

EIGHTY-FIRST DAY

FRIDAY, MAY 28, 1999

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.

Rabbi Steven Fulberg, Congregation Beth Israel, Austin, offered the invocation as follows:

A prayer for peace: Grant us peace, Your most precious gift, O eternal source of peace, and give us the will to proclaim its message to all the peoples of the Earth. Bless our country and our state that they may always be a stronghold of peace and their advocate among our citizens. May contentment reign within our borders, health and happiness within our homes. Strengthen the bonds of friendship among all the inhabitants of our land and among all the Members of this Chamber that we may always be a stronghold of peace. We praise You, O God, for You are the source of peace. 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.

CAPITOL PHYSICIAN

The President recognized Senator Carona, who presented Dr. Michael McShan of Kilgore as the "Doctor for the Day."

Dr. McShan, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was made welcome by the Senate.

(Senator Truan in Chair)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 28, 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 309, Recognizing the May 31, 1999, dedication of the Medal of Honor Monument in the Texas State Cemetery.

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

HB 1032 (Viva-voce vote)

HB 2155 (Viva-voce vote)

HB 2186 (Viva-voce vote)

HB 3229 (145 ayes, 0 nays, 1 present not voting)

HB 3479 (Viva-voce vote)

HB 3682 (136 ayes, 4 nays, 1 present not voting)

HB 3846 (145 ayes, 0 nays, 1 present not voting)

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 143

House Conferees: Thompson - Chair/Chavez/Junell/Maxey/Naishtat

HB 153

House Conferees: Nixon - Chair/Dunnam/Hinojosa/Keel/Talton

HB 551

House Conferees: Goolsby - Chair/Davis, Yvonne/McCall/Oliveira/Sadler

HB 628

House Conferees: Hope - Chair/Dunnam/Green/Hinojosa/Wise

HB 673

House Conferees: Carter - Chair/Danburg/Ehrhardt/Luna/Naishtat

HB 801

House Conferees: Uher - Chair/Bonnen/Chisum/Maxey/Zbranek

HB 1603

House Conferees: Thompson - Chair/Capelo/Hartnett/Hinojosa/Uresti

HB 1884

House Conferees: Grusendorf - Chair/Goodman/King, Phil/Pickett/Reyna, Arthur

HB 1983

House Conferees: Bosse - Chair/Gray/Keel/McCall/Turner, Bob

HB 2147

House Conferees: Flores - Chair/Bailey/Carter/Ehrhardt/Hodge

HB 2190

House Conferees: Hinojosa - Chair/Dunnam/Keel/Talton/Wise

HB 2824

House Conferees: Gray - Chair/Bosse/Goodman/Hinojosa/McCall

HB 2954

House Conferees: Gray - Chair/Bosse/Heflin/McCall/Telford

HB 3014

House Conferees: Hawley - Chair/Alexander/Edwards/Noriega/Uher

HB 3255

House Conferees: Gallego - Chair/Dunnam/Hinojosa/Keel/Nixon

HB 3457

House Conferees: Hinojosa - Chair/Keel/Smith/Talton/Wise

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

SB 89

House Conferees: Bosse - Chair/Greenberg/Puente/Turner, Bob/Walker

SB 103

House Conferees: Grusendorf - Chair/Coleman/Oliveira/Sadler/Smith

SB 104

House Conferees: Coleman - Chair/Dunnam/Dutton/Sadler/Smith

SB 441

House Conferees: McCall - Chair/Davis, Yvonne/Heflin/Oliveira/Sadler

SB 560

House Conferees: Goodman - Chair/Marchant/McCall/Van de Putte/Wolens

SB 709

House Conferees: Keffer - Chair/Brown, Fred/Hardcastle/Mowery/Walker

SB 731

House Conferees: Goodman - Chair/Bosse/Hope/Smithee/Zbranek

SB 840

House Conferees: Hinojosa - Chair/Dunnam/Gutierrez/Keel/Wise

SB 1615

House Conferees: Solis, Jim - Chair/Coleman/Delisi/Hinojosa/McClendon

SB 1703

House Conferees: Hodge - Chair/Clark/Edwards/Hill/Najera

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 676 (Viva-voce vote)

HB 1592 (Viva-voce vote)

HB 2085 (Viva-voce vote)

SB 1207 (Viva-voce vote)

SJR 12 (144 ayes, 0 nays, 1 present not voting)

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 2997 (Viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

(President in Chair)

SENATE RESOLUTION 1161

Senator Ellis offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 76th Legislature, Regular Session, 1999, That Senate Rule 12.03 is suspended in part, as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on **HB 713**, relating to the establishment and operation of the Toward EXcellence, Access, & Success (TEXAS) grant program and the Teach for Texas Grant Program; consolidating and revising financial aid, grant, and scholarship programs; and providing for the education, certification, and recruitment of teachers and faculty instructors, to consider and take action on the following matters:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Sections 56.304 and 56.305, Education Code, to read as follows:

[Sec. 56.304]

(h) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a TEXAS grant, in the event of a hardship or for other good cause shown, including a showing of a severe illness or other debilitating condition that may affect the person's academic performance or that the person is responsible for the care of a sick, injured, or needy person and that the person's provision of care may affect the person's academic performance, to receive a TEXAS grant while enrolled in a number of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(5). The coordinating board may not allow a person to receive a TEXAS grant while enrolled in fewer than six semester credit hours.

[Sec. 56.305]

(g) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a TEXAS grant, in the event of a hardship or for other good cause shown, including a showing of a severe illness or other debilitating condition that may affect the person's academic performance or that the person is responsible for the care of a sick, injured, or needy person and that the person's provision of care may affect the person's academic performance, to receive a TEXAS grant while enrolled in a number

of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(3). The coordinating board may not allow a person to receive a TEXAS grant while enrolled in fewer than six semester credit hours.

Explanation: This change is needed to allow the Texas Higher Education Coordinating Board to adopt rules to allow a student receiving a TEXAS grant to register for a reduced number of semester credit hours in the event of a hardship or for good cause shown.

(2) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Section 56.305, Education Code, to read as follows:

(f) A person who is eligible to receive a TEXAS grant continues to remain eligible to receive the TEXAS grant if the person enrolls in or transfers to another eligible institution.

Explanation: This change is needed to allow a student receiving a TEXAS grant to enroll in or transfer to another institution other than the institution the student originally attended.

(3) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Section 56.307, Education Code, to read as follows:

(h) The total amount of grants that a student may receive in an academic year under this subchapter and under Section 61.221 may not exceed the maximum amount authorized under Section 61.227.

(i) A public institution of higher education may not:

(1) charge a person attending the institution who also receives a TEXAS grant an amount of tuition and required fees in excess of the amount of the TEXAS grant received by the person; or

(2) deny admission to or enrollment in the institution based on a person's eligibility to receive a TEXAS grant or a person's receipt of a TEXAS grant.

(j) An institution may use other available sources of financial aid, other than a loan or a Pell grant, to cover any difference in the amount of a TEXAS grant and the actual amount of tuition and required fees at the institution.

(k) The legislature in an appropriations act shall account for tuition and required fees received under this section in a way that does not increase the general revenue appropriations to that institution.

Explanation: This change is needed to set a maximum amount that certain students may receive under the TEXAS grant program, to restrict the amounts of tuition and fees an institution of higher education may receive from a TEXAS grant recipient and from other sources, to clarify actions an institution may take with regard to TEXAS grant recipients, and to specify the effect of the grants on general revenue appropriations.

(4) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Subchapter M, Chapter 56, Education Code, to read as follows:

Sec. 56.311. LEGISLATIVE OVERSIGHT COMMITTEE. (a) The Legislative Oversight Committee on the TEXAS and Teach for Texas grant programs established by this subchapter is composed of six members as follows:

(1) three members of the senate appointed by the lieutenant governor; and

(2) three members of the house of representatives appointed by the speaker of the house of representatives.

(b) The committee shall:

(1) meet at least twice a year with the coordinating board; and

(2) receive information regarding rules relating to the TEXAS and Teach for Texas grant programs established by this subchapter that have been adopted by the coordinating board or proposed for adoption by the coordinating board.

(c) The committee may request reports and other information from the coordinating board relating to the operation of the TEXAS and Teach for Texas grant programs under this subchapter by the coordinating board.

(d) The committee shall review the specific recommendations for legislation related to this subchapter that are proposed by the coordinating board.

(e) The committee shall monitor the operation of the TEXAS and Teach for Texas grant programs established under this subchapter, with emphasis on the manner of the award of grants, the number of grants awarded, and the educational progress made by persons who have received grants under this subchapter.

(f) The committee shall file a report with the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

(g) The report shall include identification of any problems in the TEXAS and Teach for Texas grant programs operated under this subchapter with recommended solutions for the coordinating board and for legislative action.

Explanation: This change is needed to create a legislative oversight committee to oversee the TEXAS and Teach for Texas grant programs.

(5) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, to read as follows:

SECTION 11. Sections 54.215 and . . . , Education Code, are repealed.

SECTION 15. A person receiving a scholarship or other financial assistance under Section 54.215 or 54.216, Education Code, or Subchapter G, Chapter 56, Education Code, on the effective date of this Act may continue to receive a scholarship or other financial assistance under Section 54.215 or 54.216 or under Subchapter G, Chapter 56, Education Code, as applicable to the person on the effective date, until the person is no longer eligible for the scholarship or other assistance under Section 54.215 or 54.216, Education Code, or Subchapter G, Chapter 56, Education Code, as the applicable section or subchapter exists on January 1, 1999. The costs of the scholarships or other financial assistance authorized under this section shall be covered by the TEXAS grant program established by Subchapter M, Chapter 56, Education Code, as added by this Act.

Explanation: This change is needed to abolish the student financial assistance program for certain National Guard/ROTC students and to allow current National Guard/ROTC students to continue to receive assistance.

(6) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, to read as follows:

SECTION 17. (a) The Texas Higher Education Coordinating Board shall review and study the effect of the TEXAS grant program and the Teach for Texas grant program established by Subchapter M, Chapter 56, Education Code, as added by this Act, on enrollments at institutions of higher education. The study shall determine whether there have been shifts in enrollments between universities and community

colleges and whether those shifts were caused by the different grant amounts awarded to students at each institution. The report shall make recommendations for legislative changes to the methodology for calculating the amount of the grant awards, if needed.

(b) The Texas Higher Education Coordinating Board shall report its findings to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officer of each legislative committee with oversight responsibilities for higher education institutions, and the legislative oversight committee established under Subchapter M, Chapter 56, Education Code, as added by this Act, not later than December 1, 2000.

Explanation: This change is needed to allow the Texas Higher Education Coordinating Board to study and review the effects of the TEXAS grant program and the Teach for Texas grant program on enrollments at institutions of higher education.

(7) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, to read as follows:

SECTION 11. (a) This section may be cited as the Steven Gonzales-Prisoner of War Higher Education Act.

(b) Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.219 to read as follows:

Sec. 54.219. PRISONERS OF WAR. (a) In this section, "tuition and required fees" includes tuition, service fees, lab fees, building use fees, and all other required fees except room, board, or clothing fees or deposits in the nature of security for the return or proper care of property.

(b) For each semester or summer session and for a total number of semester credit hours not to exceed 120, the governing body of each institution of higher education shall exempt from the payment of tuition and required fees any person who:

(1) is a resident of Texas and was a resident of Texas at the time of the person's original entry into the United States armed forces;

(2) was first classified as a prisoner of war by the United States Department of Defense on or after January 1, 1999; and

(3) is enrolled for at least 12 semester credit hours.

(c) For each semester or session in which a person receives an exemption from tuition and required fees under Subsection (b), the governing body of the institution the person attends shall exempt the person from the payment of fees and charges for lodging and board if the person resides on the campus of the institution. If the person does not reside on the campus of the institution, the institution shall provide to the person a reasonable stipend to cover the costs of the person's lodging and board.

(d) For each semester or session in which a person receives an exemption from tuition and required fees under Subsection (b), the governing body of the institution the person attends shall award to the person a scholarship to cover the costs of books and similar educational materials required for course work at the institution.

(e) An institution may use any available revenue, including legislative appropriations, and shall solicit and accept gifts, grants, and donations for the purposes of this section. The institution shall use gifts, grants, and donations received for the purposes of this section before using any other revenue.

(c) This section applies beginning with the 1999 fall semester.

Explanation: This change is necessary to require institutions of higher education to provide tuition and fee exemptions and other financial assistance to certain prisoners of war residing in Texas.

The resolution was read and was adopted by a the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

SENATE RESOLUTION 993

Senator Barrientos offered the following resolution:

WHEREAS, Mexic-Arte Museum is the capital city's museum dedicated to presenting Mexican, Latino, and Latin American art, and for 15 years many dedicated individuals of this noteworthy institution have worked to produce and present outstanding exhibitions and educational programs promoting the artistic heritage of these cultures; and

WHEREAS, As one of the oldest institutions and as a forerunner in presenting cultural programs that are deeply rooted in this state, Mexic-Arte Museum has exemplified the diversity within our state and has created important ties with our neighboring country, Mexico; and

WHEREAS, Individuals, private businesses, foundations, the City of Austin, the Texas Commission on the Arts, Mid-America Arts Alliance, the National Endowment for the Arts, the Consulate General of Mexico in Austin, and others have contributed to establishing the museum; and

WHEREAS, Mexic-Arte Museum has long served as a center of Mexican, Mexican American, and Latin American arts programming in Texas, coordinating an array of exhibitions and programs in Austin and cities throughout the Lone Star State, including San Antonio, El Paso, Corpus Christi, Del Rio, Laredo, Kingsville, Dallas, and others; and

WHEREAS, As the Official Sister Museum of the Diego Rivera and Frida Kahlo Studio Museum in Mexico City, Mexic-Arte Museum has served as a bridge between Texas and neighboring Mexico through its many cultural programs and exchanges; the Consul General of Mexico is an honorary member of the Mexic-Arte Museum Board of Directors, and the Consulate General of Mexico Library is housed at the museum as well; and

WHEREAS, Located on Congress Avenue in Austin, just six blocks from the State Capitol, accessible to citizens and visitors, Mexic-Arte Museum is situated in the heart of Texas to showcase Mexican, Mexican American, and Latin American art and culture; it is indeed a privilege to recognize the museum for the many vital contributions that it has made toward the education and enlightenment of children and adults alike, and it is fitting that this worthy endeavor be honored at this time; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, express support for this valuable contribution to the state's culturally rich history by recognizing Mexic-Arte Museum for presenting and celebrating the cultural heritage and exchange of Mexican, Mexican American, and Latin American art and culture for 15 years and extend best wishes to all those associated with this renowned institution; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Mexic-Arte Museum President Jorge A. Sedeño for prominent display at the museum.

The resolution was again read.

The resolution was previously adopted on Friday, May 14, 1999.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate Sylvia Orozco, Executive Director of Mexic-Arte Museum, and Jorge Sedeño, President of the Board of Directors of Mexic-Arte Museum.

The Senate welcomed its guests.

(Senator Truan in Chair)

GUESTS PRESENTED

Senator Moncrief was recognized and introduced to the Senate members of Legislative Management Systems '99: Karen Hrcir, Janet Sullivan, and Aaron May.

The Senate welcomed its guests.

SENATE RESOLUTION 1145

Senator Brown offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the staff of the 1998-1999 Sunset Advisory Commission review cycle for their excellent service to the state; and

WHEREAS, Created to provide for periodic review of the effectiveness and efficiency of state agencies' operations and policies, the Sunset Advisory Commission operates under the Texas Sunset Act passed by the 65th Legislature which became effective in August, 1977; and

WHEREAS, The Texas Sunset Act ensures that duplication of services between state agencies is avoided; and

WHEREAS, About 150 state agencies are subject to the provisions of the Sunset Commission; if an agency can not prove its effectiveness, generally it can be abolished; each legislative session, about 20 to 30 agencies are reviewed; and

WHEREAS, These vital reviews could not be accomplished without the benefit of the talented and hardworking staff of the Sunset Commission; and

WHEREAS, The full time staff, under the supervision of Director Joey Longley and Assistant Director Ken Levine, consists of Policy Directors Charla Ann King, Ginny McKay, Joe Walraven, and business manager Cindy Womack; and

WHEREAS, This group is ably assisted by the Policy and Research Staff of Colin Coe, Katrina Daniel, Kristen Davis, Barbra Dorr, Susan Gennusa, Larry Graham, Ash Hamid, John Hawkins, Kris Heckman, Steve Hopson, John Hubbard, Mike Johnson, Jennifer Jones, Karen Latta, Ilan Levin, Michelle Luera, Lisa Mogil, Robert Morris, Christian Ninaud, Jay Schmidt, and Erica Wissolik; and

WHEREAS, The Administrative Support Group, Cee Hartley, Barbara Hunley, Susan Kinney, and Dawn Roberson, deserves accolades for its stalwart service; the good work of this entire group ensures sure and steady progress in the operation of the commission; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, hereby honor the staff of the 1998-1999 Sunset Advisory Commission review cycle and commend their excellent work; and, be it further

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

The resolution was read.

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

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

GUESTS PRESENTED

Senator Brown was recognized and introduced to the Senate Representative Patricia Gray, Vice-chair of the Sunset Advisory Commission; Joey Longley, Director of the Sunset Advisory Commission; Ken Levine, Assistant Director of the Sunset Advisory Commission; and the Sunset Advisory Commission's staff.

The Senate welcomed its guests.

CONFERENCE COMMITTEE ON HOUSE BILL 2175

Senator Armbrister 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 2175** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2175** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Nixon, Nelson, Moncrief, and Whitmire.

SENATE RESOLUTION 1160

Senator Armbrister offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 76th Legislature, Regular Session, 1999, That Senate Rule 12.03 is suspended, as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on **HB 2175**, relating to the regulation of the practice of chiropractic, to consider and take actions on the following matter:

Senate Rule 12.03(1) is suspended to permit the committee to change the text of SECTION 4(a) of the bill to read as follows:

(a) Except as provided by Subsection (b) of this section, the remedy for an offense or violation under Section 5a(c) or 19, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), regardless of whether the offense or violation is committed before, on, or after the effective date of this Act, is the remedy provided by Section 5a(c), Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), as amended by this Act.

Explanation: This change is necessary to conform the citations in the transitional material of the bill to the sections affected by the amendatory provisions of the bill.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

CONFERENCE COMMITTEE ON HOUSE BILL 1172

Senator Brown 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 1172** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1172** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Armbrister, Duncan, Bivins, and Gallegos.

SENATE BILL 957 WITH HOUSE AMENDMENTS

Senator Madla called **SB 957** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Truan in Chair, laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 957** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the licensing of certain persons who provide services related to the business of insurance.

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

ARTICLE 1. SPECIALTY LICENSES

SECTION 1.01. Subchapter A, Chapter 21, Insurance Code, is amended by adding Article 21.09 to read as follows:

Art. 21.09. SPECIALTY LICENSES

Sec. 1. GENERAL PROVISIONS. (a) The commissioner may issue a specialty license to an applicant who has complied with the requirements of this article. A specialty license authorizes the license holder to act as an agent for the types of insurance specified in this article for any insurer authorized to write these types of insurance in this state. A person who holds a license under this article is known as a "specialty license holder."

(b) For a specialty license to be issued under this article, the applicant must submit to the commissioner:

(1) a written application, signed by the applicant, on a form and supplements to the form prescribed by the commissioner, that contains the information prescribed by the commissioner;

(2) a certification by an insurer authorized to do business in this state that:

(A) is signed by an officer of the insurer and affirmed as true under the penalties of perjury; and

(B) states that:

(i) the insurer has satisfied itself that the named applicant is trustworthy and competent to act as the insurer's agent for a limited purpose authorized by this article; and

(ii) the insurer will appoint the applicant to act as the agent for a type of insurance permitted by this article, if the specialty license applied for is issued by the department; and

(3) a nonrefundable license fee set by the department in an amount necessary to administer this article.

(c) A specialty license issued under this article authorizes an employee of the license holder to act as an agent with respect to the kinds of insurance specified in this article if the employee:

(1) is trained under Subsection (d) of this section to act individually on behalf of the specialty license holder;

(2) is acting on behalf of and under the supervision of the license holder; and

(3) is not compensated based primarily on the amount of insurance sold by the employee under this article.

(d) Each person licensed under this article shall conduct a training program for each individual who is acting on behalf of the license holder with respect to the specific type of insurance. The training program must be submitted to the commissioner for approval before the training program is used and must meet the following minimum standards:

(1) each trainee must receive basic instruction about the kinds of insurance the license holder is authorized to offer for purchase by prospective consumers;

(2) each trainee must be instructed to inform a prospective consumer that, except as may be specifically provided by another law of this state or the United States, the purchase of insurance specified in this article is not required in order to complete the associated consumer transaction; and

(3) each trainee must be instructed with respect to the disclosures required to be made to consumers.

(e) Except as otherwise provided by this article, a specialty license holder acting under this article shall comply with all applicable provisions of this subchapter.

