.

(c) The eligibility screening and enrollment procedures shall ensure that children who appear to be Medicaid-eligible are identified and that their families are assisted in applying for Medicaid coverage.

(d) A child who applies for enrollment in the child health plan, who is denied Medicaid coverage after completion of a Medicaid application under Subsection (c), but who is eligible for enrollment in the child health plan, shall be enrolled in the child health plan without further application or qualification.

(e) The commission shall report semi-annually to the committees of both houses of the legislature with jurisdiction over the child health plan:

(1) the number of individuals referred for Medicaid application under this section who are enrolled in the Medicaid program; and

(2) the number of individuals who are denied coverage under the Medicaid program because they failed to complete the application process.

(f) A determination of whether a child is eligible for child health plan coverage under the program and the enrollment of an eligible child with a health plan provider must be completed, and information on the family's available choice of health plan providers must be provided, in a timely manner, as determined by the commission. The commission must require that the determination be made and the information be provided not later than the 30th day after the date a complete application is submitted on behalf of the child, unless the child is referred for Medicaid application under this section.

(g) In the first year of implementation of the child health plan, enrollment shall be open. Thereafter, the commission may establish enrollment periods.

Sec. 62.105. COVERAGE FOR QUALIFIED ALIENS. The commission shall provide coverage under the state Medicaid program and under the program established under this chapter to a child who is a qualified alien, as that term is defined by 8 U.S.C. Section 1641(b), if the federal government authorizes the state to provide that coverage. The commission shall comply with any prerequisite imposed under the federal law to providing that coverage.

[Sections 62.106 to 62.150 reserved for expansion]

#### SUBCHAPTER D. CHILD HEALTH PLAN

Sec. 62.151. CHILD HEALTH PLAN COVERAGE. (a) The child health plan must comply with this chapter and the coverage requirements prescribed by 42 U.S.C. Section 1397cc, as amended, and any other applicable law or regulations.

(b) In developing the covered benefits, the commission shall consider the health care needs of healthy children and children with special health care needs. At the time the child health plan program is first implemented, the child health plan must provide a benefits package that is actuarially equivalent, as determined in accordance with 42 U.S.C. Section 1397cc, to the basic plan for active state employees offered through health maintenance organizations under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as determined by the commission. The child health plan must provide at least the covered benefits described by the recommended benefits package described for a state-designed child health plan by the Texas House of Representatives Committee on Public Health "CHIP" Interim Report to the Seventy-Sixth Texas Legislature dated December, 1998, and the Senate Interim Committee on Children's Health Insurance Report to the Seventy-Sixth Texas Legislature dated December 1, 1998.

(c) In developing the plan, the commission shall ensure that primary and preventive health benefits do not include reproductive services, other than prenatal care and care related to diseases, illnesses, or abnormalities related to the reproductive system.

(d) The child health plan must allow an enrolled child with a chronic, disabling, or life-threatening illness to select an appropriate specialist as a primary care physician.

Sec. 62.152. APPLICATION OF INSURANCE LAW. To provide the flexibility necessary to satisfy the requirements of Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, and any other applicable law or regulations, the child health plan is not subject to a law that requires:

- (1) coverage or the offer of coverage of a health care service or benefit;
- (2) coverage or the offer of coverage for the provision of services by a particular health care services provider, except as provided by Section 62.155(b); or
- (3) the use of a particular policy or contract form or of particular language in a policy or contract form.

Sec. 62.153. COST SHARING. (a) To the extent permitted under 42 U.S.C. Section 1397cc, as amended, and any other applicable law or regulations, the commission shall require enrollees to share the cost of the child health plan, including provisions requiring enrollees under the child health plan to pay:

- (1) a copayment for services provided under the plan;
- (2) an enrollment fee; or
- (3) a portion of the plan premium.



(b) Cost-sharing provisions adopted under this section shall ensure that families with higher levels of income are required to pay progressively higher percentages of the cost of the plan.

(c) If cost-sharing provisions imposed under Subsection (a) include requirements that enrollees pay a portion of the plan premium, the commission shall specify the manner in which the premium is paid. The commission may require that the premium be paid to the Texas Department of Health, the Texas Department of Human Services, or the health plan provider.

Sec. 62.154. CROWD OUT. (a) To the extent permitted under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, and any other applicable law or regulations, the child health plan must include a waiting period and may include copayments and other provisions intended to discourage:

(1) employers and other persons from electing to discontinue offering coverage for children under employee or other group health benefit plans; and

(2) individuals with access to adequate health benefit plan coverage, other than coverage under the child health plan, from electing not to obtain or to discontinue that coverage for a child.