(f) Notwithstanding any other provision of this subchapter or any rule adopted by the commissioner, a specialty license holder is not required to treat premiums collected from a consumer purchasing insurance when completing an associated consumer transaction as money received in a fiduciary capacity if:

(1) the insurer represented by the specialty license holder has consented in writing, signed by an officer of the insurer, that premiums need not be segregated from money received by the license holder on account of the associated consumer transaction; and

(2) the charges for insurance coverage are itemized but not billed to the consumer separately from the charges for the associated consumer transaction.

(g) Insurance may not be issued under this article unless:

(1) at each location at which sales of insurance policies covered by this article occur, brochures or other written materials are prominently displayed and readily available to the prospective consumer that:

(A) summarize, clearly and correctly, the material terms of insurance coverage offered to consumers, including the identity of the insurer;

(B) disclose that the policies offered by the license holder may provide a duplication of coverage already provided by a consumer's personal auto insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage;

(C) state that, except as specifically provided by another law of this state or the United States, the purchase by the consumer of the kinds of insurance specified in this article is not required to complete the associated consumer transaction;

(D) describe the process for filing a claim in the event the consumer elects to purchase coverage and in the event of a claim; and

(E) contain any additional information on the price, benefits, exclusions, conditions, or other limitations of the policies required by the commissioner by rule; and

(2) evidence of coverage is provided to each consumer who elects to purchase the coverage.

(h) If a specialty license holder violates this subchapter, the commissioner may:

(1) impose any disciplinary action authorized by Article 21.01-2 of this code; or

(2) after notice and opportunity for hearing, impose other penalties, including suspending the transaction of insurance at specific locations where a violation of this subchapter has occurred, as the commissioner considers necessary or appropriate to implement the purposes of this subchapter.

(i) A specialty license holder may not in any manner advertise, represent, or otherwise hold out the license holder or any employee of the license holder as a licensed insurance agent under another article of this code unless the entity or individual actually holds the applicable license.

(j) A person who holds a general agent's license issued under Chapter 213, Acts of the 54th Legislature, Regular Session, 1955 (Article 21.07-1, Vernon's Texas Insurance Code), as amended, or Article 21.14 of this code or who holds a substantially equivalent license under this code, as determined by the commissioner, is not required to obtain a specialty license but is subject to the other requirements of this article in the solicitation, sale, or delivery of an insurance product subject to this article.

(k) Each insurance company appointing an agent under this article shall submit a certification of the appointment signed by an officer of the insurer and affirm that the insurer has satisfied itself that the license holder is trustworthy and competent to act as an insurance agent on behalf of the insurer.

(l) An examination is not required for issuance of a license under this article and continuing education requirements do not apply to a license issued under this article.

(m) A person who is licensed as an agent for a legal reserve life insurance company or as a local recording agent, or who holds a substantially equivalent license under this code, as determined by the commissioner, and who enters into a contract with an insurer to act as the insurer's agent in soliciting or writing policies or certificates of insurance covered by this article may assign and transfer to the agent's employer any commission, fee, or other compensation to be paid to the agent under the agent's contract with the insurer, but only if the sale of the insurance product occurred within the scope of the agent's employment.

Sec. 2. RENTAL CAR COMPANIES. (a) In this section:

(1) "Rental agreement" means a written agreement that sets forth the terms and conditions governing the use of a vehicle or vehicle equipment provided by a rental car company.

(2) "Rental car company" means a person engaged in the business of providing leased or rented vehicles or vehicle equipment to the public.

(3) "Renter" means a person who obtains the use of a vehicle or vehicle equipment from a rental car company under the terms of a rental agreement.

(4) "Vehicle" means:

(A) a private passenger motor vehicle, including passenger vans and minivans that are primarily intended for the transport of persons;

(B) a motor home;

(C) a motorcycle;

(D) a trailer with a gross vehicle weight rating of 10,000 pounds or less; or

(E) a truck with a gross vehicle weight rating of 26,000 pounds or less the operation of which does not require a commercial driver's license.

(5) "Vehicle equipment" means a cartop carrier, tow bar, or tow dolly specifically designed for use with a vehicle.

(b) Notwithstanding any other provision of this article or this code, the commissioner shall issue a specialty license under Section 1 of this article to a rental car company, or to the franchisee of a rental car company, that complies with this section only for the limited purposes set forth in this section.

(c) The rental car company or franchisee licensed under Section 1 of this article may act as an agent for an authorized insurer only in connection with the rental of vehicles or vehicle equipment and only with respect to:

(1) excess liability insurance that provides coverage to the rental car company or franchisee and renters and other authorized drivers of rental vehicles, in excess of the standard liability limits provided by the rental car company in the rental agreement, for liability arising from the negligent operation or use of the rental vehicle or vehicle equipment;

(2) accident and health insurance that provides coverage to renters and other vehicle occupants for accidental death or dismemberment and for medical expenses resulting from an accident involving the rental vehicle or vehicle equipment that occurs during the rental period;

(3) personal effects insurance that provides coverage to renters and other rental vehicle occupants for the loss of, or damage to, personal effects or household belongings that occurs during the rental period; or

(4) any other coverage that the commissioner may approve as meaningful and appropriate in connection with the rental of vehicles or vehicle equipment.

(d) Insurance may not be issued under this section unless:

(1) the rental period under the rental agreement does not exceed 30 consecutive days; and

(2) the brochures or other written materials containing the disclosures required by Section 1(g) of this article are prominently displayed and readily available to the prospective renter of a vehicle or vehicle equipment.

Sec. 3. CREDIT INSURANCE. (a) In this section:

(1) "Credit insurance" includes:

(A) credit life insurance;

(B) credit accident and health insurance;

(C) credit property insurance;

(D) credit involuntary unemployment insurance; and

(E) insurance that covers the difference between the actual cash value of a motor vehicle used as security for a loan or lease and the outstanding balance of that loan or lease in the event of loss or damage in which the vehicle is rendered an actual or constructive total loss while the debt for which the vehicle serves as security exceeds the actual cash value of the vehicle.

(2) "Credit insurance agent" means a person licensed to sell credit insurance under this article as specifically provided by this section.

(3) "Credit property insurance" means insurance that provides coverage on personal property used as collateral for securing a personal or consumer loan or on personal property under an installment sales agreement or through a consumer credit transaction that is purchased in connection with or in relation to the personal or consumer loan, installment sale, or consumer credit transaction. The term does not include insurance that provides theft, collision, liability, property damage, or comprehensive insurance coverage on an automobile, motorized aircraft, motorcycle, truck, truck-tractor, traction engine, or any other self-propelled vehicle that is designed primarily for operation in the air, or on highways, roadways, waterways, or the sea, and the operating equipment of the self-propelled vehicle or craft, or that is necessitated by reason of the liability imposed by law for damages arising out of the ownership, operation, maintenance, or use of any of those vehicles and crafts, other than single interest coverage on any vehicle or craft described in this subdivision that insures the interest of the creditor in the same manner as collateral for a loan.

(b) Notwithstanding any other provision of this article or this code, the commissioner may issue a license under Section 1 of this article to a retail distributor of goods, an automobile dealer, a bank, a state or federal savings and loan, a state or federal credit union, a finance company, a production credit association, a manufactured home retailer, or a mobile home retailer that complies with this section only for the limited purposes set forth in this section.

(c) On appointment by the insurance company, a credit insurance agent may act as the agent of any company authorized to engage in the business of insurance under this code in the sale of any type of credit insurance that the company is authorized to write. The authority conferred under this section specifically permits the sale of both individual and group credit insurance.

(d) A license holder and the license holder's representative are not required to make the disclosures required by Section 1(g) of this article if the license holder or the license holder's representative complies with all disclosure requirements prescribed by another provision of this code or another law of this state or the United States relating to the sale or delivery of a credit insurance product that is subject to this section.

Sec. 4. TRAVEL INSURANCE LICENSE. (a) In this section:

(1) "Planned trip" means any journey or travel arranged through the services of a travel agency.

(2) "Travel agency" means an entity engaged in the business of selling or arranging transportation or accommodations for the public.

(3) "Traveler" means an individual who seeks the assistance of a travel agency in connection with the planning and purchase of a trip.

(b) Notwithstanding any other provision of this article or this code, the commissioner may issue a specialty license under Section 1 of this article to a travel agency, the franchisee of a travel agency, or a public carrier that complies with this section only for the limited purposes set forth in this section.

(c) The travel agency or franchisee licensed under Section 1 of this article may act as an agent for any authorized insurer only in connection with the sale or arrangement of transportation or accommodations for travelers and only with respect to:

(1) accident and health insurance that provides coverage to a traveler for accidental death or dismemberment and for medical expenses resulting from an accident involving the traveler that occurs during the planned trip;

(2) insurance that provides coverage to a traveler for expenses incurred as a result of trip cancellation or interruption of a planned trip;

(3) personal effects insurance that provides coverage to a traveler for the loss of, or damage to, personal effects that occurs during the planned trip;

(4) life insurance covering risks of travel during a planned trip that does not exceed \$100,000 on any one life; or

(5) any other coverage that the commissioner may approve as meaningful and appropriate in connection with the transportation or accommodations arranged through a travel agency.

(d) Insurance may not be issued under this section unless the brochures or other written materials containing the disclosures required by Section 1(g) of this article are prominently displayed and readily available to the prospective traveler.

Sec. 5. SELF-SERVICE STORAGE FACILITY LICENSE. (a) In this section:

(1) "Rental agreement" means a written agreement that sets forth the terms and conditions governing the use of storage space provided by a self-service storage facility.

(2) "Renter" means a person who obtains the use of storage space from a self-service storage facility under a rental agreement.

(3) "Self-service storage facility" means a person engaged in the business of providing leased or rented storage space to the public.

(4) "Storage space" means a room, unit, locker, or open space offered for rental to the public for temporary storage of personal belongings or light commercial goods.

(b) Notwithstanding any other provision of this article or this code, the commissioner may issue a specialty license under Section 1 of this article to a self-service storage facility or to the franchisee of a self-service storage facility that complies with this section only for the limited purposes set forth in this section.

(c) A self-service storage facility or franchisee licensed under Section 1 of this article may act as an agent for any authorized insurer only in connection with the rental of storage space and only with respect to:

(1) insurance that provides hazard insurance coverage to renters for the loss of, or damage to, tangible personal property in storage or in transit during the rental period; or

(2) any other coverage the commissioner may approve as meaningful and appropriate in connection with the rental of storage space.

(d) Insurance may not be issued under this section unless the brochures or other written materials containing the disclosures required by Section 1(g) of this article are prominently displayed and readily available to the prospective renter.

Sec. 6. RULES. The commissioner may adopt rules necessary to implement this article and to meet the minimum requirements of federal law and regulations.

ARTICLE 2. LIFE AND HEALTH INSURANCE COUNSELOR LICENSE

SECTION 2.01. Chapter 29, Acts of the 54th Legislature, Regular Session, 1955 (Article 21.07-2, Vernon's Texas Insurance Code), is transferred to the Insurance Code, redesignated as Article 21.07-2, Insurance Code, and amended to read as follows:

Art. 21.07-2. LIFE AND HEALTH INSURANCE COUNSELOR LICENSE

Sec. 1. DEFINITION OF TERM. The term "Life and Health Insurance Counselor" as used in this article [~~Act~~] shall mean any person who, for money, fee,

commission or any other thing of value offers to examine, or examines any policy of life, accident, or health insurance, any health benefit plan, or any annuity or pure endowment contract for the purpose of giving, or gives, or offers to give, any advice, counsel, recommendation or information in respect to the terms, conditions, benefits, coverage or premium of any such policy or contract, or in respect to the expediency or advisability of altering, changing, exchanging, converting, replacing, surrendering, continuing or rejecting any such policy, plan, or contract, or of accepting or procuring any such policy, plan, or contract from any insurer or issuer of a health benefit plan, or who in or on advertisements, cards, signs, circulars or letterheads, or elsewhere, or in any other way or manner by which public announcements are made, uses the title "insurance adviser," "insurance specialist," "insurance counselor," "insurance analyst," "policyholders' adviser," "policyholders' counselor," or any other similar title, or any title indicating that the person [he] gives, or is engaged in the business of giving advice, counsel, recommendation or information to an insured, or a beneficiary, or any person having any interest in a life, accident, or health insurance contract, health benefit plan contract, annuity or pure endowment contract. This definition is not intended to prevent a person who has obtained the professional designation of chartered life underwriter (CLU), chartered financial consultant (ChFC) or certified financial planner (CFP) by completing a course of instruction recognized within the business of insurance from using that designation to indicate professional achievement.

Sec. 2. LICENSE REQUIRED; ISSUANCE BY DEPARTMENT. No person shall act as a Life and Health Insurance Counselor, as defined in Section 1 of this article [hereof], unless authorized so to act by a license issued by the department under [Board of Insurance Commissioners of the State of Texas pursuant to the provisions of] this article [Act].

Sec. 3. EXEMPTIONS. The provisions of this article [Act] shall not apply to the following persons:

(a) Licensed agents for a life insurance company while acting for an insurer as its agent.

(b) Licensed attorneys at law of this State when acting within the course or scope of their profession.

(c) Licensed public accountants of this State while acting within the course or scope of their profession.

(d) A regular salaried officer or employee of an authorized insurer issuing policies of life or health insurance while acting for such insurer in discharging the duties of the [his] position or employment.

(e) An officer or employee of any bank or trust company who receives no compensation from sources other than the bank or trust company for such activities connected with the [his] employment.

(f) Employers or their officers or employees, or the trustees of any employee benefit plan, to the extent that such employers, officers, employees or trustees are engaged in the administration or operation of any program of employee benefits involving the use of insurance or annuities issued by a legal reserve life insurance company.

Sec. 4. CONTRACT, WRITING REQUIRED; DUPLICATES; OTHER REQUISITES. No contract or agreement between a Life and Health Insurance Counselor, as defined in this article [Act], and any other person, firm or corporation, relating to the activities, services, advice, recommendations or information referred to

in Section 1 of this article [Act], shall be enforceable by or on behalf of such Life and Health Insurance Counselor unless it is in writing and executed in duplicate by the person, firm or corporation to be charged, nor unless one of said duplicates is delivered to and retained by such person, firm or corporation when executed, nor unless such contract or agreement plainly specifies the amount of the fee paid or to be paid by such person, firm or corporation, and the services to be rendered by such Life and Health Insurance Counselor; provided, however, that the foregoing provisions shall not be applicable to any of the persons set out in Section 3 of this article [above].

Sec. 4a. PROHIBITION OF DUAL COMPENSATION. A person licensed under the provisions of this article [Act] who is also licensed under Chapter 213, Acts of the 54th Legislature, Regular Session, 1955 ([Article 21.07 or] Article 21.07-1, Vernon's Texas Insurance [of this] Code), as amended, and who receives a commission or compensation for [his] services as an agent licensed under Chapter 213, Acts of the 54th Legislature, Regular Session, 1955 ([Article 21.07 or] Article 21.07-1, Vernon's Texas Insurance Code), as amended, shall not be entitled to receive a fee for the same services [his service] to the same client as a Life and Health Insurance Counselor.

Sec. 5. MODE OF LICENSING AND REGULATION. (a) Except as provided by this article, [The] licensing and regulation of a Life and Health Insurance Counselor, as that term is defined herein, shall be in the same manner and subject to the same requirements as applicable to the licensing of agents under this subchapter [of legal reserve life insurance companies as provided in Article 21.07-1 of the Texas Insurance Code, 1951,] or as provided by any existing or subsequent applicable law governing the licensing of such agents, and all the provisions thereof are hereby made applicable to applicants and licensees under this article [Act], except that a Life and Health Insurance Counselor shall not advertise in any manner and shall not circulate materials indicating professional superiority or the performance of professional service in a superior manner; provided, however, that an appointment to act for an insurer shall not be a condition to the licensing of a Life and Health Insurance Counselor.

(b) An [In addition to the above requirements, the applicant for licensure as a Life Insurance Counselor shall submit to the Commissioner documentation that he has been licensed as a life insurance agent in excess of three years. After the Insurance Commissioner has satisfied himself as to these requirements, he shall then cause the] applicant for a Life and Health Insurance Counselor's license must [to] sit for an examination administered under Article 21.01-1 of this code that includes [which shall include] the following five subjects and subject areas:

- (1) Fundamentals of life and health insurance;
- (2) Group life insurance, pensions and health insurance;
- (3) Law, trust and taxation;
- (4) Finance and economics; and
- (5) Business insurance and estate planning.

(c) No license shall be granted until such individual shall have successfully passed each of the five parts under Subsection (b) of this section. Such examinations may be given and scheduled by the Commissioner at the Commissioner's [his] discretion. The department shall, without further examination, issue a license under this article to an individual who, on September 1, 1999, holds a [Individuals currently holding] Life Insurance Counselor license [licenses] issued by the department [Texas State Board of Insurance, who do not have the equivalent of the requirements above listed, shall have one year from the date of enactment hereof to so qualify].

Sec. 6. INTENT OF LEGISLATURE; STATUTES AND AMENDMENTS APPLICABLE. Except as provided by this article, it [It] is the legislative intent, and it is hereby provided, that the licensing and regulation of any person acting as a Life and Health Insurance Counselor shall be subject to the same statutes and requirements applicable to the licensing and regulation of agents under this subchapter ~~[of legal reserve life insurance companies]~~. In event of subsequent legislative enactment applicable to agents under this subchapter ~~[of legal reserve life insurance companies in lieu of, or as an amendment to, present Article 21.07 of the Texas Insurance Code]~~, it is hereby provided that such statute shall be applicable to any person acting as a Life and Health Insurance Counselor, as defined in this article [Act].

Sec. 7. VIOLATIONS. ~~[(a)] A [person commits an offense if the person acts as a life insurance counselor without a license issued under this Act or otherwise violates this Act. Each violation constitutes a separate offense. An offense under this subsection is a Class C misdemeanor.~~

~~[(b) In addition to being subject to the penalty imposed under Subsection (a) of this section, a] person who commits a violation of this article [Act] is subject to license revocation under [Section 5,] Article 21.01-2 of this code[- Insurance Code]. If the department revokes the license, the license holder is not eligible for a new license for two years after the effective date of the license revocation.~~

Sec. 8. PARTIAL INVALIDITY. Should any Section or part ~~[thereof]~~ of this article [Act] be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any of the remaining Sections or parts of this article ~~[thereof]~~, it being the legislative intent that the remainder of this article [Section] shall stand, notwithstanding the invalidity of any Section or part of this article ~~[thereof]~~.

Sec. 9. CONTINUING EDUCATION. A person who holds a license issued under this article shall complete continuing education as required by rules of the department or any applicable article of this code.

Sec. 10. RULES. The commissioner may adopt rules necessary to implement this article and to meet the minimum requirements of federal law and regulations.

Sec. 11. REFERENCE IN OTHER LAW. A reference in any law to Chapter 29, Acts of the 54th Legislature, Regular Session, 1955, means this article.

ARTICLE 3. ADJUSTERS LICENSES

SECTION 3.01. Chapter 407, Acts of the 63rd Legislature, Regular Session, 1973 (Article 21.07-4, Vernon's Texas Insurance Code), is amended by amending Sections 15, 16, 17, and 23 and adding Section 24 to read as follows:

Sec. 15. PLACE OF BUSINESS. Every licensed adjuster shall have and maintain ~~[in this state]~~ a place of business accessible to the public. Such place of business shall be located where the adjuster principally conducts transactions under ~~the~~ [his] license. The ~~[address of his place of business shall appear on all licenses of the licensee, and the]~~ licensee shall promptly notify the commissioner of any change in the location of the place of business ~~[thereof]~~.

Sec. 16. EXPIRATION AND RENEWAL OF LICENSES. Expiration and renewal of licenses issued under this Act are governed by rules of the department or any applicable article of the Insurance Code or another insurance law of this state. ~~[(a) Except as may be provided by a staggered renewal system adopted under Article 21.01-2, Insurance Code, an adjuster's license expires two years after the date of issuance.~~

~~[(b) Subject to the right of the commissioner to suspend, revoke, or refuse to renew an adjuster's license, any such license may be renewed by filing, on the form~~

prescribed by the commissioner, on or before the expiration date, a written request, by or on behalf of the licensee, for such renewal, accompanied by payment of the renewal fee.]

Sec. 17. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE. [(a)] The department may discipline an adjuster or deny an application under department rules or any other applicable article of the Insurance Code or another insurance law of this state. The rules may specify grounds for discipline that are comparable to grounds for discipline of other license holders under this subchapter [Section 5, Article 21.01-2, Insurance Code, for any of the following causes:

[(1) for any cause for which issuance of the license could have been refused had it been existent and been known to the board;

[(2) if the applicant or licensee willfully violates or knowingly participates in the violation of any provision of this Act;

[(3) if the applicant or licensee has obtained or attempted to obtain any such license through willful misrepresentation or fraud, or has failed to pass any examination required under this Act;

[(4) if the applicant or licensee has misappropriated, or converted to the applicant's or licensee's own use, or has illegally withheld moneys required to be held in a fiduciary capacity;

[(5) if the applicant or licensee has, with intent to deceive, materially misrepresented the terms or effect of an insurance contract, or has engaged in any fraudulent transactions; or

[(6) if the applicant or licensee is convicted, by final judgment, of a felony.

[(b) An applicant or licensee whose license application or license has been denied, refused, or revoked under this section may not apply for any license as an insurance agent or adjuster before the first anniversary of the effective date of the denial, refusal, or revocation, or, if the applicant or licensee seeks judicial review of the denial, refusal, or revocation, before the first anniversary of the date of the final court order or decree affirming that action. The commissioner may deny an application timely filed if the applicant does not show good cause why the denial, refusal, or revocation of the previous license application or license should not be considered a bar to the issuance of a new license. This subsection does not apply to an applicant whose license application was denied for failure to pass a required written examination].

Sec. 23. DUPLICATE LICENSE; FEE. The department [Commissioner of Insurance] shall collect in advance from an adjuster [adjusters] requesting a duplicate license [licenses] a fee in an amount determined by the department [not to exceed \$20. The State Board of Insurance shall determine the amount of the fee].

Sec. 24. RULES. The commissioner may adopt rules necessary to implement this Act and to meet the minimum requirements of federal law and regulations.

ARTICLE 4. AGRICULTURE AGENTS

SECTION 4.01. Article 21.14-2, Insurance Code, is amended to read as follows:

Art. 21.14-2. [LICENSING OF] AGRICULTURAL INSURANCE AGENTS

Sec. 1. APPOINTING CERTAIN AGRICULTURAL INSURANCE AGENTS.

An insurance company that holds a valid certificate of authority issued by this state to authorize the company to engage in the insurance business in this state, and whose authority in this state and in each other jurisdiction in which the company is licensed to do business is limited [but limiting the insurance business only] to the transaction of the business of insurance of risks on growing crops, may appoint and act through agents who hold [qualify for] a license under Article 21.14 of this code, subject to this article.

Sec. 2. REQUIREMENTS FOR APPOINTMENT. (a) To appoint a license holder ~~[obtain a license]~~ to act as an agent under this article, an insurance company ~~[applicant]~~ must submit a completed appointment form ~~[written application]~~ to the department ~~[commissioner of insurance on a form prescribed by the State Board of Insurance]~~ and pay a [\$50] nonrefundable fee in an amount determined by the commissioner. The appointment form ~~[application]~~ must bear an endorsement signed by a representative ~~[an agent]~~ of an insurance company that meets the requirements of Section 1 of this article ~~[and must state that the applicant is a resident of this state].~~

(b) The commissioner of insurance shall approve the appointment ~~[license application]~~ unless the commissioner determines that the applicant does not meet the requirements of this subchapter ~~[article]~~.

(c) The department may waive any examination requirement imposed under this subchapter for a license applicant seeking a company appointment under this article if the applicant has successfully completed an examination as required under the Federal Crop Insurance Corporation guidelines for delivery of the federal crop insurance program. ~~[Except as provided by a staggered renewal system adopted under Article 21.01-2 of this code, a license issued under this article expires two years after the date of its issuance unless a completed application to renew the license is filed with the commissioner and the \$50 nonrefundable renewal fee is paid on or before that date; in which case the license continues in full force and effect until renewed or the renewal is denied.]~~

(d) The department may, at its discretion, accept continuing education hours completed under the guidelines of the Federal Crop Insurance Corporation as satisfying the continuing education requirements imposed under this subchapter. ~~[An applicant for an original or renewal license is not required to pass an examination or meet any basic or continuing educational requirements to obtain or renew a license under this article.]~~

Sec. 3. MULTIPLE APPOINTMENTS AUTHORIZED. A license holder appointed under this article may act as an agent for more than one insurance company, but may act as an agent under this article only with respect to the business of insurance on growing crops. ~~[The license of an agent is automatically suspended or canceled if the agent does not have outstanding a valid appointment to act as an agent for an insurance company described in Section 1 of this article. The department may discipline a licensee or deny an application under Section 5, Article 21.01-2, of this code if it determines that the license applicant or licensee:~~

~~[(1) has intentionally or knowingly violated the insurance laws of this state;~~

~~[(2) has obtained or attempted to obtain a license by fraud or misrepresentation;~~

~~[(3) has misappropriated, converted, or illegally withheld money belonging to an insurer or an insured or beneficiary;~~

~~[(4) has been guilty of fraudulent or dishonest acts;~~

~~[(5) has materially misrepresented the terms and conditions of an insurance policy or contract;~~

~~[(6) has made or issued or caused to be made or issued any statement misrepresenting or making incomplete comparisons regarding the terms or conditions of an insurance contract legally issued by an insurance carrier for the purpose of inducing or attempting to induce the owner of the contract to forfeit or surrender the contract or allow the contract to expire or for the purpose of replacing the contract with another contract;~~

~~[(7) has been convicted of a felony; or
[(8) is guilty of rebating an insurance premium or discriminating between insureds.]~~

Sec. 4. APPLICATION OF OTHER LAW. This subchapter applies ~~[Article 21.14 of this code does not apply]~~ to the licensing and ~~[or]~~ regulation of an agent appointed under this article.

Sec. 5. RULES. The commissioner may adopt rules necessary to implement this article and to meet the minimum requirements of federal law and regulations.

ARTICLE 5. REPEALER

SECTION 5.01. The following laws are repealed:

(1) Section 21, Article 21.07, Insurance Code, as added by Chapter 820, Acts of the 75th Legislature, Regular Session, 1997;

(2) Section 21, Article 21.07, Insurance Code, as added by Chapter 1196, Acts of the 75th Legislature, Regular Session, 1997; and

(3) Sections 18 and 19, Chapter 407, Acts of the 63rd Legislature, Regular Session, 1973 (Article 21.07-4, Vernon's Texas Insurance Code).

ARTICLE 6. GRANDFATHER PROVISIONS; EFFECTIVE DATE; EMERGENCY

SECTION 6.01. This Act takes effect September 1, 1999.

SECTION 6.02. (a) Not later than January 1, 2000, the Texas Department of Insurance shall issue an appropriate license under Article 21.09, Insurance Code, as added by this Act, to a person who, immediately before the effective date of this Act, holds an agent license issued by the Texas Department of Insurance under Section 21, Article 21.07, Insurance Code, as added by Chapter 820, Acts of the 75th Legislature, Regular Session, 1997, or Section 21, Article 21.07, Insurance Code, as added by Chapter 1196, Acts of the 75th Legislature, Regular Session, 1997. On issuance of the new license, the license holder is subject to Article 21.09, Insurance Code, as added by this Act.

(b) A travel agency or franchisee is not required to be licensed as provided by Section 4, Article 21.09, Insurance Code, as added by this Act, before January 1, 2000.

(c) A self-service storage facility or franchisee is not required to be licensed under Section 5, Article 21.09, Insurance Code, as added by this Act, before January 1, 2000.

(d) A person required to be licensed under Article 21.07-2, Insurance Code, as redesignated and amended by this Act, who was not required to be licensed under Chapter 29, Acts of the 54th Legislature, Regular Session, 1955 (Article 21.07-2, Vernon's Texas Insurance Code), as it existed immediately before the effective date of this Act, is not required to be licensed as provided by this Act before January 1, 2000.

(e) A person who holds a license to operate as an agricultural insurance agent under Article 21.14-2, Insurance Code, on the effective date of this Act is eligible for a license under Article 21.14, Insurance Code, if the person applies for the license to the Texas Department of Insurance before March 1, 2000, and pays any required fees. To maintain the license, the person must pass the required qualifying examination for that license on or before March 1, 2002.

SECTION 6.03. 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 957**, in SECTION 1.01 of the bill, in Section 1(d) of added Article 21.09, Insurance Code, by striking the first sentence of that subsection (page 2, lines 22-24, House committee report printing), and substituting the following:

A person licensed under this article may not allow an individual to act on the license holder's behalf with respect to the specific type of insurance that the license holder is authorized to offer unless that individual has completed an approved training program.

Floor Amendment No. 2

Amend **CSSB 957** as follows:

(1) In SECTION 1.01, in added Article 21.09, Insurance Code, following added Section 5 of the article (house committee printing, page 13, between lines 7 and 8), insert the following new Section 6:

Sec. 6. FUNERAL PREARRANGEMENT LIFE INSURANCE LICENSE. (a) In this section, "funeral establishment" means a place of business used in the care and preparation for burial or transportation of dead human bodies, or any place at which one or more persons, either as sole owner, in copartnership, or through corporate status, are engaged, or represent themselves to be engaged, in the business of embalming or funeral directing.

(b) Notwithstanding any other provision of this article or this code, the commissioner may issue a funeral prearrangement life insurance agent's specialty license under Section 1 of this article to a funeral establishment that complies with this section only for the limited purposes set forth in this section.

(c) A funeral prearrangement life insurance agent may write only life insurance policies and fixed annuity contracts to secure delivery of funeral services and merchandise under prepaid funeral contracts regulated by the Texas Department of Banking under Chapter 154, Finance Code. A funeral prearrangement life insurance agent may not act as an agent for an insurance company unless the agent acts under the supervision of a person, including a corporation, who holds or is an authorized representative of a holder of a permit issued by the Texas Department of Banking regulated under Chapter 154, Finance Code.

(d) A funeral prearrangement life insurance agent and the agent's employees may not:

(1) write any coverage or combination of coverages with an initial guaranteed death benefit in excess of \$15,000 on any life; or

(2) act as an agent for more than one insurance company.

(2) In SECTION 1.01, in added Article 21.09, Insurance Code (house committee printing, page 13, line 8), renumber existing Section 6 of the article as Section 7.

(3) In SECTION 5.01, at the end of Subdivision (2), following the semicolon (house committee printing, page 26, line 1), strike "and".

(4) In SECTION 5.01 (house committee printing, page 26, between lines 1 and 2) insert the following new Subdivision (3) and renumber the subsequent subdivision accordingly:

(3) Section 5A, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955 (Article 21.07-1, Vernon's Texas Insurance Code); and

(5) In SECTION 6.02 (house committee printing, page 26, lines 7-17), strike Subsection (a), substitute the following new Subsections (a) and (b), and reletter subsequent subsections appropriately:

(a) Not later than January 1, 2000, the Texas Department of Insurance shall issue an appropriate license under Article 21.09, Insurance Code, as added by this Act, to a person who, immediately before the effective date of this Act, holds an agent license issued by the Texas Department of Insurance under:

(1) Section 21, Article 21.07, Insurance Code, as added by Chapter 820, Acts of the 75th Legislature, Regular Session, 1997;

(2) Section 21, Article 21.07, Insurance Code, as added by Chapter 1196, Acts of the 75th Legislature, Regular Session, 1997; or

(3) Section 5A, Chapter 213, Acts of the 54th Legislature, Regular Session, 1955 (Article 21.07-1, Vernon's Texas Insurance Code).

(b) On issuance of the new license under Subsection (a) of this section, the license holder is subject to Article 21.09, Insurance Code, as added by this Act.

Floor Amendment No. 3

Amend **CSSB 957** in SECTION 1.01 of ARTICLE 1 of the bill, in added Article 21.09, Insurance Code, as follows:

(1) In Section 1(d), in the second sentence (house committee printing, page 2, lines 24-26), strike "The training program must be submitted to the commissioner for approval before the training program is used and" and substitute "An insurer that writes the specific type of insurance for which the specialty license is sought must provide the materials for the training program to the license holder. The insurer must submit the training program to the commissioner for approval before the training program is used. The training program".

(2) In Section 4(c)(4) (house committee printing, page 11, line 20), strike "\$100,000" and substitute "\$150,000".

The amendments were read.

Senator Madla 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 957** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Madla, Chair; Lucio, Sibley, Harris, and Brown.

CONFERENCE COMMITTEE ON HOUSE BILL 1376

Senator Carona 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 1376** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1376** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Carona, Chair; Madla, Fraser, Jackson, and Whitmire.

SENATE BILL 261 WITH HOUSE AMENDMENT

Senator Moncrief called **SB 261** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 261** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to facilities and functions of facilities under the jurisdiction of the Texas Department of Mental Health and Mental Retardation.

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

SECTION 1. Section 532.001(b), Health and Safety Code, is amended to read as follows:

(b) The department also includes community services operated by the department and the following facilities:

- (1) the central office of the department;
- (2) the Austin State Hospital;
- (3) the Big Spring State Hospital;
- (4) the Kerrville State Hospital;
- (5) the Rusk State Hospital;
- (6) the San Antonio State Hospital;
- (7) the Terrell State Hospital;
- (8) the North Texas [~~Vernon-Wichita Falls~~] State Hospital;
- (9) the Abilene State School;
- (10) the Austin State School;
- (11) the Brenham State School;
- (12) the Corpus Christi State School;
- (13) the Denton State School;
- (14) the Lubbock State School;
- (15) the Lufkin State School;
- (16) the Mexia State School;
- (17) the Richmond State School;
- (18) the San Angelo State School;
- (19) the San Antonio State School;
- (20) the Amarillo State Center;
- (21) the Beaumont State Center;
- (22) the El Paso State Center;
- (23) [~~the Harris County Psychiatric Center;~~
- (24) [~~(25)~~] the Laredo State Center;
- (25) [~~(26)~~] the Rio Grande State Center; and
- (26) [~~(27)~~] the Waco Center for Youth[;

~~[(27) the Dallas Mental Health Connections;
(28) the El Paso Psychiatric Hospital; and
(29) the Lubbock Psychiatric Hospital].~~

SECTION 2. Section 571.003(21), Health and Safety Code, is amended to read as follows:

(21) "State mental hospital" means[
 ~~[(A)] a mental hospital operated by the department[; or
 (B) an inpatient mental health facility that is included in~~
Section 532.001(b)].

SECTION 3. Section 574.041, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) In an order for temporary or extended mental health services specifying inpatient care, the court shall commit the patient to a designated mental health facility. The court shall commit the patient to:

(1) a [the] facility of a single portal authority for the area, if an authority has been designated for the area;

(2) a private mental hospital under Section 574.042;

(3) a hospital operated by a federal agency under Section 574.043; or

(4) an inpatient mental health facility of the institutional division of the Texas Department of Criminal Justice under Section 574.044.

(d) In this section, "facility of a single portal authority" includes a private mental hospital under contract with a single portal authority.

SECTION 4. Chapter 596, Health and Safety Code, is repealed.

SECTION 5. 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 Moncrief moved to concur in the House amendment to **SB 261**.

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

Absent-excused: Luna.

SENATE BILL 1789 WITH HOUSE AMENDMENT

Senator Nelson called **SB 1789** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1789** (House Committee printing) as follows:

Amend Sec. 414.002(c) as follows:

(c) The term of office of a member is four ~~[two]~~ years.

Add a new SECTION 2 as follows:

SECTION 2. At their first meeting after this Act takes effect, the members of the advisory council shall draw for three terms expiring September 1, 2000 and two terms expiring September 1, 2001.

Renumber subsequent section.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 1789**.

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

Absent-excused: Luna.

SENATE BILL 1763 WITH HOUSE AMENDMENT

Senator Barrientos called **SB 1763** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1763** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to certain fees charged at certain institutions of higher education.

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

SECTION 1. Subchapter A, Chapter 54, Education Code, is amended by adding Section 54.010 to read as follows:

Sec. 54.010. PRORATION OF STUDENT FEE. For a student fee authorized by this chapter to be charged per academic semester or term, including a fee authorized to be charged per semester credit hour, the governing board of an institution of higher education shall prorate the amount of the fee charged for a term of the summer session of nine weeks or less based on the length of the term, unless the statute authorizing the fee specifies a reduced fee amount for that term.

SECTION 2. Section 54.50891, Education Code, is amended by amending Subsections (a) and (b) and adding Subsections (e) and (f) to read as follows:

(a) The board of regents of The University of Texas System may charge each student registered at a component institution of The University of Texas System a medical services fee not to exceed \$55 for each semester or ~~[of the regular]~~ term. If approved by a majority vote of those students participating in a general election held at the institution for that purpose, the maximum amount of the medical services fee that may be charged at a component institution is increased to the amount stated on the ballot proposition, not to exceed \$75 for each semester or term. Approval at the election of an increase in the maximum amount of the fee that may be charged at a component institution does not affect the application of Subsection (e) to an increase in the amount of the fee actually charged at that institution from one academic year to the next [or 12-week summer session and not to exceed \$25 for each six-week or shorter term of the summer session].

(b) Before charging a medical services fee, the board must give students and administrators an opportunity to offer recommendations to the board as to the type and scope of medical services that should be provided. Before increasing the amount of the medical services fee at The University of Texas at Austin, a medical services fee committee, a majority of the members of which must be students of the university, must approve the fee increase.

(c) The board may not increase the amount of the fee charged at a component institution of The University of Texas System by more than 10 percent from one

academic year to the next unless the increase is approved by a majority of the students of the institution voting in a general election held at the institution for that purpose.

(f) The board shall prorate the amount of a fee charged to a student under this section based on the length of the semester or term for which the student is enrolled.

SECTION 3. Sections 54.536(a) and (b), Education Code, are amended to read as follows:

(a) The board of regents of The University of Texas System may charge each student enrolled in The University of Texas at Austin a fee not to exceed \$8 a semester or 12-week summer session, \$6 a nine-week summer session, or \$4 a six-week summer session. The fee may be used only for financing the renovation, improvement, maintenance, or replacement of the student health center building at the university or for operating the student health center.

(b) The university shall collect the student health services building fee imposed under this section and deposit the money collected in an account to be known as the student health services building account. The money collected and placed in the account may ~~shall~~ be used only to:

(1) finance ~~[for the purpose of financing]~~ the renovation, improvement, maintenance, or replacement of the student health center building and ~~[may]~~ be pledged for the payment of obligations issued for those purposes; or

(2) operate the student health center.

SECTION 4. Sections 54.537(a) and (b), Education Code, are amended to read as follows:

(a) The board of regents of The University of Texas System may charge each student enrolled at The University of Texas at Austin a fee not to exceed \$1.10 per registered semester hour. The fee may be used only for financing the construction, repair, maintenance, renovation, improvement, or replacement of a student services building at the university or for operating the student services building.

(b) The university shall collect the student services building fee imposed under this section and deposit the money collected into an account to be known as the student services building account. The money collected and placed in the account may ~~shall~~ be used only to:

(1) finance ~~[for the purpose of financing]~~ the construction, repair, maintenance, renovation, improvement, or replacement of a student services building and ~~[may]~~ be pledged for the payment of obligations issued for those purposes; or

(2) operate the student services building.

SECTION 5. This Act applies beginning with fees imposed for the 1999 fall semester.

SECTION 6. 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 Barrientos moved to concur in the House amendment to **SB 1763**.

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

Absent-excused: Luna.

CONFERENCE COMMITTEE ON HOUSE BILL 3757

Senator Carona 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 3757** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3757** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Carona, Chair; Shapiro, Shapleigh, Nixon, and Bernsen.

SENATE BILL 1287 WITH HOUSE AMENDMENT

Senator Lucio called **SB 1287** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1287** as follows:

(1) In SECTION 1 of the bill, in added Section 2306.752(a), Government Code (House committee report, page 1, lines 19 and 20), strike "and nonprofit organizations identified by the department" and substitute "or a nonprofit organization certified by the department as a nonprofit owner-builder housing program".

(2) In SECTION 1 of the bill, in added Section 2306.753(a), Government Code (House committee report, page 2, lines 7 and 8), strike "must provide that at least 50 percent of the loans made under this subchapter be made to" and substitute "must establish a priority for loans made under this subchapter to".

(3) In SECTION 1 of the bill, in added Section 2306.753(b)(2), Government Code (House committee report, page 2, line 17), strike "\$25,000" and substitute "60 percent, as determined by the department, of the greater of the state or local median family income".

(4) In SECTION 1 of the bill, following added Section 2306.753(c), Government Code (House committee report, page 3, between lines 10 and 11), insert the following:

(d) At least two-thirds of the dollar amount of loans made under this subchapter in each fiscal year must be made to borrowers whose property is located in a county that is eligible to receive financial assistance under Subchapter K, Chapter 17, Water Code.

(5) In SECTION 1 of the bill, strike added Sections 2306.754(c)(2)-(5), Government Code (House committee report, page 3, line 23 through page 4, line 8) and substitute the following:

(2) may bear interest at a fixed rate of not more than three percent or bear interest in the following manner:

(A) no interest for the first two years of the loan;

(B) beginning with the second anniversary of the date the loan was made, interest at the rate of one percent a year;

(C) beginning on the third anniversary of the date the loan was made and ending on the sixth anniversary of the date the loan was made, interest at a rate that is one percent greater than the rate borne in the preceding year; and

(D) beginning on the sixth anniversary of the date the loan was made and continuing through the remainder of the loan term, interest at the rate of five percent; and

(6) In SECTION 1 of the bill, in added Section 2306.754(c)(6), Government Code (House committee report, page 4, line 9), strike "(6)" and substitute "(3)".