(b) A child is not subject to a waiting period adopted under Subsection (a) if:

(1) the family lost coverage for the child as a result of:

(A) termination of employment because of a layoff or business closing;

(B) termination of continuation coverage under the Consolidated

Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272);

(C) change in marital status of a parent of the child;

(D) termination of the child's Medicaid eligibility because:

(i) the child's family's earnings or resources increased; or

(ii) the child reached an age at which Medicaid coverage is not

available; or

(E) a similar circumstance resulting in the involuntary loss of coverage;

(2) the family terminated health benefits plan coverage for the child because the cost to the child's family for the coverage exceeded 10 percent of the family's net income; or

(3) the commission has determined that other grounds exist for a good cause exception.

(c) A child described by Subsection (b) may enroll in the child health plan program at any time, without regard to any open enrollment period established under the enrollment procedures.

(d) The waiting period required by Subsection (a) must:

(1) extend for a period of 90 days after the last date on which the applicant was covered under a health benefits plan; and

(2) apply to a child who was covered by a health benefits plan at any time during the 90 days before the date of application for coverage under the child health plan, other than a child who was covered under a health benefits plan provided under Chapter 109.

Sec. 62.155. HEALTH PLAN PROVIDERS. (a) The commission, or the Texas Department of Health at the direction of and in consultation with the commission, shall select the health plan providers under the program through a competitive procurement process. A health plan provider, other than a state administered primary care case management network, must hold a certificate of authority or other appropriate license

issued by the Texas Department of Insurance that authorizes the health plan provider to provide the type of child health plan offered and must satisfy, except as provided by this chapter, any applicable requirement of the Insurance Code or another insurance law of this state.

(b) A managed care organization or other entity shall seek to obtain, in the organization's or entity's provider network, the participation of significant traditional providers, as defined by commission rule, if that organization or entity:

(1) contracts with the commission or with another agency or entity to operate a part of the child health plan under this chapter; and

(2) uses a provider network to provide or arrange for health care services under the child health plan.

(c) In selecting a health plan provider, the commission:

(1) may give preference to a person who provides similar coverage under the Medicaid program or through the Texas Healthy Kids Corporation; and

(2) shall provide for a choice of at least two health plan providers in each metropolitan area.

(d) The commissioner may authorize an exception to Subsection (c)(2) if there is only one acceptable applicant to become a health plan provider in the metropolitan area.

Sec. 62.156. HEALTH CARE PROVIDERS. Health care providers who provide health care services under the child health plan must satisfy certification and licensure requirements, as required by the commission, consistent with law.

#### CHAPTER 63. HEALTH BENEFITS PLAN FOR CERTAIN CHILDREN

Sec. 63.001. DEFINITION. In this chapter, "commission" means the Health and Human Services Commission.

Sec. 63.002. NOT AN ENTITLEMENT. This chapter does not establish an entitlement to assistance in obtaining health benefits for a child.

Sec. 63.003. HEALTH BENEFITS PLAN COVERAGE FOR CERTAIN CHILDREN. The commission shall develop and implement a program to provide health benefits plan coverage for a child who:

(1) is a qualified alien, as that term is defined by 8 U.S.C. Section 1641(b);

(2) is younger than 19 years of age;

(3) entered the United States after August 22, 1996;

(4) has resided in the United States for less than five years; and

(5) meets the income eligibility requirement of, but is not eligible for assistance under:

(A) the child health plan program under Chapter 62; or

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

Sec. 63.004. BENEFITS COVERAGE REQUIRED. To the extent possible, the program required by Section 63.003 must provide benefits comparable to the benefits provided under the child health plan program under Chapter 62.

Sec. 63.005. HEALTH BENEFITS PLAN PROVIDER. (a) A health benefits plan provider under this chapter must:

(1) hold a certificate of authority or other appropriate license issued by the Texas Department of Insurance that authorizes the health benefits plan provider to provide the type of coverage to be offered through the program required by Section 63.003; and

(2) satisfy, except as provided by Subsection (b), any other applicable requirement of the Insurance Code or another insurance law of this state.

(b) Except as required by the commission, a health benefits plan provider under this chapter is not subject to a law that requires coverage or the offer of coverage of a health care service or benefit.

Sec. 63.006. COST-SHARING PAYMENTS. (a) Except as provided by Subsection (b), the commission may not require a child who is provided health benefits plan coverage under Section 63.003 and who meets the income eligibility requirement of the medical assistance program under Chapter 32, Human Resources Code, to pay a premium, deductible, coinsurance, or other cost-sharing payment as a condition of health benefits plan coverage under this chapter.

(b) The commission may require a child described by Subsection (a) to pay a copayment as a condition of health benefits plan coverage under this chapter that is equal to any copayment required under the child health plan program under Chapter 62.

(c) The commission may require a child who is provided health benefits plan coverage under Section 63.003 and who meets the income eligibility requirement of the child health plan program under Chapter 62 to pay a premium, deductible, coinsurance, or other cost-sharing payment as a condition of health benefits plan coverage under this chapter. The payment must be equal to any premium, deductible, coinsurance, or other cost-sharing payment required under the child health plan program under Chapter 62.