(7) In SECTION 1 of the bill, at the end of added Section 2306.758(b)(2), Government Code (House committee report, page 6, line 9), insert "and".

(8) In SECTION 1 of the bill, strike added Section 2306.758(b)(3), Government Code (House committee report, page 6, lines 10 and 11).

(9) In SECTION 1 of the bill, in added Section 2306.758(b)(4), Government Code (House committee report, page 6, line 12), strike "(4)" and substitute "(3)".

(10) In SECTION 1 of the bill, strike added Section 2306.759(1), Government Code (House committee report, page 6, lines 15-17) and substitute the following:

(1) prepare a report that evaluates the repayment history of owner-builders who receive loans under this subchapter, including for each owner-builder:

(A) the owner-builder's income;

(B) the date on which the owner-builder completed building or improving the residential housing for which the loan was made;

(C) the county in which the residential housing is located;

(D) the identity of the owner-builder housing program through which the housing was constructed; and

(E) a description of the type of construction or improvement made; and

(11) Strike SECTIONS 2 and 3 of the bill (House committee report, page 6, line 23 through page 7, line 7) and substitute the following:

SECTION 2. For the state fiscal biennium ending August 31, 2001, the Texas Department of Housing and Community Affairs shall use not more than \$2.8 million from funds allocated to the housing trust fund established under Section 2306.201, Government Code, and not less than \$2.8 million from any other source available to the department to make loans under Subchapter FF, Chapter 2306, Government Code, as added by this Act.

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

The amendment was read.

On motion of Senator Lucio, the Senate concurred in the House amendment to **SB 1287** by a viva voce vote.

SENATE BILL 1855 WITH HOUSE AMENDMENT

Senator Bernsen called **SB 1855** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1855** by striking all above the enacting clause (House Committee Report, page 1, lines 1-4) and substituting "relating to the creation, administration, powers, duties, functions, operations, and financing of the Tarkington Special Utility District."

The amendment was read.

Senator Bernsen moved to concur in the House amendment to **SB 1855**.

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

Absent-excused: Luna.

SENATE BILL 1588 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 1588** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1588** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to fraud control procedures for the Medicaid managed care program.

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

SECTION 1. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.012 to read as follows:

Sec. 533.012. INFORMATION FOR FRAUD CONTROL. (a) Each managed care organization contracting with the commission under this chapter shall submit to the commission:

(1) a description of any financial or other business relationship between the organization and any subcontractor providing health care services under the contract;

(2) a copy of each type of contract between the organization and a subcontractor relating to the delivery of or payment for health care services; and

(3) a description of the fraud control program used by any subcontractor that delivers health care services.

(b) The information submitted under this section must be submitted in the form required by the commission and be updated as required by the commission.

(c) The commission's office of investigations and enforcement shall review the information submitted under this section as appropriate in the investigation of fraud in the Medicaid managed care program. The comptroller may review the information in connection with the health care fraud study conducted by the comptroller.

(d) For a subcontractor who reenrolled as a provider in the Medicaid program as required by Section 2.07, Chapter 1153, Acts of the 75th Legislature, Regular Session, 1997, or who modified a contract in compliance with that section, a managed care organization is not required to submit, and the provider is not required to provide, fraud control information different than the information submitted in connection with the reenrollment or contract modification.

(e) Information submitted to the commission under Subsection (a)(1) is confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION 2. Section 533.005, Government Code, is amended to read as follows:

Sec. 533.005. REQUIRED CONTRACT PROVISIONS. A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:

(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;

(2) capitation and provider payment rates that ensure the cost-effective provision of quality health care;

(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;

(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;

(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;

(6) procedures for recipient outreach and education;

(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient under a managed care plan not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the managed care organization to process the claim, or within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization;

(8) a requirement that the commission, on the date of a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid recertification date; ~~and~~

(9) a requirement that the managed care organization comply with Section 533.006 as a condition of contract retention and renewal; and

(10) a requirement that the managed care organization provide the information required by Section 533.012 and otherwise comply and cooperate with the commission's office of investigations and enforcement.

SECTION 3. This Act takes effect September 1, 1999.

SECTION 4. The change in law made by this Act applies only to a contract with a managed care organization entered into or renewed on or after the effective date of this Act. A contract entered into before the effective date of this Act 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.

SECTION 5. 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.

On motion of Senator Zaffirini, the Senate concurred in the House amendment to **SB 1588** by a viva voce vote.

SENATE BILL 1579 WITH HOUSE AMENDMENT

Senator West called **SB 1579** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Truan in Chair, laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1579** (House Committee Printing) as follows:

(1) In added Section 71.022(a), Penal Code, (page 1, lines 11 and 12), strike "which constitutes an offense under this code or other law" and substitute "which constitutes an offense punishable as a Class A misdemeanor or a felony".

(2) In added Section 71.022(b), Penal Code, (page 1, lines 13 and 14), strike "a Class A misdemeanor or felony offense" and substitute "an offense".

The amendment was read.

On motion of Senator West, the Senate concurred in the House amendment to **SB 1579** by a viva voce vote.

SENATE BILL 1578 WITH HOUSE AMENDMENTS

Senator West called **SB 1578** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 1578** in SECTION 1 of the bill as follows:

(1) In added Article 61.08(a), Code of Criminal Procedure, strike "law enforcement agencies" and substitute "criminal justice agencies and juvenile justice agencies" (page 1, line 8, house committee printing).

(2) In added Article 61.08(a), Code of Criminal Procedure, strike "system shall include" and substitute "system may include" (page 1, line 9, house committee printing).

(3) In added Article 61.08(b), Code of Criminal Procedure, strike "law enforcement agencies" and substitute "criminal justice agencies and juvenile justice agencies" (page 1, lines 18-19, house committee printing).

(4) In added Article 61.08(c), Code of Criminal Procedure, strike "law enforcement agencies" and substitute "criminal justice agencies and juvenile justice agencies" (page 1, line 24, house committee printing).

(5) In added Article 61.08(f), Code of Criminal Procedure, strike "law enforcement personnel" and substitute "criminal justice agency personnel and juvenile justice agency personnel" (page 2, line 10, house committee printing).

Floor Amendment No. 2

Amend **SB 1578** as follows:

In SECTION 1 of the bill, on page 1, lines 37, 38 and 39, delete the following in Article 61.08(e) Code of Criminal Procedure:

"shall not be included in affidavits or subpoenas or used in connection with any other legal or judicial proceedings."

and insert in lieu thereof the following:

"may be included in affidavits or subpoenas or used in connection with any other legal or judicial proceeding only if the information from the system is corroborated by information not provided or maintained in the system."

The amendments were read.

Senator West moved to concur in the House amendments to **SB 1578**.

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

Absent-excused: Luna.

(Senator Brown in Chair)

SENATE BILL 1569 WITH HOUSE AMENDMENTS

Senator West called **SB 1569** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 1569** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the leasing of classroom space for an institution of higher education.

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

SECTION 1. Subsection (b), Section 2167.001, Government Code, is amended to read as follows:

(b) This chapter does not apply to:

- (1) aircraft hangar space;
- (2) radio antenna space;
- (3) boat storage space;
- (4) vehicle parking space;
- (5) residential space for a Texas Department of Mental Health and Mental

Retardation program;

- (6) residential space for a Texas Youth Commission program;
- (7) space to be used for less than one month for meetings, conferences, conventions, seminars, displays, examinations, auctions, or similar purposes;
- (8) district office space for members of the legislature;
- (9) space used by the Texas Employment Commission; ~~or~~
- (10) residential property acquired by the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation that is offered for sale or rental to individuals and families of low or very low income or families of moderate income; or

(11) except as provided by Section 2167.007, classroom and instructional space for an institution of higher education.

SECTION 2. Subchapter A, Chapter 2167, Government Code, is amended by adding Section 2167.0051 to read as follows:

Sec. 2167.0051. CLASSROOM AND INSTRUCTIONAL SPACE. (a) An institution of higher education may not lease classroom and instructional space unless the portion of the building to be used by the institution complies with the applicable

standards and specifications under the architectural barriers law, Article 9102, Revised Statutes.

(b) An institution of higher education must use competitive sealed proposals in accordance with Section 2167.054 to lease classroom and instructional space and shall include provisions to obtain a lease contract for classroom and instructional space in accordance with Section 2167.055.

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.

Floor Amendment No. 1

Amend **CSSB 1569**, in SECTION 2 of the bill, by striking added Section 2167.0051(b), Government Code (committee report page 2, lines 14-18), and inserting the following:

(b) An institution of higher education may lease classroom and instructional space through competitive bidding in accordance with Section 2167.053 or through competitive sealed proposals in accordance with Section 2167.054 or may negotiate for that space on making a determination that competition is not available, and shall include provisions to obtain a lease contract for classroom and instructional space in accordance with Section 2167.055.

The amendments were read.

Senator West moved to concur in the House amendments to **SB 1569**.

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

Absent-excused: Luna.

SENATE BILL 1261 WITH HOUSE AMENDMENT

Senator Bivins called **SB 1261** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1261**, in SECTION 3 of the bill, in the first sentence of amended Section 61.823(a), Education Code (Engrossed Printing page 2, line 8), strike "may [~~shall~~]" and substitute "shall".

The amendment was read.

Senator Bivins moved to concur in the House amendment to **SB 1261**.

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

Absent-excused: Luna.

SENATE BILL 525 WITH HOUSE AMENDMENT

Senator Truan called **SB 525** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 on Third Reading

Amend **SB 525** on third reading, in SECTION 1 of the bill, by striking Subsection (a), Section 431.006, Government Code (house committee report, page 1, lines 7-16), and substituting the following:

(a) A private employer may not terminate the employment of a permanent employee who is a member of the state military forces because the employee is ordered to authorized training or [active] duty by proper authority [during an emergency within the state]. The employee is entitled to return to the same employment held when ordered to training or [active] duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment. This subsection does not require a private employer to pay the regular wage of an employee during the period that the employee is absent from work to participate in authorized training or duty.

The amendment was read.

On motion of Senator Truan, the Senate concurred in the House amendment to **SB 525** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 3255

Senator Carona 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 3255** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3255** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Carona, Chair; Duncan, Jackson, Armbrister, and Shapiro.

SENATE CONCURRENT RESOLUTION 24 WITH HOUSE AMENDMENTS

Senator Carona called **SCR 24** from the President's table for consideration of the House amendments to the resolution.

The Presiding Officer laid the resolution and the House amendments before the Senate.

Amendment

Amend **SCR 24** by substituting in lieu thereof the following:

CONCURRENT RESOLUTION

WHEREAS, DalMac Construction Company, Inc., alleges that on February 15, 1993, DalMac Construction Company and Texas A&M

University entered into a contract for the construction of a recreational sports building and that the university has breached the contract; now, therefore, be it

RESOLVED by the Legislature of the State of Texas, That DalMac Construction Company, Inc., is granted permission to file a claim against Texas A&M University with the State Office of Administrative Hearings for amounts owed under the contract for construction of the recreational sports building; and, be it further

RESOLVED, That an administrative law judge of the State Office of Administrative Hearings shall hear the claim as a contested case under Chapter 2001, Government Code, and render a written order containing the administrative law judge's findings of facts and recommendations; and, be it further

RESOLVED, That Texas A&M University may assert in the contested case authorized by this resolution any counterclaim or offset that the university claims against DalMac Construction Company, Inc., with respect to the contract; and, be it further

RESOLVED, That Texas A&M University shall pay, exclusively from money appropriated for this purpose, the claim or any part of the claim if the administrative law judge finds, by a preponderance of the evidence, the claim or part of the claim is valid under the laws of this state; and, be it further

RESOLVED, That the amount awarded by the administrative law judge in a contested case authorized by this resolution may not include any amount attributable to consequential damages resulting from any breach of contract, punitive or exemplary damages, or attorney's fees; and, be it further

RESOLVED, That the amount of a claim paid in accordance with any order of an administrative law judge may not exceed the balance due and owing on the contract price, including any orders for additional work, less any amount owed for work not performed under the contract or in substantial compliance with the contract and less any valid counterclaim or offset asserted by Texas A&M University, but that in any event the amount paid may not exceed \$3 million; and, be it further

RESOLVED, That any act, finding, ruling, or award of an administrative law judge in a contested case authorized under this resolution is not subject to appeal to any court of this state; and, be it further

RESOLVED, That an administrative law judge may establish a fee in an amount that allows the State Office of Administrative Hearings to recover its costs with respect to the contested case authorized by this resolution and assess the fee against the party that does not prevail in the contested case or apportion the fee against the parties to the contested case in an equitable manner; and, be it further

RESOLVED, That if legislation is enacted by the 76th Legislature under which the State Office of Administrative Hearings may hear contract claims against the state, the hearings held by the State Office of Administrative Hearings in accordance with this resolution shall be held in accordance with that legislation and any rules or procedures adopted under that legislation.

Floor Amendment No. 1

Amend **CSSCR 24** as follows:

(1) On page 1, line 9 of the resolution strike "amounts" and insert "breach of contract for such amounts as are," after the words "Administrative Hearings for."

(2) On page 2, line 9 of the resolution strike the word "price."

The amendments were read.

On motion of Senator Carona, the Senate concurred in the House amendments to **SCR 24** by a viva voce vote.

SENATE BILL 1220 WITH HOUSE AMENDMENT

Senator Moncrief called **SB 1220** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend **SB 1220** by striking SECTION 3 of the bill, and substitute the following: "SECTION 3. Subchapter B, Chapter 392, Transportation Code, is amended by adding Section 392.0325 to read as follows:

Sec. 392.0325. EXCEPTION. (a) A person may submit a request to the department for an exception to this subchapter for a sign that is attached to a building located on property other than a state highway right-of-way and that refers to a commercial activity or business located in the building if the sign:

(1) consists solely of the name of the establishment;

(2) identifies the establishment's principal product or services; or

(3) advertises the sale or lease of the property on which the sign is located.

(b) The department shall approve a request submitted under Subsection (a) if the department:

(1) determines that the sign will not constitute a safety hazard;

(2) determines that the sign will not interfere with the construction, reconstruction, operation, or maintenance of the highway facility; and

(3) obtains the approval of the Federal Highway Administration if approval is required under federal law.

The amendment was read.

Senator Moncrief moved to concur in the House amendment to **SB 1220**.

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

Absent-excused: Luna.

CONFERENCE COMMITTEE ON HOUSE BILL 1291

Senator Harris 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 1291** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1291** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chair; Lucio, Nelson, Armbrister, and Ellis.

SENATE BILL 1165 WITH HOUSE AMENDMENTS

Senator Wentworth called **SB 1165** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 1165** at the end of the bill by adding the following SECTION, appropriately numbered:

SECTION _____. 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.

Floor Amendment No. 2

Amend **SB 1165** as follows:

(1) In SECTION 1 of the bill, in the introductory language to the SECTION (Committee Printing, page 1, line 4), strike "(c) and (d)" and substitute "(c), (d), and (e)".

(2) In SECTION 1 of the bill, between Sections 26.179(d) and (g), Water Code (Committee Printing, page 2, between lines 16 and 17), insert the following:

(e) A water quality protection zone designated under this section shall be described by metes and bounds or other adequate legal description. The designation shall include a general description of the proposed land uses within the zone, a water quality plan for the zone, and a general description of the water quality facilities and infrastructure to be constructed for water quality protection in the zone.

(3) In SECTION 1 of the bill, in new Section 26.179(g), Water Code (Committee Printing, page 2, line 21), between "zone designation." and "An amendment", insert "An amendment to a zone designation adding land to or excluding land from a zone must describe the boundaries of the zone as enlarged or reduced by metes and bounds or other adequate legal description.".

Floor Amendment No. 3

Amend **SB 1165** (House Committee Printing) by adding the following SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. All actions taken by the Texas Natural Resource Conservation Commission or another state agency before the effective date of this Act relating to the approval under Section 26.179, Water Code, of the designation of a tract as a water quality protection zone, of a water quality plan for a zone, or of an amendment to a designation or plan are ratified, validated, approved, and confirmed.

The amendments were read.

Senator Wentworth moved to concur in the House amendments to **SB 1165**.

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

Absent-excused: Luna.

SENATE BILL 1133 WITH HOUSE AMENDMENT

Senator Madla called **SB 1133** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1133** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the procurement by a governmental entity of certain professional services.

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

SECTION 1. Section 2254.002(2), Government Code, is amended to read as follows:

(2) "Professional services" means services:

(A) within the scope of the practice, as defined by state law, of:

- (i) accounting;
- (ii) architecture;
- (iii) landscape architecture;
- (iv) land surveying;
- (v) [~~(iv)~~] medicine;
- (vi) [~~(v)~~] optometry;
- (vii) [~~(vi)~~] professional engineering; [~~or~~]
- (viii) [~~(vii)~~] real estate appraising; or
- (ix) professional nursing; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

- (i) a certified public accountant;
- (ii) an architect;
- (iii) a landscape architect;
- (iv) a land surveyor;
- (v) [~~(iv)~~] a physician, including a surgeon;
- (vi) [~~(v)~~] an optometrist;
- (vii) [~~(vi)~~] a professional engineer; [~~or~~]
- (viii) [~~(vii)~~] a state certified or state licensed real estate appraiser; or
- (ix) a registered nurse.

SECTION 2. This Act takes effect September 1, 1999.

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.

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 1133** by a viva voce vote.

SENATE BILL 1131 WITH HOUSE AMENDMENT

Senator Madla called **SB 1131** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1131** by adding SECTIONS 6 and 7 that read as follows and renumbering remaining SECTIONS accordingly:

SECTION 6. Section 8, Article 4514, Revised Statutes, is amended by adding subsection (c) to read as follows:

(c) An advanced practice nurse's signature attesting to the provision of a service the advanced practice nurse is legally authorized to provide shall satisfy any documentation requirement for that service established by a state agency.

SECTION 7. Section 12, Physician Assistant Licensing Act (Article 4495b-1, Vernon's Revised Texas Civil Statutes) is amended by adding subsection (d) to read as follows:

(d) A physician assistant's signature attesting to the provision of a service the physician assistant is legally authorized to provide shall satisfy any documentation requirement for that service established by a state agency.

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 1131** by a viva voce vote.

SENATE BILL 983 WITH HOUSE AMENDMENT

Senator Madla called **SB 983** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 983**, lines 15 and 16 on page 1, by deleting the words "or allow the state to set its own driving distance requirements" after the word "agency"

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 983** by a viva voce vote.

SENATE BILL 967 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 967** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 967** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to creating a registry for acts of misconduct for and criminal background checks on certain employees of certain health care facilities that are licensed or certified by or that contract with the state.

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

SECTION 1. Section 250.004(a), Health and Safety Code, is amended to read as follows:

(a) Identifying information[~~, including mailing addresses,~~] of an employee [~~employees~~] in direct contact with a consumer [~~consumers~~] in a covered facility [~~facilities~~] shall be submitted on a typewritten form to the Department of Public Safety to obtain the person's criminal conviction record when the person applies for employment and at other times as the facility may determine appropriate. In this subsection, "identifying information" includes:

- (1) the complete name, race, and sex of the employee;
- (2) any known identifying number of the employee, including social security number, driver's license number, or state identification number; and
- (3) the employee's date of birth.

SECTION 2. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 253 to read as follows:

CHAPTER 253. EMPLOYEE MISCONDUCT REGISTRY

Sec. 253.001. DEFINITIONS. In this chapter:

- (1) "Commissioner" means the commissioner of human services.
- (2) "Department" means the Texas Department of Human Services.
- (3) "Employee" means a person who:
 - (A) works at a facility;
 - (B) is an individual who provides personal care services, active treatment, or any other personal services to a resident or consumer of the facility;
 - (C) is not licensed by an agency of the state to perform the services the employee performs at the facility; and
 - (D) is not a nurse aide employed by a nursing facility.
- (4) "Facility" means:
 - (A) a facility licensed by the department; or
 - (B) an adult foster care provider that contracts with the department.

Sec. 253.002. INVESTIGATION BY DEPARTMENT. If the department receives a report that an employee of a facility has abused, neglected, or exploited a resident or consumer of a facility or misappropriated a resident's or consumer's property, the department shall investigate the report to determine whether the employee has committed the act of abuse, neglect, exploitation, or misappropriation.

Sec. 253.003. DETERMINATION; NOTICE. (a) If, after an investigation, the department determines that the employee abused, neglected, or exploited a resident or consumer of the facility or misappropriated a resident's or consumer's property, the department shall give written notice of the department's findings. The notice must include:

- (1) a brief summary of the department's findings; and
- (2) a statement of the person's right to a hearing on the occurrence of the misconduct.

(b) Not later than the 30th day after the date on which the notice is received, the employee notified may accept the determination of the department made under this section or may make a written request for a hearing on that determination.

(c) If the employee notified of the violation accepts the determination of the department or fails to timely respond to the notice, the commissioner or the commissioner's designee shall issue an order approving the determination and ordering that the incident of misconduct be recorded in the registry under Section 253.007.