Sec. 63.007. DISALLOWANCE OF MATCHING FUNDS FROM FEDERAL GOVERNMENT. Expenditures made to provide health benefits plan coverage under this section may not be included for the purpose of determining the state children's health insurance expenditures, as that term is defined by 42 U.S.C. Section 1397ee(d)(2)(B), as amended.

SECTION 2. Chapter 109, Health and Safety Code, is amended by adding Subchapter F to read as follows:

#### SUBCHAPTER F. STATE CHILD HEALTH PLAN

Sec. 109.201. DEFINITIONS. In this subchapter:

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

(2) "State child health plan" means the child health plan program established under Chapter 62.

Sec. 109.202. CHILD HEALTH PLAN COVERAGE. (a) The commission may use appropriated funds, in accordance with the General Appropriations Act, to purchase coverage under a health benefit plan provided through the corporation for children who are eligible for coverage under the state child health plan and to contract with the corporation for other services under this subchapter.

(b) State child health plan coverage offered under this subchapter must be approved by the commission. The commission shall ensure that coverage provided under this subchapter complies with Chapter 62.

Sec. 109.203. ELIGIBILITY. Notwithstanding any other provision of this chapter or the eligibility criteria established under Section 109.061, an individual who is eligible for coverage under the state child health plan, as determined by the commission, is eligible for state child health plan coverage provided through the corporation under this subchapter.

Sec. 109.204. COMMUNITY OUTREACH; ELIGIBILITY SCREENING.

(a) In connection with offering state child health plan coverage under this subchapter, the corporation, under the direction of the commission, may:

(1) conduct all or part of the community outreach and education campaign required under Section 62.056; and

(2) perform eligibility screening and enrollment services.

(b) The eligibility screening and enrollment procedures used by the corporation must comply with Chapter 62.

Sec. 109.205. COMPETITIVE PROCUREMENT. (a) If the corporation is selected to offer state child health plan coverage under this subchapter and subsequently as required by the commission or otherwise appropriate, the corporation shall use a competitive procurement process, satisfactory to the commission, to ensure that the state receives the best value with respect to:

(1) a contract with any third party administrator that may provide services with respect to the state child health plan; and

(2) any eligible coverage providers providing health benefits through the state child health plan.

(b) As part of the competitive procurement process, the corporation shall evaluate the demonstrated capacity of any third party administrator to administer programs of similar size and complexity.

Sec. 109.206. REPORTING AND ACCOUNTABILITY. (a) The corporation shall report to the commission as required by the commission with respect to coverage and services provided under this subchapter.

(b) The commission shall establish a procedure to monitor the provision of coverage and services under this subchapter.

SECTION 3. Section 4, Article 3.51-6, Insurance Code, is amended to read as follows:

Sec. 4. EXEMPTIONS. The provisions of this article shall not be applicable to:

(1) credit accident and health insurance policies subject to Article 3.53 of the Insurance Code, as amended;

(2) any group specifically provided for or authorized by law in existence and covered under a policy filed with the State Board of Insurance prior to April 1, 1975;

(3) accident and health coverages that are incidental to any form of group automobile, casualty, property, or workmen's compensation—employers' liability policies promulgated or approved by the State Board of Insurance;

(4) any policy or contract of insurance with a state agency, department, or board providing health services to ~~any~~ eligible persons under Chapter 32, Human Resources Code, or in accordance with 42 U.S.C. Sections 1396-1396g, as amended, or 42 U.S.C. Section 1397aa et seq., as amended, ~~[Section 6, The Medical Assistance Act of 1967, as amended (Article 695j—1, Vernon's Texas Civil Statutes), 343-353 (42 U.S.C.A. 1396-1396g), providing health care and services]~~ under a state plan.

SECTION 4. Not later than September 1, 1999, the Health and Human Services Commission shall:

(1) develop the child health plan required under Chapter 62, Health and Safety Code, as added by this Act; and

(2) submit for approval a plan amendment relating to the child health plan under 42 U.S.C. Section 1397ff, as amended.

SECTION 5. Notwithstanding Subsection (f), Section 62.051, Health and Safety Code, as added by this Act, the Health and Human Services Commission shall ensure that, consistent with federal law and Chapter 62, Health and Safety Code, as added by this Act, the aggregate amount of general revenue spent for administration during the first 24 months of operation of the child health plan program is matched with federal funds.

SECTION 6. If, before implementing any provision of Chapter 62, Health and Safety Code, as added by this Act, the Health and Human Services Commission determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the commission shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 7. The first money becoming available to the state each fiscal year as a result of the Comprehensive Settlement Agreement and Release filed in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas, shall be used to fund the child health plan program established by this state under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended.