Sec. 253.004. HEARING; ORDER. (a) If the employee requests a hearing, the department shall:

(1) set a hearing;

(2) give written notice of the hearing to the employee; and

(3) designate a hearings examiner to conduct the hearing.

(b) The hearings examiner shall make findings of fact and conclusions of law and shall promptly issue to the commissioner or the commissioner's designee a proposal for decision as to the occurrence of the violation.

(c) Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the commissioner or the commissioner's designee by order may find that an act of misconduct has occurred. If the commissioner or the commissioner's designee finds that an act of misconduct has occurred, the commissioner or the commissioner's designee shall issue an order approving the determination.

Sec. 253.005. NOTICE; JUDICIAL REVIEW. (a) The department shall give notice of the order under Section 253.004 to the employee alleged to have committed the act of misconduct. The notice must include:

(1) separate statements of the findings of fact and conclusions of law;

(2) a statement of the right of the employee to judicial review of the order; and

(3) a statement that the incident of misconduct will be recorded in the registry under Section 253.007 if:

(A) the employee does not request judicial review of the determination; or

(B) the determination is sustained by the court.

(b) Not later than the 30th day after the date on which the decision becomes final as provided by Chapter 2001, Government Code, the employee may file a petition for judicial review contesting the finding of an act of misconduct. If the employee does not request judicial review of the determination, the department shall record the incident of misconduct in the registry under Section 253.007.

(c) Judicial review of the order:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(d) If the court sustains the finding of the occurrence of an act of misconduct, the department shall record the incident of misconduct in the registry under Section 253.007.

Sec. 253.006. INFORMAL PROCEEDINGS. The department by rule shall adopt procedures governing informal proceedings held in compliance with Section 2001.056, Government Code.

Sec. 253.007. EMPLOYEE MISCONDUCT REGISTRY. (a) If an employee abuses, neglects, or exploits a resident or consumer of a facility or misappropriates a

resident's or consumer's property, the department shall make a record of the employee's name, the employee's address, the employee's social security number, the name of the facility, the address of the facility, the date of the act of misconduct, and a description of the act of misconduct.

(b) If an agency of another state or the federal government finds that an employee has abused, neglected, or exploited a resident or consumer of a facility or misappropriated a resident's or consumer's property, the department may make a record in the employee misconduct registry of the employee's name, the employee's address, the employee's social security number, the name of the facility, the address of the facility, the date of the act of misconduct, and a description of the act of misconduct.

(c) The department shall make the registry available to the public.

Sec. 253.008. VERIFICATION OF EMPLOYABILITY. (a) Before a facility may hire an employee, the facility shall search the employee misconduct registry under this chapter and the nurse aide registry maintained under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) to determine whether the person is designated in either registry as having abused, neglected, or exploited a resident or consumer of a facility.

(b) A facility may not employ a person who is listed in either registry as having abused, neglected, or exploited a resident or consumer of a facility.

Sec. 253.009. NOTIFICATION. (a) Each facility shall notify its employees in a manner prescribed by the department:

(1) about the employee misconduct registry; and

(2) that an employee may not be employed if the employee is listed in the registry.

(b) The department shall adopt rules to implement this section.

SECTION 3. This Act takes effect September 1, 1999, and applies only to an act of misconduct that occurs on or after that date.

SECTION 4. 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.

On motion of Senator Zaffirini, the Senate concurred in the House amendment to **SB 967** by a viva voce vote.

SENATE BILL 639 WITH HOUSE AMENDMENT

Senator Bernsen called **SB 639** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Brown in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 639** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the issuance of special license plates to fund tourism activities of the department of economic development.

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

SECTION 1. Subchapter F, Chapter 502, Transportation Code, is amended by adding Section 502.2733 to read as follows:

Sec. 502.2733. TEXAS. IT'S LIKE A WHOLE OTHER COUNTRY LICENSE PLATES. (a) The department shall issue specially designed "Texas. It's Like A Whole Other Country" license plates for passenger cars and light trucks.

(b) The license plates must include the trademarked Texas patch and the words "Texas. It's Like A Whole Other Country" and be of a color, quality, and design approved by the Texas Department of Economic Development.

(c) The department shall issue license plates under this section to a person who:

(1) applies to the county assessor-collector of the county in which the person resides on a form provided by the department; and

(2) pays an annual fee of \$30, in addition to the fee prescribed by Section 502.161 and, if personalized prestige license plates are issued, in addition to the fee prescribed by Section 502.251.

(d) Of each fee collected under this section:

(1) \$25 shall be deposited to the credit of the tourism account in the general revenue fund to finance the Texas Department of Economic Development's tourism activities; and

(2) \$5 shall be deposited to the credit of the state highway fund to defray the cost of administering this section.

(e) If the owner of a vehicle registered under this section disposes of the vehicle during the registration year, the owner shall return the special license plates to the department.

SECTION 2. Before January 1, 2004, the comptroller shall determine the total amount collected under Section 502.2733(d)(1), Transportation Code, as added by this Act, before September 1, 2003, and shall submit the determination to the secretary of state for publication in the Texas Register. If the amount of the comptroller's determination is less than \$100,000, Section 502.2733, Transportation Code, as added by this Act, expires January 1, 2004.

SECTION 3. This Act takes effect September 1, 1999.

SECTION 4. 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.

On motion of Senator Bernsen, the Senate concurred in the House amendment to **SB 639** by a viva voce vote.

SENATE BILL 754 WITH HOUSE AMENDMENT

Senator Lucio called **SB 754** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend **SB 754**, in SECTION 1 of the bill, in proposed Section 502.299, Transportation Code, as follows:

(1) In Subsection (b)(2) (Committee Printing, page 1, lines 14-15), strike "pays the annual fee established by the department under Subsection (c)" and substitute "pays an annual fee of \$30".

(2) Strike Subsection (c) (Committee Printing, page 1, lines 18-22) and substitute:

"(c) Of each fee collected under this section, the department shall deposit \$25 to the credit of an account in the general revenue fund that may be appropriated only to Texas A&M University at Kingsville to provide financial assistance to graduate students in the College of Agriculture and Human Sciences. The remainder of the fee may be used only by the department to defray the cost of administering this section."

The amendment was read.

On motion of Senator Lucio, the Senate concurred in the House amendment to **SB 754** by a viva voce vote.

SENATE BILL 562 WITH HOUSE AMENDMENT

Senator Duncan called **SB 562** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 562** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to student center fees charged at Texas Tech University.

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

SECTION 1. Section 54.524(a), Education Code, is amended to read as follows:

(a) The board of regents of Texas Tech University may levy a regular fixed student fee not to exceed \$50 per student for each semester of the long session and not to exceed \$25 per student for each term of the summer session, or any fractional part thereof, as may in their discretion be just and necessary for the sole purpose of operating, maintaining, and improving the University Center. If approved by a majority vote of those students participating in a general election held at the university for that purpose, the maximum amount of the fee that may be charged at the university is increased to the amount stated on the ballot proposition, not to exceed \$100 for each semester or term. Approval as required by this subsection of an increase in the maximum amount of the fee that may be charged does not affect the application of this subsection to an increase in the amount of the fee actually charged from one academic year to the next. The amount of the fee may be changed at any time within the limits specified by this subsection in order to provide sufficient funds to support the center, but any increase in the fee of more than 10 percent from one academic year to the next must be approved by a majority vote of those students participating in a general election called for that purpose or by a majority vote of the student government.

SECTION 2. This Act applies beginning with the 1999 fall semester.

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 562**.

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

Absent-excused: Luna.

SENATE BILL 539 WITH HOUSE AMENDMENT

Senator Moncrief called **SB 539** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 539** on page 1, line 18 by inserting the following after the word "agency":
"not to exceed \$50 if transporting within the same county, and not to exceed the reasonable cost of transportation if transporting between counties."

The amendment was read.

On motion of Senator Moncrief, the Senate concurred in the House amendment to **SB 539** by a viva voce vote.

SENATE BILL 456 WITH HOUSE AMENDMENTS

Senator Madla called **SB 456** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 456** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to facilitating and supporting efforts of certain municipalities to promote economic development by hosting the Pan American Games and the Olympic Games; providing a penalty.

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

SECTION 1. DEFINITIONS. In this Act:

- (1) "Department" means the Texas Department of Economic Development.
- (2) "Endorsing municipality" means a municipality that has a population of 850,000 or more according to the most recent federal decennial census and that authorizes a bid by a local organizing committee for selection of the municipality as the site of the 2007 Pan American Games or the 2012 Olympic Games.
- (3) "Games" means the 2007 Pan American Games or the 2012 Olympic Games.

(4) "Games support contract" means a joinder undertaking, a joinder agreement, or a similar contract executed by the department and containing terms permitted or required by this Act.

(5) "Joinder agreement" means an agreement entered into by:

(A) the department on behalf of this state and a site selection organization setting out representations and assurances by the state in connection with the selection of a site in this state for the location of any of the games; or

(B) an endorsing municipality and a site selection organization setting out representations and assurances by the endorsing municipality in connection with the selection of a site in this state for the location of any of the games.

(6) "Joinder undertaking" means an agreement entered into by:

(A) the department on behalf of this state and a site selection organization that the state will execute a joinder agreement in the event that the site selection organization selects a site in this state for any of the games; or

(B) an endorsing municipality and a site selection organization that the municipality will execute a joinder agreement in the event that the site selection organization selects a site in this state for any of the games.

(7) "Local organizing committee" means a nonprofit corporation or its successor in interest that:

(A) has been authorized by an endorsing municipality to pursue an application and bid on the applicant's behalf to a site selection organization for selection as the site of one of the games; or

(B) has executed an agreement with a site selection organization regarding a bid to host one of the games.

(8) "Site selection organization" means the United States Olympic Committee, the International Olympic Committee, or the Pan American Sports Organization.

SECTION 2. PURPOSE. The purpose of this Act is to provide assurances required by a site selection organization sponsoring the games.

SECTION 3. LEGISLATIVE FINDINGS. The conduct in this state of the 2007 Pan American Games or the 2012 Olympic Games will:

(1) provide invaluable public visibility throughout the world for this state and the communities where the games are held;

(2) encourage and provide major economic benefits to the communities where the games are held and to the entire state; and

(3) provide job creation opportunities for local and Texas businesses.

SECTION 4. GUARANTEE OF STATE AND MUNICIPAL OBLIGATIONS; PAN AMERICAN GAMES TRUST FUND. (a) In this section:

(1) "Games" means the 2007 Pan American Games.

(2) "Site selection organization" means the United States Olympic Committee or the Pan American Sports Organization.

(b) If a site selection organization selects a site for the games in this state pursuant to an application by a local organizing committee, after the first occurrence of a measurable economic impact in this state as a result of the preparation for the games, as determined by the comptroller, but in no event later than one year before the scheduled opening event of the games, the comptroller shall determine for each subsequent calendar quarter, in accordance with procedures developed by the comptroller:

(1) the incremental increase in the receipts to the state from the taxes imposed within the endorsing municipality under Chapter 151, Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events; and

(2) the incremental increase in the receipts collected by the state on behalf of the endorsing municipality from the sales and use tax imposed by the endorsing municipality under Section 321.101(a), Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events.

(c) Subject to Section 6 of this Act, the comptroller shall retain, for the purpose of guaranteeing the joint obligations of the state and the endorsing municipality under a games support contract and this Act, the amount of municipal sales and use tax revenue determined under Subsection (b)(2) of this section from the amounts otherwise required to be sent to the municipality under Section 321.502, Tax Code, beginning with the first distribution of that tax revenue that occurs after the date the comptroller makes the determination of the amount of municipal sales and use tax revenue under Subsection (b)(2). The comptroller shall discontinue retaining municipal sales and use tax revenue under this subsection on the earlier of:

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

(2) the date the amount of municipal sales and use tax revenue and municipal hotel occupancy tax revenue in the Pan American Games trust fund equals 14 percent of the maximum amount of state and municipal tax revenue that may be deposited in the trust fund under Subsection (m) of this section.

(d) In addition to municipal sales and use tax revenue retained under Subsection (c) of this section, an endorsing municipality may guarantee its obligations under a games support contract and this Act by pledging surcharges from user fees, including parking or ticket fees, charged in connection with presentation of the games.

(e) Subject to Section 6 of this Act, the comptroller shall deposit the amount of state tax revenue determined under Subsection (b)(1) of this section and the amount of municipal sales and use tax revenue retained under Subsection (c) of this section into a trust fund designated as the Pan American Games trust fund. The trust fund is established outside the treasury but is held in trust by the comptroller for the administration of this Act. Money in the trust fund may be spent by the department without appropriation only as provided by this Act. The comptroller shall discontinue deposit of the amount of state tax revenue determined under Subsection (b)(1) of this section on the earlier of:

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

(2) the date the amount of state revenue in the Pan American Games trust fund equals 86 percent of the maximum amount of state and municipal tax revenue that may be deposited in the trust fund under Subsection (m) of this section.

(f) The endorsing municipality may deposit into the Pan American Games trust fund any amount of available revenue from the municipality's hotel occupancy tax imposed under Chapter 351, Tax Code. Deposit of that revenue into the trust fund is considered an authorized use of the revenue for purposes of Chapter 351, Tax Code. The comptroller shall credit any amount of municipal hotel occupancy tax revenue deposited by the endorsing municipality into the trust fund toward the amounts otherwise required to be retained under Subsection (c) of this section from the

municipality's sales and use tax revenue and shall reduce the amount of the municipality's sales and use tax revenue retained under Subsection (c) from the next distribution of that revenue to the municipality under Section 321.502, Tax Code.

(g) The department may use the funds in the Pan American Games trust fund only to fulfill joint obligations of the state and the endorsing municipality to a site selection organization under a games support contract or any other agreement providing assurances from the department or the endorsing municipality to a site selection organization.

(h) A local organizing committee shall provide information required by the comptroller to enable the comptroller to fulfill the comptroller's duties under this Act, including annual audited statements of the local organizing committee's financial records required by a site selection organization and data obtained by the local organizing committee relating to attendance at the games and to the economic impact of the games. A local organizing committee must provide an annual audited financial statement required by the comptroller not later than the end of the fourth month after the date the period covered by the financial statement ends.

(i) The comptroller shall provide an estimate before August 31, 1999, of the total amount of state and municipal tax revenue that would be deposited in the Pan American Games trust fund before January 1, 2008, if the games were to be held in this state at a site selected pursuant to an application by a local organizing committee. The comptroller shall provide the estimate on request to a local organizing committee. A local organizing committee may submit the comptroller's estimate to a site selection organization.

(j) The department may not make a disbursement from the Pan American Games trust fund unless the comptroller certifies that the disbursement is for a purpose for which the state and the endorsing municipality are jointly obligated under a games support contract or other agreement described by Subsection (g) of this section.

(k) If the comptroller certifies under Subsection (j) of this section that a disbursement may be made from the Pan American Games trust fund, the obligation shall be satisfied first out of municipal revenue deposited in the trust fund and any interest earned on that municipal revenue. If the municipal revenue is not sufficient to satisfy the entire deficit, state revenue deposited into the trust fund and any interest earned on that state revenue shall be used to satisfy the portion of the deficit not covered by the municipal revenue.

(l) On January 1, 2009, the comptroller shall transfer to the general revenue fund any money remaining in the Pan American Games trust fund, not to exceed the amount of state revenue remaining in the trust fund, plus any interest earned on that state revenue. The comptroller shall remit to the endorsing municipality any money remaining in the trust fund after the required amount is transferred to the general revenue fund.

(m) In no event may:

(1) the total amount of state and municipal tax revenue deposited in the Pan American Games trust fund exceed \$20 million; or

(2) the joint liability of the state and the endorsing municipality under a joinder agreement and any other games support contracts entered into pursuant to this Act exceed \$20 million.

SECTION 5. GUARANTEE OF STATE AND MUNICIPAL OBLIGATIONS; OLYMPIC GAMES TRUST FUND. (a) In this section:

(1) "Games" means the 2012 Olympic Games.

(2) "Site selection organization" means the United States Olympic Committee or the International Olympic Committee.

(b) If a site selection organization selects a site for the games in this state pursuant to an application by a local organizing committee, after the first occurrence of a measurable economic impact in this state as a result of the preparation for the games, as determined by the comptroller, but in no event later than one year before the scheduled opening event of the games, the comptroller shall determine for each subsequent calendar quarter, in accordance with procedures developed by the comptroller:

(1) the incremental increase in the receipts to the state from the taxes imposed within the endorsing municipality under Chapter 151, Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events; and

(2) the incremental increase in the receipts collected by the state on behalf of the endorsing municipality from the sales and use tax imposed by the endorsing municipality under Section 321.101(a), Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events.

(c) Subject to Section 6 of this Act, the comptroller shall retain, for the purpose of guaranteeing the joint obligations of the state and the endorsing municipality under a games support contract and this Act, the amount of municipal sales and use tax revenue determined under Subsection (b)(2) of this section from the amounts otherwise required to be sent to the municipality under Section 321.502, Tax Code, beginning with the first distribution of that tax revenue that occurs after the date the comptroller makes the determination of the amount of municipal sales and use tax revenue under Subsection (b)(2). The comptroller shall discontinue retaining municipal sales and use tax revenue under this subsection on the earlier of:

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

(2) the date the amount of municipal sales and use tax revenue in the Olympic Games trust fund equals 14 percent of the maximum amount of state and municipal tax revenue that may be deposited in the trust fund under Subsection (1) of this section.

(d) In addition to municipal sales and use tax revenue retained under Subsection (c) of this section, an endorsing municipality may guarantee its obligations under a games support contract and this Act by pledging surcharges from user fees, including parking or ticket fees, charged in connection with presentation of the games.

(e) Subject to Section 6 of this Act, the comptroller shall deposit the amount of state tax revenue determined under Subsection (b)(1) of this section and the amount of municipal sales and use tax revenue retained under Subsection (c) of this section into a trust fund designated as the Olympic Games trust fund. The trust fund is established outside the treasury but is held in trust by the comptroller for the administration of this Act. Money in the trust fund may be spent by the department without appropriation only as provided by this Act. The comptroller shall discontinue deposit of the amount of state tax revenue determined under Subsection (b)(1) of this section on the earlier of:

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

(2) the date the amount of state revenue in the Olympic Games trust fund equals 86 percent of the maximum amount of state and municipal tax revenue that may be deposited in the trust fund under Subsection (l) of this section.

(f) The department may use the funds in the Olympic Games trust fund only to fulfill joint obligations of the state and the endorsing municipality to a site selection organization under a games support contract or any other agreement providing assurances from the department or the endorsing municipality to a site selection organization.

(g) A local organizing committee shall provide information required by the comptroller to enable the comptroller to fulfill the comptroller's duties under this Act, including annual audited statements of the local organizing committee's financial records required by a site selection organization and data obtained by the local organizing committee relating to attendance at the games and to the economic impact of the games. A local organizing committee must provide an annual audited financial statement required by the comptroller not later than the end of the fourth month after the date the period covered by the financial statement ends.

(h) The comptroller shall provide an estimate before August 31, 2000, or as soon as practical after that date, of the total amount of state and municipal tax revenue that would be deposited in the Olympic Games trust fund if the games were to be held in this state at a site selected pursuant to an application by a local organizing committee. The comptroller shall provide the estimate on request to a local organizing committee. A local organizing committee may submit the comptroller's estimate to a site selection organization.

(i) The department may not make a disbursement from the Olympic Games trust fund unless the comptroller certifies that the disbursement is for a purpose for which the state and the endorsing municipality are jointly obligated under a games support contract or other agreement described by Subsection (f) of this section.

(j) If the comptroller certifies under Subsection (i) of this section that a disbursement may be made from the Olympic Games trust fund, the obligation shall be satisfied proportionately from the state and municipal revenue in the trust fund.

(k) Two years after the closing event of the games, the comptroller shall transfer to the general revenue fund any money remaining in the Olympic Games trust fund, not to exceed the amount of state revenue remaining in the trust fund, plus any interest earned on that state revenue. The comptroller shall remit to the endorsing municipality any money remaining in the trust fund after the required amount is transferred to the general revenue fund.

(l) In no event may:

(1) the total amount of state and municipal tax revenue deposited in the Olympic Games trust fund exceed \$100 million; or

(2) the joint liability of the state and the endorsing municipality under a joinder agreement and any other games support contracts entered into pursuant to this Act exceed \$100 million.

SECTION 6. MUNICIPAL ELECTION. (a) Except as provided by Subsection (b) of this section, an endorsing municipality must hold an election in the municipality to determine whether the municipality may contribute a portion of its sales and use taxes to the Pan American Games trust fund under Section 4 of this Act or to the Olympic Games trust fund under Section 5 of this Act, as applicable to the games for which the municipality has authorized a bid on its behalf. The election must be held on a uniform election date that occurs after the effective date of this Act and

before the date a site selection organization requires the endorsing municipality and the state to enter into a joinder undertaking relating to the applicable games.

(b) An endorsing municipality authorizing a bid on its behalf for the 2007 Pan American Games is not required to hold an election under this section if there is not a sufficient number of days between the effective date of this Act and a uniform election date that occurs before the date a site selection organization requires that the endorsing municipality and the state enter into a joinder undertaking to allow the municipality to submit the proposed election to the United States attorney general for preclearance under Section 5 of the Voting Rights Act of 1965, as amended (42 U.S.C. Section 1973c), at least 120 days before the election.

(c) If an endorsing municipality is required to hold an election under this section and the contribution of a portion of the municipality's sales and use taxes is not approved by a majority of the voters voting in the election:

(1) the comptroller may not retain the municipality's municipal sales and use tax revenue under Section 4(c) or 5(c) of this Act, as applicable, from amounts otherwise required to be sent to that municipality under Section 321.502, Tax Code, or deposit state tax revenue into the Pan American Games trust fund under Section 4(e) of this Act or the Olympic Games trust fund under Section 5(e) of this Act, as applicable;

(2) the comptroller is not required to determine the incremental increase in state and municipal tax revenue under Section 4(b) or 5(b) of this Act, as applicable; and

(3) the department may not enter into a games support contract relating to the games for which the municipality has authorized a bid on its behalf.

SECTION 7. ASSISTANCE OF DEPARTMENT AND OTHER STATE AGENCIES. (a) The department shall review requests from a local organizing committee that the department, on behalf of the state, enter into a games support contract that is required by a site selection organization in connection with the committee's bid to host any of the games.

(b) A request made under Subsection (a) of this section must be accompanied by:

(1) a general description and summary of the games for which a site selection is sought by the local organizing committee;

(2) a preliminary and general description of the proposal the local organizing committee intends to submit to a site selection organization;

(3) the estimated cost of preparing and submitting the intended proposal;

(4) the local organizing committee's intended method of obtaining the funds needed for the purpose of preparing the proposal;

(5) a description by type and approximate amount of the site selection application costs that the local organizing committee intends to pay; and

(6) any other information reasonably requested by the department to assist it in reviewing the request.

(c) The department shall approve or deny a request made under Subsection (a) of this section not later than the 30th day after the date the request is submitted.

(d) The department may agree in a joinder undertaking entered into with a site selection organization that the department will:

(1) execute a joinder agreement if the site selection organization selects a site in this state for the games; and

(2) refrain from taking any action after the execution of the joinder undertaking that would impair its ability to execute the joinder agreement.

(e) The department may agree in a joinder agreement that the state will:

(1) provide or cause to be provided all of the governmental funding, facilities, and other resources specified in the local organizing committee's bid to host the games;

(2) be bound by the terms of, cause the local organizing committee to perform, and guarantee performance of the local organizing committee's obligations under contracts relating to selecting a site in this state for the games; and

(3) be jointly liable with the local organizing committee for:

(A) obligations of the local organizing committee to a site selection organization, including obligations indemnifying the site selection organization against claims of and liabilities to third parties arising out of or relating to the games; and

(B) any financial deficit relating to the games.

(f) The department may agree to execute a joinder undertaking, a joinder agreement, or other games support contract only if:

(1) the department determines that:

(A) the state's assurances and obligations under the undertaking, agreement, or contract are reasonable; and

(B) any financial commitments of the state will be satisfied exclusively by recourse to the Pan American Games trust fund or the Olympic Games trust fund, as applicable; and

(2) the endorsing municipality has executed an agreement with a site selection organization that contains substantially similar terms.

(g) Before executing a games support contract, the department must execute an agreement with the applicable local organizing committee requiring that if a site selection organization selects a site for the games in this state pursuant to an application by the local organizing committee, the local organizing committee will repay the state any funds expended by the department under this Act from any surplus of the local organizing committee's funds remaining after the presentation of the games and after the payment of the expenses and obligations incurred by the local organizing committee.

(h) A games support contract may contain any additional provisions the department requires in order to carry out the purposes of this Act.

(i) The department may require a local organizing committee to list the state as an additional insured on any policy of insurance purchased by the local organizing committee and required by a site selection organization to be in effect in connection with the games.

(j) The Texas Department of Transportation, the Texas Department of Public Safety, and the Texas Department of Housing and Community Affairs may:

(1) assist a local organizing committee in developing applications and planning for the games; and

(2) enter into contracts, agreements, or assurances related to the presentation of the games.

(k) Notwithstanding any other provision of this Act, the department may not obligate the state to pay or otherwise provide funds to cover the costs of the construction or purchase of a building or other facility by a municipality.

SECTION 8. APPLICATION OF OPEN MEETINGS AND OPEN RECORDS LAWS. (a) A local organizing committee and its governing body are subject to Chapters 551 and 552, Government Code. For purposes of those chapters, the

governing body of a local organizing committee is considered a governmental body as defined by those chapters. For purposes of Chapter 552, Government Code, the records and information of a local organizing committee are considered public records and public information.

(b) A final bid that is submitted by a local organizing committee to a site selection organization, or a draft of that bid, is excepted from required public disclosure under Chapter 552, Government Code, until the applicable site selection organization selects the site for the applicable games.

(c) Chapter 551, Government Code, does not apply to a meeting of a subcommittee of the governing body of a local organizing committee if:

- (1) the subcommittee consists of not more than five members;
- (2) the meeting is not held in a public building;
- (3) the subcommittee makes a tape recording of the proceedings of the meeting in compliance with Section 551.103, Government Code, and the local organizing committee preserves the tape recording for two years from the date the recording is made;
- (4) the subcommittee does not discuss or decide any financial matters during the meeting; and
- (5) any decision made by the subcommittee will not become effective without being reviewed and officially adopted by the governing body of the local organizing committee at a meeting held in compliance with Chapter 551, Government Code.

(d) A tape recording made under Subsection (c) of this section is subject to required public disclosure in the manner prescribed by Chapter 552, Government Code, for a public record.

SECTION 9. TAX EXEMPTIONS FOR LOCAL ORGANIZING COMMITTEE.

(a) A local organizing committee that is exempt from paying federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended, is exempt from:

- (1) the sales, excise, and use taxes imposed under Chapter 151, Tax Code;
- (2) taxes on the sale, rental, or use of a motor vehicle imposed under Chapter 152, Tax Code;
- (3) the hotel occupancy tax imposed under Chapter 156, Tax Code; and
- (4) the franchise tax imposed under Chapter 171, Tax Code.

(b) The exemptions provided by Subsections (a)(1), (2), and (3) of this section take effect on the first day of the first month after the effective date of this Act. The exemption provided by Subsection (a)(4) of this section applies only to a tax imposed under Chapter 171, Tax Code, that becomes due on or after the effective date of this Act.

SECTION 10. ETHICS. (a) A local organizing committee that submits a request under Section 7(a) of this Act must:

- (1) affirm as a part of that request that it is fully in compliance with the ethical guidelines set forth in all contracts entered into and rules adopted by the applicable site selection organization, including the site selection organization's requirements regarding disclosure of any financial interest by a director, officer, or senior-level employee of the local organizing committee in any proposed transaction with the local organizing committee;
- (2) not later than the 15th day of the first month following each calendar quarter, file with the secretary of the endorsing municipality for which the local organizing committee submits a request:

(A) a certification that the local organizing committee continues to be in compliance with the ethical guidelines described by Subdivision (1) of this subsection; and

(B) a report of contributions to and expenditures by the local organizing committee in the manner described by Subsection (b) of this section; and

(3) file with the secretary of the endorsing municipality on April 15 of each year a copy of each financial statement required to be submitted by a local organizing committee or a member of a local organizing committee to the United States Olympic Committee during the preceding calendar year.

(b) A report made under Subsection (a)(2)(B) of this section must include:

(1) for each contribution made to a local organizing committee:

(A) the contributor's full name and address;

(B) the date of the contribution;

(C) whether the contribution is cash, made by check, or in-kind; and

(D) the amount or market value of the contribution; and

(2) for each expenditure made by a local organizing committee:

(A) the full name and address of the person who receives payment of the expenditure;

(B) the date of the expenditure;

(C) the purpose of the expenditure; and

(D) the amount of the expenditure.

(c) The endorsing municipality for which a local organizing committee submits a request under Section 7(a) of this Act must have a comprehensive ethics code establishing standards of conduct, disclosure requirements, and enforcement mechanisms relating to city officials and employees before the department may consider the request.

SECTION 11. BRIBERY. (a) A person commits an offense if the person intentionally or knowingly offers, confers, or agrees to confer on another person, or solicits, accepts, or agrees to accept from another person, any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a member or employee of a local organizing committee or site selection organization.

(b) It is a defense to prosecution under Subsection (a) of this section that the benefit conferred is a meal or entertainment reported under Section 10(a)(2)(B) of this Act.

(c) It is not a defense to prosecution under Subsection (a) of this section that a person whom the actor sought to influence was not qualified to act as the actor intended the person to act.

(d) It is not a defense to prosecution under Subsection (a) of this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:

(1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or

(2) the person whom the actor sought to influence is no longer a member of the local organizing committee or a site selection organization.

(e) In this section, "benefit" has the meaning assigned by Section 36.01, Penal Code.

(f) An offense under this section is a felony of the second degree.

SECTION 12. EMERGENCY. 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 456** in Subsection (i) of SECTION 4 of the bill (page 6, line 27, through page 7, line 1, house committee report), by striking "before August 31, 1999" and substituting "not later than September 1, 1999".

Floor Amendment No. 2

Amend **CSSB 456** by striking Subdivision (3) of Section 3 of the bill (page 3, lines 11-12, house committee printing) and substituting the following:

(3) provide opportunities for the creation of jobs by local and Texas businesses that pay a living wage.

Floor Amendment No. 3

Amend **CSSB 456** in Subsection (i) of SECTION 5 of the bill by adding the following at the end of the subsection after the period (page 11, line 22, house committee printing):

A disbursement may not be made from the trust fund that the department determines would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

Floor Amendment No. 4

Amend **CSSB 456** as follows:

(1) Strike Subdivision (7) of SECTION 1 of the bill (House committee report, page 2, lines 16-23) and substitute the following:

(7) "Local organizing committee" means a nonprofit corporation or its successor in interest that:

(A) has been authorized by an endorsing municipality to pursue an application and bid on the applicant's behalf to a site selection organization for selection as the site of one of the games; or

(B) with the authorization of an endorsing municipality, has executed an agreement with a site selection organization regarding a bid to host one of the games.

(2) Strike Subsection (b) of SECTION 4 of the bill (House committee report, page 3, line 18 through page 4, line 9) and substitute the following:

(b) If a site selection organization selects a site for the games in this state pursuant to an application by a local organizing committee, after the first occurrence of a measurable economic impact in this state as a result of the preparation for the games, as determined by the comptroller, but in no event later than one year before the scheduled opening event of the games, the comptroller shall determine for each subsequent calendar quarter, in accordance with procedures developed by the comptroller:

(1) the incremental increase in the receipts to the state from the taxes imposed under Chapters 151, 152, 156, and 183, Tax Code, and under Title 5, Alcoholic Beverage Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events;

(2) the incremental increase in the receipts collected by the state on behalf of the endorsing municipality from the sales and use tax imposed by the endorsing municipality under Section 321.101(a), Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events; and

(3) the incremental increase in the receipts collected by the endorsing municipality from the municipality's hotel occupancy tax imposed under Chapter 351, Tax Code, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events.

(3) In SECTION 4 of the bill (House committee report, page 4, between lines 9 and 10), insert a new Subsection (c) to read as follows and reletter existing subsections of SECTION 4 of the bill appropriately:

(c) For the purposes of Subsection (b)(1) of this section, the comptroller shall designate as a market area for the games each area in which the comptroller determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the games and related events, including areas likely to provide venues, accommodations, and services in connection with the games based on the proposal provided by the local organizing committee under Section 7 of this Act. The comptroller shall determine the geographic boundaries of each market area. The endorsing municipality that has been selected as the site for the games must be included in a market area for the games.

(4) Strike existing Subsections (e) and (f) of SECTION 4 of the bill (House committee report, page 5, line 8 through page 6, line 10) and substitute the following:

(f) Subject to Section 6 of this Act and Subsection (m) of this section, the comptroller shall deposit into a trust fund designated as the Pan American Games trust fund the amount of municipal sales and use tax revenue retained under Subsection (d) of this section and, at the same time, a portion of the state tax revenue determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of that municipal sales and use tax revenue. Subject to Section 6 of this Act and Subsection (m) of this section, the endorsing municipality shall deposit into the trust fund the amount of the endorsing municipality's hotel occupancy tax revenue determined under Subsection (b)(3) of this section. The endorsing municipality shall deposit that hotel occupancy tax revenue into the trust fund at least quarterly. When the endorsing municipality makes a deposit of its hotel occupancy tax revenue, the comptroller shall deposit at the same time a portion of the state tax revenue determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of that municipal hotel occupancy tax revenue. The Pan American Games trust fund is established outside the treasury but is held in trust by the comptroller for the administration of this Act. Money in the trust fund may be spent by the department without appropriation only as provided by this Act. The comptroller shall discontinue depositing into the trust fund any state tax revenue determined under Subsection (b)(1) of this section on the earlier of:

(1) the end of the third calendar month following the month in which the closing event of the games occurs; or

(2) the date on which the amount of state revenue in the Pan American Games trust fund equals 86 percent of the maximum amount of state and municipal tax revenue that may be deposited in the trust fund under Subsection (m) of this section.

(5) Strike Subsection (m) of SECTION 4 of the bill (House committee report, page 8, lines 2-8) and substitute the following:

(m) In no event may:

(1) the total amount of state and municipal tax revenue deposited in the Pan American Games trust fund exceed \$20 million; or

(2) the joint liability of the state and the endorsing municipality under a joinder agreement and any other games support contracts entered into pursuant to this Act exceed the lesser of:

(A) \$20 million; or

(B) the total amount of revenue deposited in the Pan American Games trust fund and interest earned on the fund.

(6) In SECTION 4 of the bill (House committee report, page 5, line 3), strike the reference to Subsection (c) of that section and substitute a reference to Subsection (d).

(7) In SECTION 5(b) of the bill (House committee report, page 8, lines 22-26), strike Subdivision (1) and substitute the following:

(1) the incremental increase in the receipts to the state from the taxes imposed under Chapter 151, Tax Code, within the market areas designated under Subsection (c) of this section, that is directly attributable, as determined by the comptroller, to the preparation for and presentation of the games and related events; and

(8) In SECTION 5 of the bill (House committee report, page 9, between lines 5 and 6), insert a new Subsection (c) to read as follows and reletter the existing subsections of SECTION 5 of the bill appropriately:

(c) For the purposes of Subsection (b)(1) of this section, the comptroller shall designate as a market area for the games each area in which the comptroller determines there is a reasonable likelihood of measurable economic impact directly attributable to the preparation for and presentation of the games and related events, including areas likely to provide venues, accommodations, and services in connection with the games based on the proposal provided by the local organizing committee under Section 7 of this Act. The comptroller shall determine the geographic boundaries of each market area. The endorsing municipality that has been selected as the site for the games must be included in a market area for the games.

(9) Strike the first sentence of existing Subsection (e) of SECTION 5 of the bill (House committee report, page 10, lines 3-7) and substitute the following:

Subject to Section 6 of this Act and Subsection (m) of this section, the comptroller shall deposit into a trust fund designated as the Pan American Games trust fund the amount of municipal sales and use tax revenue retained under Subsection (d) of this section and, at the same time, a portion of the state tax revenue determined under Subsection (b)(1) of this section in an amount equal to 6.25 times the amount of that municipal sales and use tax revenue.

(10) Strike Subsection (l) of SECTION 5 of the bill (House committee report, page 12, lines 7-13) and substitute the following:

(m) In no event may:

(1) the total amount of state and municipal tax revenue deposited in the Olympic Games trust fund exceed \$100 million; or

(2) the joint liability of the state and the endorsing municipality under a joinder agreement and any other games support contracts entered into pursuant to this Act exceed the lesser of:

(A) \$100 million; or

(B) the total amount of revenue deposited in the Olympic Games trust fund and interest earned on the fund.

(11) In SECTION 5 of the bill:

(A) strike the reference to Subsection (c) of that section and substitute a reference to Subsection (d) (House committee report, page 9, line 25);

(B) strike the reference to Subsection (f) of that section and substitute a reference to Subsection (g) (House committee report, page 11, line 22);

(C) strike the reference to Subsection (i) of that section and substitute a reference to Subsection (j) (House committee report, page 11, line 23); and

(D) strike each reference to Subsection (l) of that section and substitute a reference to Subsection (m) (House committee report, page 9, line 23 and page 10, line 19).

(12) In SECTION 6(a) of the bill (House committee report, page 12, lines 16-19), strike "to determine whether the municipality may contribute a portion of its sales and use taxes to the Pan American Games trust fund under Section 4 of this Act or to the Olympic Games trust fund under Section 5 of this Act" and substitute "to determine whether the municipality may contribute a portion of its sales and use taxes and hotel occupancy taxes to the Pan American Games trust fund under Section 4 of this Act or a portion of its sales and use taxes to the Olympic Games trust fund under Section 5 of this Act".

(13) Strike Subsection (c) of SECTION 6 of the bill (House committee report, page 13, lines 10-26) and substitute the following:

(c) If an endorsing municipality is required to hold an election under this section and the contribution of a portion of the municipality's taxes to the Pan American Games trust fund or Olympic Games trust fund, as applicable to the games for which the endorsing municipality authorized a site selection bid on its behalf, is not approved by a majority of the voters voting in the election:

(1) the comptroller may not establish the Pan American Games trust fund under Section 4 of this Act or the Olympic Games trust fund under Section 5 of this Act, as applicable, may not retain the municipality's municipal sales and use tax revenue under Section 4(d) or 5(d) of this Act, as applicable, from amounts otherwise required to be sent to that municipality under Section 321.502, Tax Code, and may not deposit any state tax revenue into the trust fund;

(2) the comptroller is not required to determine the incremental increase in state and municipal tax revenue under Section 4(b) or 5(b) of this Act, as applicable; and

(3) the department may not enter into a games support contract relating to the games for which the municipality has authorized a bid on its behalf.

Floor Amendment No. 5

Amend Floor Amendment No. 4 to **CSSB 456** on page 5, line 14, by striking "Pan American Games trust fund" and substituting "Olympic Games trust fund".

The amendments were read.

Senator Madla moved to concur in the House amendments to **SB 456**.

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

Absent-excused: Luna.

SENATE BILL 1183 WITH HOUSE AMENDMENT

Senator Haywood called **SB 1183** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Brown in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1183** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to providing financial incentives to veterinary college students and graduates who agree to practice in a rural county.

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

SECTION 1. Chapter 88, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. RURAL VETERINARIAN INCENTIVE PROGRAM

Sec. 88.621. DEFINITIONS. In this subchapter:

(1) "College" means The Texas A&M University College of Veterinary Medicine.

(2) "Committee" means the rural veterinarian incentive program committee.

(3) "Eligible participant" means a person eligible to participate in the program under Section 88.624.

(4) "Fund" means the rural veterinarian incentive fund.

(5) "Program" means the rural veterinarian incentive program established by this subchapter.

(6) "Rural county" means a county with a population of less than 50,000.

(7) "University" means Texas A&M University.

Sec. 88.622. ADMINISTRATION OF PROGRAM. The university shall administer the program in accordance with the rules adopted by the committee.

Sec. 88.623. RURAL VETERINARIAN INCENTIVE PROGRAM COMMITTEE; RULES. (a) The rural veterinarian incentive program committee consists of:

(1) the executive director of the Texas Animal Health Commission, or the executive director's designee;

(2) the executive director of the State Board of Veterinary Medical Examiners, or the executive director's designee;

(3) the dean of the college;

(4) a veterinarian with a mixed animal practice appointed by the board of regents of The Texas A&M University System; and

(5) a veterinarian with a large animal practice appointed by the board of regents of The Texas A&M University System.

(b) The dean of the college serves as the presiding officer of the committee.

(c) An appointed member of the committee serves a term of two years.

(d) The committee shall adopt rules:

(1) establishing criteria to determine whether a person is an eligible participant as the committee considers reasonable, including the person's:

(A) minimum grade point average; and

(B) financial need;

(2) providing for the distribution of money from the fund for the program;
(3) establishing the criteria necessary for a community or political subdivision in a rural county to qualify as a student sponsor under Section 88.625;

(4) governing agreements of financial support between a rural sponsor and an eligible student; and

(5) establishing other procedures necessary to administer the program.

Sec. 88.624. ELIGIBLE VETERINARY STUDENT OR GRADUATE. A person is eligible to participate in the program only if the person:

(1) is enrolled as a student of the college or applies to participate in the program on or before the first anniversary of the date the person graduates from the college;

(2) will receive or has received from a student loan at least 50 percent of the funds for tuition and fees for one or more academic years while enrolled in the college; and

(3) meets any additional qualifications adopted by the committee.