SECTION 8. The standing or other committees of the House of Representatives and Senate of the 76th Legislature that have jurisdiction over the Health and Human Services Commission and other agencies related to the implementation of Chapter 62, Health and Safety Code, as added by this Act, as identified by the speaker of the house of representatives and the lieutenant governor, shall:

(1) monitor the implementation of Chapter 62, Health and Safety Code, as added by this Act; and

(2) perform other related duties as required by the speaker of the house of representatives and lieutenant governor, as appropriate.

SECTION 9. (a) Not later than September 1, 2000, the Health and Human Services Commission shall establish and implement the health benefits plan coverage program required by Chapter 63, Health and Safety Code, as added by this Act.

(b) The commission may delay implementation of the health benefits plan coverage program until a plan amendment relating to the child health plan under 42 U.S.C. Section 1397ff, as amended, is approved.

SECTION 10. The state shall provide coverage under the state Medicaid program or under a program established under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, to a child described by Section 63.003, Health and Safety Code, as added by this Act, if the federal government authorizes the state to provide that coverage. The Health and Human Services Commission or any other appropriate agency shall comply with any prerequisites under the federal law to providing the coverage.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1362**

Senator Ogden submitted the following Conference Committee Report:

Austin, Texas  
May 17, 1999

Honorable Rick Perry  
President of the Senate

Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1362** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

|                           |                          |
|---------------------------|--------------------------|
| OGDEN                     | CLARK                    |
| FRASER                    | KRUSEE                   |
| MONCRIEF                  | CRABB                    |
| MADLA                     | HOWARD                   |
| LINDSAY                   | HARDCASTLE               |
| On the part of the Senate | On the part of the House |

The Conference Committee Report was filed with the Secretary of the Senate.

**MEMORIAL RESOLUTIONS**

**SR 1027** - by Luna: In memory of Louis G. Yznaga, Sr., of San Antonio.

**SR 1031** - by Barrientos: In memory of Roberto Celestino Villanueva.

**SR 1032** - by Barrientos: In memory of Américo Paredes of Austin.

**CONGRATULATORY RESOLUTIONS**

**SR 1022** - by Carona: Congratulating Dr. Phil Evans and the staff of the Susan G. Komen Breast Center in Dallas.

**SR 1023** - by Gallegos: Congratulating Mary Suarez of Houston.

**SR 1024** - by Ogden: Congratulating Little River Baptist Church of Jones Prairie.

**SR 1025** - by Madla: Congratulating Joe Andy Mendoza of Presidio.

**SR 1026** - by Cain: Congratulating Edgar S. and Mary S. Branson of Dallas.

**SR 1028** - by Ellis: Congratulating Jeffrey Cohen of Bellaire.

**SR 1029** - by Ellis: Congratulating Saint John Missionary Baptist Church of Houston.

**SR 1030** - by Ellis: Congratulating the Cave family.

**SR 1033** - by Barrientos: Congratulating Judith Ann Dillon of Austin.

**SR 1034** - by Barrientos: Congratulating Jodell Smith.

**SR 1035** - by Barrientos: Congratulating the Anderson High School Science Bowl Team of Austin.

**SR 1036** - by Barrientos: Congratulating Soila S. and Richard Rodriguez of San Marcos.

**SR 1037** - by Barrientos: Congratulating Julie and David Slaughter.

**SR 1038** - by Barrientos: Congratulating Justin Archer of Austin.

**SR 1039** - by Barrientos: Congratulating Daniel Sledge of Austin.

**SR 1040** - by Barrientos: Congratulating Nicholas Pena of Austin.

**SR 1041** - by Barrientos: Congratulating Matthew Kammlah of Austin.

**SR 1042** - by Barrientos: Congratulating Daniel Gerlach of Austin.

**SR 1043** - by Barrientos: Congratulating Travis Campbell of Austin.

**SR 1044** - by Barrientos: Congratulating Matthew Zukauckas of Austin.

**SR 1045** - by Barrientos: Congratulating Jeffrey Lehmann of Austin.

**SR 1046** - by Barrientos: Congratulating Mark Leavenworth of Austin.

**SR 1047** - by Barrientos: Congratulating Thomas Athanas of Austin.

**SR 1048** - by Barrientos: Congratulating Michael Gavenda of Austin.

**SR 1049** - by Barrientos: Congratulating Clayton Signor of Austin.

**SR 1050** - by Barrientos: Congratulating Marshall Gallatin of Austin.

**SR 1051** - by Barrientos: Congratulating Darran Kelinske of Austin.

**HCR 283** - (Duncan): Congratulating Sue Bounds on her retirement from the Lubbock Independent School District.

### **ADJOURNMENT**

On motion of Senator Truan, the Senate at 3:28 p.m. adjourned, in memory of Steve Talbot of Fort Worth, until 10:00 a.m. tomorrow.