Sec. 88.625. RURAL SPONSORS; AGREEMENT TO PROVIDE FINANCIAL SUPPORT. (a) A community or political subdivision located in a rural county that qualifies under the rules of the committee may become a sponsor of an eligible participant and may provide financial support to the eligible participant under the program.

(b) To participate as a sponsor in the program, the community or political subdivision must enter into an agreement with the eligible participant to provide financial support to the eligible participant in an amount not less than the tuition and fees required for a full academic year for a student enrolled in the college in exchange for the eligible participant's agreement to practice veterinary medicine in the sponsoring community or political subdivision.

(c) Financial support under this section:

(1) may be provided in whole or part by a grant, scholarship, or funds provided by a private foundation; and

(2) shall be deposited in the fund for distribution to the eligible participant by the university.

Sec. 88.626. FINANCIAL SUPPORT; COMMITMENT TO PRACTICE IN RURAL COUNTY. (a) To participate in the program, an eligible participant must enter into an agreement with the university to practice veterinary medicine in a rural county for one calendar year for each academic year for which the student receives financial support under the program.

(b) The financial support received by an eligible participant under this subchapter must be used to retire student loan debt or to pay tuition and fees to the university while the eligible participant is enrolled in the college.

(c) Financial support from the fund shall be awarded in the form of grants.

Sec. 88.627. RURAL VETERINARIAN INCENTIVE FUND. (a) The rural veterinarian incentive fund is a special fund in the state treasury outside the general revenue fund.

(b) The fund consists of legislative appropriations for purposes of the program, gifts, grants, donations, the market value of in-kind contributions, and other sources of revenue deposited to the credit of the fund by the university.

(c) The fund shall be administered by the university in accordance with rules adopted by the committee. The university may use a portion of the money deposited to the credit of the fund, not to exceed 10 percent of that amount, for the administration of the program.

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.

The amendment was read.

On motion of Senator Haywood, the Senate concurred in the House amendment to **SB 1183** by a viva voce vote.

(Senator West in Chair)

SENATE BILL 873 WITH HOUSE AMENDMENTS

Senator Brown called **SB 873** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 873** as follows:

On page 13, line 4, add new SECTION 10 to the bill to read as follows:

SECTION 10. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.0292 to read as follows:

Sec. 26.0292. FEES CHARGED TO AQUACULTURE FACILITIES. (a) "Aquaculture facility" means a facility engaged in aquaculture as defined in Section 134.001, Agriculture Code.

(b) Notwithstanding Sections 26.0135 and 26.0291 of this code, the combined fees charged to an aquaculture facility under those sections may not total more than five thousand dollars in any year.

(c) The commission by rule shall provide that among aquaculture facilities, the fees charged under this section are reasonably assessed according to the pollutant load of the facility.

Floor Amendment No. 2

Amend **SB 873** in SECTION 2 of the bill, immediately after proposed Subsection (c), Section 134.013, Agriculture Code, by adding a new Subsection (d) to read as follows:

(d) In coordination with the department and the Parks and Wildlife Department, the Texas Natural Resource Conservation Commission shall establish guidelines relating to the report required by Subsection (b) that:

(1) give public notice as to what the reporting requirements include; and
(2) minimize duplication of reporting requirements and other requirements related to the application for a wastewater discharge permit.

Floor Amendment No. 3

Amend **SB 873** in SECTION 6 of the bill by adding Subsections (g) and (h) to Section 134.031, Agriculture Code, as added by the bill, to read as follows:

(g) In developing the guidelines under Subsection (d) applicable to aquaculture facilities engaged in the production of shrimp in the coastal zone, the Parks and Wildlife Department, in consultation with the Texas Natural Resource Conservation Commission, shall consider the best management practices that the facilities

developed under the direction of the Texas Natural Resource Conservation Commission.

(h) In the development of siting guidelines for aquaculture facilities engaged in the production of shrimp in the coastal zone, the best management practices developed by the facilities shall be considered.

Floor Amendment No. 4

Amend **SB 873** in SECTION 2 of the bill, in amended Section 134.013, Agriculture Code, by striking Subsection (a)(2) as added by the bill and substituting the following:

(2) must provide the report described in Subsection (b) and is subject to the review described in Section 134.031(c) if the aquaculture facility applies for a site-specific discharge permit.

Floor Amendment No. 5

Amend **SB 873** in SECTION 7 of the bill, in amended Section 66.007, Parks and Wildlife Code, by striking Subsections (j) and (k) as added by the bill and substituting the following:

(j) Except as provided in Subsection (k), an operator of an aquaculture facility under quarantine condition may not discharge waste or another substance from the facility except with approval of the department and a wastewater discharge authorization from the Texas Natural Resource Conservation Commission.

(k) Even if under quarantine condition, an aquaculture facility shall discharge wastewater or another substance as necessary to comply with an emergency plan that has been submitted to and approved by the department and incorporated into a wastewater discharge authorization issued by the Texas Natural Resource Conservation Commission.

The amendments were read.

On motion of Senator Brown, the Senate concurred in the House amendments to **SB 873** by a viva voce vote.

SENATE RESOLUTION 1139

Senator Bernsen offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to recognize the winners of the 1998-1999 Keep Texas Beautiful Governor's Community Achievement Awards; and

WHEREAS, The winners in the nine different population categories are: Austin, Waco, Nacogdoches, Lufkin, Greenville, Taylor, Whitehouse, Muenster, and Quintana; and

WHEREAS, The first-place cities were among a group of 54 entrants and 69 applicants from the various population groups; the winners will share \$1 million in landscaping projects awarded by the Texas Department of Transportation; and

WHEREAS, Co-sponsor of the Governor's Awards, the Texas Department of Transportation has participated in the program since 1985; the program has been supported by the Governor of Texas since 1967; and

WHEREAS, Recognizing communities for their grassroots endeavors in beautification, this awards program encourages local environmental improvement

through litter prevention, solid waste management, recycling, public education, and litter law enforcement; and

WHEREAS, The awards will be presented and all applicant communities will be recognized at a luncheon to be held July 2, 1999, during the 32nd Annual Keep Texas Beautiful Convention in Austin; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, hereby congratulate the cities of Austin, Waco, Nacogdoches, Lufkin, Greenville, Taylor, Whitehouse, Muenster, and Quintana for winning the 1998-1999 Keep Texas Beautiful Awards; and, be it further

RESOLVED, That a copy of this Resolution be prepared as an expression of high regard and esteem from 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 Bernsen, the resolution was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Bernsen was recognized and introduced to the Senate representatives of the cities that won the 1998-1999 Keep Texas Beautiful Governor's Community Achievement Awards.

The Senate welcomed its guests.

MOTION TO RECESS

On motion of Senator Truan, the Senate at 12:04 p.m. agreed to recess, upon receipt of Messages from the House, until 2:00 p.m. today.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 28, 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 286, Honoring the men and women who provided assistance and aid during the 1998 Del Rio flood.

SCR 26, Commending the Texas Federation of Republican Women.

SCR 58, Congratulating the Atlanta Independent School District.

SCR 61, Congratulating Dr. George Anderson Hurst of Tyler.

SCR 71, Recognizing November, 1999, as Pancreatic Cancer Awareness Month.

SCR 74, In memory of W. Tip Hall.

SCR 86, Honoring the life of Officer Troy Alan Blando.

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

HB 247 (134 ayes, 4 nays, 2 present, not voting)

HB 772 (120 ayes, 13 nays, 2 present, not voting)

HB 2125 (Viva-voce vote)

HB 2794 (Viva-voce vote)

HB 3009 (Viva-voce vote)

HB 3174 (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 932

House Conferees: Hawley - Chair/Alexander/Edwards/Noriega/Uher

HB 1059

House Conferees: Keel - Chair/Clark/Gutierrez/Siebert/Turner, Bob

HB 2553

House Conferees: Hochberg - Chair/Dunnam/Lengefeld/Olivo/Smith

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 610 (Viva-voce vote)

HB 1620 (Viva-voce vote)

HB 1865 (Viva-voce vote)

HB 2599 (Viva-voce vote)

HB 2684 (142 ayes, 0 nays, 3 present, not voting)

HB 3182 (Viva-voce vote)

SB 177 (Viva-voce vote)

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1172 (Viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

RECESS

Pursuant to a previously adopted motion, the Senate at 12:36 p.m. recessed until 2:00 p.m. today.

AFTER RECESS

The Senate met at 2:00 p.m. and was called to order by the President.

CONFERENCE COMMITTEE ON HOUSE BILL 3697

Senator Sibley 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 3697** 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 3697** 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 Sibley, Chair; Fraser, Armbrister, Ratliff, and Cain.

CONFERENCE COMMITTEE ON HOUSE BILL 2748

Senator Sibley 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 2748** 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 2748** 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 Sibley, Chair; Madla, Jackson, Cain, and Nelson.

CONFERENCE COMMITTEE ON HOUSE BILL 1498

Senator Sibley 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 1498** 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 1498** 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 Sibley, Chair; Madla, Ogden, Jackson, and Nelson.

SENATE BILL 1775 WITH HOUSE AMENDMENT

Senator Sibley called **SB 1775** 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 1775** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of certain providers of service contracts; providing penalties.

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

SECTION 1. SECTION 1. Title 132, Revised Statutes, is amended by adding Article 9034 to read as follows:

Art. 9034. REGULATION OF CERTAIN SERVICE CONTRACT PROVIDERS

Sec. 1. SHORT TITLE. This article may be cited as the "Service Contract Regulatory Act."

Sec. 2. DEFINITIONS. In this article:

(1) "Administrator" means the person responsible for the administration of a service contract or service contract plan. The term includes a person responsible for any filings required by this article.

(2) "Commissioner" means the commissioner of licensing and regulation.

(3) "Commission" means the Texas Commission of Licensing and Regulation.

(4) "Consumer" means an individual who buys, other than for purposes of resale, any tangible personal property that is:

(A) distributed in commerce; and

(B) normally used for personal, family, or household purposes and not for business or research purposes.

(5) "Department" means the Texas Department of Licensing and Regulation.

(6) "Maintenance agreement" means an agreement of limited duration that provides only for scheduled maintenance.

(7) "Person" means an individual or a partnership, company, corporation, association, or other group, however organized.

(8) "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

(9) "Provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract.

(10) "Provider fee" means the consideration paid for a service contract.

(11) "Reimbursement insurance policy" means a policy of insurance issued to a provider to:

(A) provide reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider; or

(B) pay on behalf of the provider, in the event of the provider's nonperformance, all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider.

(12) "Service contract" means an agreement, entered into for a separately stated consideration and for a specified term, under which a provider agrees to repair, replace, or maintain a product, or provide indemnification for the repair, replacement, or maintenance of a product, for operational or structural failure caused by a defect in materials or workmanship or by normal wear. A service contract may additionally provide for incidental payment or indemnity under limited circumstances, including towing, rental, and emergency road service, or for the repair or replacement of a product for damage resulting from power surges or accidental damage incurred in handling the product.

(13) "Service contract holder" means a person who purchases or otherwise holds a service contract.

(14) "Warranty" means, in relation to a product or service, an undertaking that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor costs, or other remedial measures, such as repair or replacement of the product or repetition of services, and that is:

(A) made solely by the manufacturer, importer, or seller of the product or services;

(B) made without payment of additional consideration;

(C) not negotiated or separated from the sale of the product or service; and

(D) incidental to the sale of the product or service.

Sec. 3. POWERS AND DUTIES OF COMMISSIONER. (a) The commissioner may adopt rules as necessary to implement this article.

(b) The commissioner may conduct investigations of providers, administrators, or other persons as necessary to enforce this article and protect service contract holders in this state. On request of the commissioner, a provider shall make the provider's records maintained under Section 9 of this article regarding service contracts sold by the provider available to the commissioner as necessary to enable the commissioner to reasonably determine compliance with this article.

Sec. 4. SERVICE CONTRACT PROVIDERS ADVISORY BOARD. (a) The service contract providers advisory board is an advisory body to the department. The advisory board shall advise:

(1) the commissioner in adopting rules and enforcing and administering this article; and

(2) the commission in setting fees.

(b) The advisory board is composed of six members appointed by the commissioner as follows:

(1) two members must be officers, directors, or employees of a provider of service contracts that have been approved by the commissioner;

(2) two members must be officers, directors, or employees of a retail outlet or other entity located in this state that provides to consumers service contracts approved by the commissioner for sale to consumers;

(3) one member must be an officer, director, or employee of an entity approved by the Texas Department of Insurance to sell reimbursement insurance policies; and

(4) one member must be a resident of this state who has, as a consumer, a service contract in force in this state at the time of the appointment that is issued by a provider registered under this article.

(c) A member of the advisory board serves a term of six years with terms expiring on February 1 of odd-numbered years.

(d) The commissioner shall designate one member of the advisory board to serve as presiding officer. The commissioner or the commissioner's designee shall serve as an ex officio nonvoting member of the advisory board. The commissioner shall fill any vacancy on the advisory board for the remainder of the unexpired term with an individual who represents the same interests with which the predecessor was identified.

(e) The advisory board shall meet at least every six months and may meet at other times at the call of the presiding officer. The advisory board shall meet at a location in this state designated by the advisory board.

(f) A decision of the advisory board is not effective unless it receives the affirmative vote of at least four members.

(g) The advisory board members serve without compensation. A member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the advisory board, subject to any applicable limitation on reimbursement provided by the General Appropriations Act.

Sec. 5. REGISTRATION REQUIREMENTS; EXEMPTIONS. (a) A person may not operate as a provider of service contracts sold in this state unless the person is registered with the department. Except for this registration requirement, providers and service contract sellers, administrators, and other persons marketing, selling, or offering to sell service contracts are exempt from any licensing requirements of this state that relate to the activities regulated under this article.

(b) Each applicant for registration shall file a registration application with the commissioner in the form prescribed by the commissioner that includes evidence satisfactory to the commissioner of compliance with the financial security requirements adopted under Section 6 of this article.

(c) Each registered provider shall pay an annual registration fee not to exceed \$2,000 as set by the commission to cover the costs of administering this article. The commissioner shall develop a tiered fee structure under which registration fees are assessed on providers based on the number of service contracts sold within this state in the prior 12-month period. The information submitted to the commissioner under this section regarding the number of service contracts sold by a provider may only be used by the commissioner and the department in determining the tiered fee structure. Information concerning the number of service contracts sold by a provider that is submitted under this section is a trade secret and subject to Section 552.110, Government Code.

(d) The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of service contracts are exempt from:

(1) the Insurance Code and other laws of this state regulating the business of insurance;

(2) Article 6573b, Revised Statutes; and

(3) Chapter 722, Transportation Code.

(e) The following contracts and agreements are specifically exempt from the application of this article and are only subject to other statutes and laws which specifically apply to them:

(1) warranties;

(2) maintenance agreements;

(3) service contracts sold or offered for sale to persons other than consumers;

(4) residential service contracts sold by entities licensed by the Texas Real Estate Commission under Article 6573b, Revised Statutes;

(5) agreements issued by automobile service clubs certified under Chapter 722, Transportation Code;

(6) service contracts sold by a motor vehicle dealer on vehicles sold by that dealer if the dealer is the provider and is licensed as a motor vehicle dealer pursuant to Subchapter D, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), and covers its obligations under the service contract with a reimbursement insurance policy as defined by Section 2(11) of this article; and

(7) contracts or agreements offered by local exchange telephone companies providing repair for inside telephone wiring for which the term does not exceed one

month and which the consumer can terminate before commencing a new term without liability except for payment of charges for the current term.

Sec. 6. FINANCIAL SECURITY REQUIREMENTS. (a) To ensure the faithful performance of a provider's obligations to its service contract holders, each provider shall comply with one of the following financial security requirements:

(1) insure its service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state or under a surplus lines insurance policy issued by an insurer eligible to place coverage in this state as regulated under Article 1.14-2, Insurance Code;

(2)(A) maintain a funded reserve account for its obligations under its service contracts issued and outstanding in this state. The reserves shall be not less than 40 percent of the gross consideration received from consumers, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the commissioner; and

(B) place in trust with the commissioner a financial security deposit, having a value of not less than five percent of the gross consideration received from consumers, less claims paid, on the sale of the service contract for all service contracts issued and outstanding in this state, but not less than \$25,000, and consisting of:

(i) a surety bond issued by an authorized surety;

(ii) securities of the type eligible for deposit by authorized insurers in this state;

(iii) a statutory deposit of cash or cash equivalents;

(iv) a letter of credit issued by a qualified financial institution; or

(v) another form of security prescribed by rules issued by the commissioner; or

(3)(A) maintain, or have its parent company maintain, a net worth or stockholders' equity of at least \$100 million; and

(B) upon request, provide the commissioner a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission within the last calendar year or, if the company does not file with the Securities and Exchange Commission, a copy of the provider's or the provider's parent company's audited financial statements showing a net worth of the provider or its parent company of at least \$100 million. If the provider's parent company's Form 10-K, Form 20-F, or audited financial statements are filed to meet the provider's financial stability requirement, the parent company shall agree to guarantee the obligations of the provider relating to service contracts sold by the provider in this state.

(b) No other financial security requirements shall be required by the commissioner for service contract providers.

Sec. 7. REIMBURSEMENT INSURANCE POLICY. (a) In order for a provider to comply with Section 6 of this article through the use of a reimbursement insurance policy, such policy must state that:

(1) the insurer that issued the reimbursement insurance policy shall reimburse or pay on behalf of the provider any covered amounts the provider is legally obligated to pay or shall provide the service that the provider is legally obligated to perform according to the provider's contractual obligations under the insured service contract issued or sold by the provider; and

(2) if the covered service is not provided to a service contract holder within 60 days of proof of loss, payment shall be made directly from the reimbursement

insurer to the service contract holder or the reimbursement insurer shall provide the required service.

(b) An insurer that issues a reimbursement insurance policy under this article may not cancel the policy until the insurer delivers to the provider a written notice of cancellation that complies with the requirements adopted for those notices under Articles 21.49-2A and 21.49-2B, Insurance Code. The provider shall forward a copy of the cancellation notice to the commissioner not later than the 15th business day after the date the notice is delivered to the provider. The cancellation of a reimbursement insurance policy does not reduce the insurer's responsibility for service contracts issued by the provider and insured under the policy before the date of the cancellation.

(c) For purposes of this section, the provider is considered the agent of the insurer that issues the reimbursement insurance policy for purposes of obligating the insurer to service contract holders in accordance with the service contract and this article.

(d) This article does not prevent or limit the right of an insurer that issues a reimbursement insurance policy to seek indemnification or subrogation against a provider if the insurer pays or is obligated to pay a service contract holder any amount that the provider is obligated to pay under the terms of the service contract.

Sec. 8. GENERAL PROVIDER OPERATION REQUIREMENTS. (a) A provider may appoint an administrator or other designee to be responsible for any or all of the administration or sale of service contracts and for compliance with this article.

(b) A service contract may not be issued, sold, or offered for sale in this state unless the provider has provided to the service contract holder:

(1) a receipt for, or other written evidence of, the purchase of the service contract; and

(2) a copy of the service contract within a reasonable period after the date of purchase.

Sec. 9. PROVIDER RECORDS. (a) Each provider shall maintain accurate accounts, books, and other records regarding transactions regulated under this article. The provider's records must include:

(1) a copy of each unique form of service contract sold;

(2) the name and address of each service contract holder, if the name and address have been furnished by the contract holder;

(3) a list of the locations at which the provider's service contracts are marketed, sold, or offered for sale; and

(4) written claims files that contain at least the dates and descriptions of claims related to the service contracts.

(b) Except as provided by Subsection (d) of this section, each provider shall retain all records required to be maintained under Subsection (a) of this section at least until the first anniversary of the expiration date under the contract of the specified period of coverage.

(c) The records required to be maintained under this section may be maintained in an electronic medium or through other recordkeeping technology. If a record is maintained in a format other than hard copy, the provider must be able to reformat the record into legible hard copy at the request of the commissioner.

(d) A provider who discontinues business in this state shall maintain its records until the provider furnishes the commissioner with proof satisfactory to the commissioner that the provider has discharged all obligations to service contract holders in this state.

Sec. 10. REQUIRED DISCLOSURES. (a) Each service contract marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state shall be written, printed, or typed in clear, understandable language that is easy to read and shall disclose the applicable requirements set forth in this section.

(b) A service contract insured under a reimbursement insurance policy under Section 6(a) of this article must contain a statement substantially similar to the following: "Obligations of the provider under this service contract are insured under a service contract reimbursement insurance policy." The service contract shall state the name and address of the insurer and state that in the event covered service is not provided by the service contract provider within 60 days of proof of loss by the service contract holder, the service contract holder may apply for reimbursement directly to the service contract reimbursement insurance company.

(c) A service contract that is not insured under a reimbursement insurance policy must contain a statement substantially similar to the following: "Obligations of the provider under this service contract are backed by the full faith and credit of the provider."

(d) Each service contract shall state the name and address of the provider and shall identify any administrator, if different from the provider, the service contract seller, and the service contract holder, to the extent that the name of the service contract holder has been furnished by the service contract holder. The identities of those persons are not required to be preprinted on the service contract and may be added to the service contract at the time of sale.

(e) Each service contract must state the purchase price of the contract and the terms under which the contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale with the service contract holder.

(f) Each service contract must state the terms, restrictions, or conditions governing cancellation of the service contract by either the provider or the service contract holder before the expiration date of the service contract. A provider shall mail a written notice of cancellation to the service contract holder at the last known address of the service contract holder contained in the records of the provider before the fifth day preceding the effective date of the cancellation. Prior notice is not required if the reason for cancellation is nonpayment of the provider fee, a material misrepresentation by the service contract holder to the provider, or a substantial breach of duties by the service contract holder relating to the covered product or its use. The notice must state the effective date of the cancellation and the reason for the cancellation.

(g) Each service contract must:

(1) state the amount of any deductible, if applicable;
(2) specify the products and services to be provided and any limitations, exceptions, or exclusions;

(3) specify any restrictions governing the transferability of the service contract;

(4) state the duties of the service contract holder, including any duty to protect against any further damage and any requirement to follow owner's manual instructions; and

(5) if applicable, state whether the service contract provides for or excludes consequential damages or preexisting conditions.

Sec. 11. VOIDING OF CONTRACT. (a) Each service contract shall require the provider to permit the service contract holder to return the service contract not later

than the 20th day after the date the service contract was mailed to the service contract holder or, if the service contract is delivered to the service contract holder at the time of sale, not later than the 10th day after the date of delivery. A service contract holder may void the service contract at a later time as permitted by the service contract.

(b) If a contract holder returns a service contract under Subsection (a) of this section and a claim has not been made under the service contract before its return to the provider, the service contract is void and the provider shall refund to the service contract holder or credit to the account of the service contract holder the full purchase price of the service contract. The right provided by this section to void the service contract is not transferable and applies only to the original service contract purchaser. If a service contract is voided under this section and the provider does not pay the refund or credit to the service contract holder's account before the 46th day after the date of the return of the service contract to the provider, the provider is liable to the contract holder for a penalty in an amount not to exceed 10 percent of the amount outstanding per month.

Sec. 12. LIMITATIONS ON PROVIDER NAME. (a) A provider may not use:

(1) in its name the words insurance, casualty, surety, mutual, or any other words descriptive of the insurance, casualty, or surety business;

(2) a name deceptively similar to the name or description of any insurance or surety corporation; or

(3) a name deceptively similar to the name of any other provider.

(b) A provider may use the word "guaranty" or a similar word.

(c) This section does not apply to a provider that, before September 1, 1999, used a word prohibited under this section in its name, but that provider must include in each of its service contracts a statement in substantially the following form: "This agreement is not an insurance contract."

Sec. 13. PROHIBITED ACTS. (a) A provider, or a provider's representative, may not, in the provider's service contracts or literature:

(1) make, permit, or cause to be made any false or misleading statement; or

(2) deliberately omit a material statement that would be considered misleading if omitted.

(b) A person, including a bank, savings and loan association, lending institution, manufacturer, or seller of any product, may not require the purchase of a service contract as a condition of a loan or the sale of any property.

Sec. 14. ENFORCEMENT. (a) On a finding that a ground for disciplinary action exists under one or more provisions of this article, the commissioner may impose appropriate administrative sanctions, including an administrative penalty as provided by Article 9100, Revised Statutes. An administrative penalty imposed under this section may not exceed \$500 per violation or \$10,000 in the aggregate for all violations of a similar nature.

(b) A disciplinary action taken under this article is subject to Section 17(d), Article 9100, Revised Statutes.

(c) The commissioner may bring an action for injunctive proceedings under Section 18, Article 9100, Revised Statutes, for a threatened or existing violation of this article or the commissioner's orders or rules adopted under this article and may also bring an action for civil penalties as provided by that section. A civil penalty assessed under this subsection may not exceed \$2,500 per violation or \$50,000 in the aggregate for all violations of a similar nature.

(d) For purposes of Subsections (a) and (c) of this section, a violation is of a similar nature if the violation consists of the same or a similar course of conduct, action, or practice, regardless of the number of times the act, conduct, or practice determined to be a violation of this article occurred.

SECTION 2. Section 348.208, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other law, service contracts sold by a retail seller of a motor vehicle to a retail buyer are not subject to 1.14-1, Insurance Code.

SECTION 3. (a) Article 9034, Revised Statutes, as added by this Act, takes effect September 1, 1999, and applies only to a service contract entered into on or after January 1, 2000. A service contract entered into before that date and renewed after that date is not subject to that article.

(b) A person regulated under Article 9034, Revised Statutes, as added by this Act, is not required to comply with that article until January 1, 2000, but may implement the requirements of that article before January 1, 2000. The failure of a provider or other person to comply with that article or otherwise to administer a service contract plan in the manner required by that article before January 1, 2000, is not admissible in any court, arbitration, or alternative dispute resolution proceeding and may not otherwise be used to prove that the action of any person or the affected service contract was unlawful or otherwise improper.

SECTION 4. 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.

On motion of Senator Sibley, the Senate concurred in the House amendment to **SB 1775** by a viva voce vote.

SENATE BILL 371 RECOMMITTED

On motion of Senator Brown and by unanimous consent, the Conference Committee Report on **SB 371** was recommitted to the conference committee.

CONFERENCE COMMITTEE ON HOUSE BILL 2815

Senator Brown 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 2815** 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 2815** 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 Brown, Chair; Armbrister, Haywood, Lucio, and Bivins.

CONFERENCE COMMITTEE ON HOUSE BILL 918

Senator Wentworth 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 918** 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 918** 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 Wentworth, Chair; Ellis, Brown, Harris, and Duncan.

CONFERENCE COMMITTEE ON HOUSE BILL 1833

Senator Lucio 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 1833** 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 1833** 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 Lucio, Chair; Brown, Madla, Ogden, and Sibley.

SENATE BILL 766 WITH HOUSE AMENDMENTS

Senator Brown called **SB 766** 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 766** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the issuance of certain permits for the emission of air contaminants.

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

SECTION 1. Section 382.003(9), Health and Safety Code, is amended to read as follows:

(9) "Modification of existing facility" means any physical change in, or change in the method of operation of, a facility in a manner that increases the amount of any air contaminant emitted by the facility into the atmosphere or that results in the emission of any air contaminant not previously emitted. The term does not include:

(A) insignificant increases in the amount of any air contaminant emitted that is authorized by one or more commission exemptions;

(B) insignificant increases at a permitted facility;

(C) maintenance or replacement of equipment components that do not increase or tend to increase the amount or change the characteristics of the air contaminants emitted into the atmosphere;

(D) an increase in the annual hours of operation unless the existing facility has received a preconstruction permit or has been exempted, pursuant to Section 382.057, from preconstruction permit requirements;

(E) a physical change in, or change in the method of operation of, a facility that does not result in a net increase in allowable emissions of any air contaminant and that does not result in the emission of any air contaminant not previously emitted, provided that the facility:

(i) has received a preconstruction permit or permit amendment or has been exempted pursuant to Section 382.057 from preconstruction permit requirements no earlier than 120 months before the change will occur; or

(ii) uses, regardless of whether the facility has received a permit, an air pollution control method that is at least as effective as the best available control technology, considering technical practicability and economic reasonableness, that the board required or would have required for a facility of the same class or type as a condition of issuing a permit or permit amendment 120 months before the change will occur;

(F) a physical change in, or change in the method of operation of, a facility where the change is within the scope of a flexible permit or a multiple plant permit; or

(G) a change in the method of operation of a natural gas processing, treating, or compression facility connected to or part of a natural gas gathering or transmission pipeline which does not result in an annual emission rate of a pollutant in excess of the volume emitted at the maximum designed capacity, provided that the facility is one for which:

(i) construction or operation started on or before September 1, 1971, and at which either no modification has occurred after September 1, 1971, or at which modifications have occurred only pursuant to standard exemptions; or

(ii) construction started after September 1, 1971, and before March 1, 1972, and which registered in accordance with Section 382.060 as that section existed prior to September 1, 1991.

SECTION 2. Sections 382.051(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The commission may issue a permit:

(1) to construct a new facility or modify an existing facility that may emit air contaminants; ~~or~~

(2) to operate an existing facility under a voluntary emissions reduction permit; or

(3) to operate a federal source.

(b) To assist in fulfilling its authorization provided by Subsection (a), the commission may issue:

(1) special permits for certain facilities;

(2) a general permit ~~[developed by rule]~~ for numerous similar sources subject to Section 382.054;

(3) a standard permit ~~[developed by rule]~~ for ~~[numerous]~~ similar facilities ~~[subject to Section 382.0518];~~

(4) a permit by rule for types of facilities that will not significantly contribute air contaminants to the atmosphere;

(5) a single federal operating permit or preconstruction permit for multiple federal sources or facilities located at the same site;

(6) a multiple plant permit for existing facilities at multiple locations subject to Section 382.0518 or 382.0519; or

(7) ~~(5)~~ other permits as necessary.

SECTION 3. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.05101 to read as follows:

Sec. 382.05101. DE MINIMIS AIR CONTAMINANTS. The commission may develop by rule the criteria to establish a de minimis level of air contaminants for facilities or groups of facilities below which a permit under Section 382.0518 or 382.0519, a standard permit under Section 382.05195, or a permit by rule under Section 382.05196 is not required.

SECTION 4. Sections 382.0511(a) and (c), Health and Safety Code, are amended to read as follows:

(a) The commission may consolidate into a single permit[:

[(+)] any permits, special permits, standard permits, permits by rule, or exemptions for a facility or federal source [issued by the commission before December 1, 1991; or

[(2) any permit issued by the commission on or after December 1, 1991, with any permits, special permits, or exemptions issued or qualified for by that date].

(c) The commission ~~[by rule]~~ may authorize changes in a federal source to proceed before the owner or operator obtains a federal operating permit or revisions to a federal operating permit if the changes are de minimis under Section 382.05101 or the owner or operator has obtained a preconstruction permit or permit amendment required by Section 382.0518 or is operating under a standard permit under Section 382.05195, a permit by rule under Section 382.05196, or an exemption allowed under Section 382.057.

SECTION 5. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Sections 382.0519 and 382.05191-382.05196 to read as follows:

Sec. 382.0519. VOLUNTARY EMISSIONS REDUCTION PERMIT. (a) Before September 1, 2001, the owner or operator of an existing, unpermitted facility not subject to the requirement to obtain a permit under Section 382.0518(g) may apply for a permit to operate that facility under this section.

(b) The commission shall grant within a reasonable time a permit under this section if, from the information available to the commission, including information presented at any public hearing or through written comment, the commission finds that the facility will use an air pollution control method at least as beneficial as that described in Section 382.003(9)(E)(ii), considering the age and remaining useful life of the facility.

(c) If the commission finds that the emissions from the facility will contravene the standards under Subsection (b) or the intent of this chapter, including protection of the public's health and physical property, the commission may not grant the permit under this section.

(d) A person planning the modification of a facility previously permitted under this section must comply with Section 382.0518 before work is begun on the construction of the modification.

(e) A permit issued by the commission under this section may defer the implementation of the requirement of reductions in the emissions of certain air contaminants only if the applicant will make substantial emissions reductions in other specific air contaminants. The deferral shall be based on a prioritization of air contaminants by the commission as necessary to meet local, regional, and statewide air quality needs.

Sec. 382.0519. VOLUNTARY EMISSIONS REDUCTION PERMIT: NOTICE AND HEARING. (a) An applicant for a permit under Section 382.0519 shall publish notice of intent to obtain the permit in accordance with Section 382.056.

(b) The commission may authorize an applicant for a permit for a facility that constitutes or is part of a small business stationary source as defined in Section 382.0365(g)(2) to provide notice using an alternative means if the commission finds that the proposed method will result in equal or better communication with the public, considering the effectiveness of the notice in reaching potentially affected persons, cost, and consistency with federal requirements.

(c) The commission shall provide an opportunity for a public hearing and the submission of public comment and send notice of a decision on an application for a permit under Section 382.0519 in the same manner as provided by Sections 382.0561 and 382.0562.

(d) A person affected by a decision of the commission to issue or deny a voluntary emissions reduction permit may move for rehearing and is entitled to judicial review under Section 382.032.

Sec. 382.05192. VOLUNTARY EMISSIONS REDUCTION PERMITS: REVIEW AND RENEWAL. Review and renewal of permits issued under Section 382.0519 shall be conducted in accordance with Section 382.055.

Sec. 382.05193. EMISSIONS PERMITS THROUGH ENVIRONMENTAL MITIGATION PROJECT. (a) The commission may issue a permit under Section 382.0519 for a facility:

(1) that makes a good faith effort to make equipment improvements and emissions reductions necessary to meet the requirements of that section;

(2) that, in spite of the effort, cannot reduce the facility's emissions to the degree necessary for the issuance of the permit; and

(3) the owner or operator of which acquires a sufficient number of emissions reduction credits to offset the facility's excessive emissions under the program established under Subsection (b).

(b) The commission by rule shall establish a program to grant emissions reduction credits to a facility if the owner or operator conducts a special environmental project to offset the facility's excessive emissions. The rules must establish two categories of projects eligible for credits under the program, including:

(1) emissions reduction projects; and

(2) environmental protection projects.

(c) A project included in the emissions reduction projects category must reduce net emissions from one or more sources in this state in an amount and type sufficient to prevent air pollution to a degree comparable to the amount of the reduction in the facility's emissions that would be necessary to meet the permit requirement. The emissions reduction projects category must include:

- (1) generation of electric energy by a low-emission method, including:
 - (A) wind power;
 - (B) biomass gasification power; and
 - (C) solar power;
 - (2) the purchase and destruction of high-emission automobiles or other mobile sources;
 - (3) the reduction of emissions from a permitted facility that emits air contaminants to a level significantly below the levels necessary to comply with the facility's permit;
 - (4) a carpooling or alternative transportation program for the owner's or operator's employees;
 - (5) a telecommuting program for the owner's or operator's employees; and
 - (6) conversion of a motor vehicle fleet operated by the owner or operator to a low-sulphur fuel or an alternative fuel approved by the commission.
 - (d) A project included in the environmental protection projects category must benefit, preserve, or protect environmental quality in this state to a degree that the value of the project to the status of the state's environment is comparable to the value to the environment of reducing the facility's emissions to the extent necessary to meet the permit requirements. The environmental protection projects category must include:
 - (1) the creation of a wildlife or plant preserve;
 - (2) the creation of an environmental easement;
 - (3) surface water, groundwater, or soil pollution prevention or remediation; and
 - (4) wetlands enhancement, remediation, or preservation.
 - (e) A permit issued under Section 382.0519 for a facility participating in the program established under this section must be conditioned on the successful and timely completion of the project or projects for which the facility owner or operator acquires the credits.
 - (f) To renew the permit of a facility permitted under Section 382.0519 with credits acquired under the program established under this section, the commission shall require the owner or operator of the facility to have:
 - (1) made equipment improvements and emissions reductions necessary to meet the permit requirements under that section for a new permit; or
 - (2) acquired additional credits under the program as necessary to meet the permit requirements under that section for a new permit.
 - (g) Emissions reduction credits acquired under the program established under this section are not transferrable.
- Sec. 382.05194. MULTIPLE PLANT PERMIT. (a) The commission may issue a multiple plant permit for multiple plant sites that are owned or operated by the same person or persons under common control if the commission finds that:
- (1) the aggregate rate of emission of air contaminants to be authorized under the permit does not exceed the total of:
 - (A) for previously permitted facilities, the rates authorized in the existing permits; and
 - (B) for existing unpermitted facilities not subject to the requirement to obtain a preconstruction authorization under Section 382.0518(g) or for facilities authorized under Section 382.0519, the rates that would be authorized under Section 382.0519; and

(2) there is no indication that the emissions from the facilities will contravene the intent of this chapter, including protection of the public's health and physical property.

(b) A permit issued under this section may not authorize emissions from any of the facilities authorized under the permit that exceed the facility's highest historic annual rate or the levels authorized in the facility's most recent permit. In the absence of records extending back to the original construction of the facility, best engineering judgment shall be used to demonstrate the facility's highest historic annual rate to the commission.

(c) Emissions control equipment previously installed at a facility permitted under this section may not be removed or disabled unless the action is undertaken to maintain or upgrade the control equipment or to otherwise reduce the impact of emissions authorized by the commission.

(d) The commission shall publish notice of a proposed multiple plant permit for existing facilities in the Texas Register and in one or more statewide or regional newspapers designated by the commission by rule that will, in the commission's judgment, provide reasonable notice throughout the state. If the multiple plant permit for existing facilities will be effective for only part of the state, the notice shall be published in a newspaper of general circulation in the area to be affected. The commission by rule may require additional notice to be given. The notice must include an invitation for written comments by the public to the commission regarding the proposed multiple plant permit and must be published not later than the 30th day before the date the commission issues the multiple plant permit.

(e) For existing facilities, the commission shall hold a public meeting to provide an additional opportunity for public comment. The commission shall give notice of a public meeting under this subsection as part of the notice described in Subsection (d) not later than the 30th day before the date of the meeting.

(f) If the commission receives public comment related to the issuance of a multiple plant permit for existing facilities, the commission shall issue a written response to the comments at the same time the commission issues or denies the permit. The response must be made available to the public, and the commission shall mail the response to each person who made a comment.

(g) The commission by rule shall establish the procedures for application and approval for the use of a multiple plant permit.

(h) For a multiple plant permit that applies only to existing facilities for which an application is filed before September 1, 2001, the issuance, amendment, or revocation by the commission of the permit is not subject to Chapter 2001, Government Code.

(i) The commission may adopt rules as necessary to implement and administer this section and may delegate to the executive director under Section 382.061 the authority to issue, amend, or revoke a multiple plant permit.

Sec. 382.05195. STANDARD PERMIT. (a) The commission may issue a standard permit for new or existing similar facilities if the commission finds that:

(1) the standard permit can be enforceable;

(2) the commission can adequately monitor compliance with the terms of the standard permit; and

(3) for permit applications for facilities subject to Sections 382.0518(a)-(d) filed before September 1, 2001, the facilities will use control technology at least as effective as that described in Section 382.0518(b). For permit applications filed after August 31, 2001, all facilities permitted under this section will use control technology at least as effective as that described in Section 382.0518(b).

(b) The commission shall publish notice of a proposed standard permit in the Texas Register and in one or more statewide or regional newspapers designated by the commission by rule that will, in the commission's judgment, provide reasonable notice throughout the state. If the standard permit will be effective for only part of the state, the notice shall be published in a newspaper of general circulation in the area to be affected. The commission by rule may require additional notice to be given. The notice must include an invitation for written comments by the public to the commission regarding the proposed standard permit and must be published not later than the 30th day before the date the commission issues the standard permit.

(c) The commission shall hold a public meeting to provide an additional opportunity for public comment. The commission shall give notice of a public meeting under this subsection as part of the notice described in Subsection (b) not later than the 30th day before the date of the meeting.

(d) If the commission receives public comment related to the issuance of a standard permit, the commission shall issue a written response to the comments at the same time the commission issues or denies the permit. The response must be made available to the public, and the commission shall mail the response to each person who made a comment.

(e) The commission by rule shall establish the procedures for application and approval for the use of a standard permit.

(f) The issuance, amendment, or revocation of a standard permit by the commission is not subject to Chapter 2001, Government Code.

(g) The commission may adopt rules as necessary to implement and administer this section and may delegate to the executive director under Section 382.061 the authority to issue, amend, or revoke a standard permit.

Sec. 382.05196. PERMITS BY RULE. (a) Consistent with Section 382.051, the commission may adopt permits by rule for certain types of facilities if it is found on investigation that the types of facilities will not make a significant contribution of air contaminants to the atmosphere. The commission may not adopt a permit by rule authorizing any facility defined as a "major source" under the federal Clean Air Act (42 U.S.C. Section 7401 et seq.) or regulations adopted under that Act. Nothing in this subsection shall be construed to limit the commission's general power to control the state's air quality under Section 382.011(a).

(b) The commission by rule shall specifically define the terms and conditions for a permit by rule under this section.

SECTION 6. Section 382.057(a), Health and Safety Code, is amended to read as follows:

(a) Consistent with Section 382.0511, the commission by rule may exempt from the requirements of Section 382.0518 changes within any facility [~~and certain types of facilities~~] if it is found on investigation that such changes [~~or types of facilities~~] will not make a significant contribution of air contaminants to the atmosphere. The commission by rule shall exempt from the requirements of Section 382.0518 or issue a standard permit for the installation of emission control equipment that constitutes a modification or a new facility, subject to such conditions restricting the applicability of such exemption or standard permit that the commission deems necessary to accomplish the intent of this chapter. The commission may not exempt [~~any facility or~~] any modification of an existing facility defined as "major" under the federal Clean Air Act or regulations adopted under that Act. Nothing in this subsection shall be

construed to limit the commission's general power to control the state's air quality under Section 382.011(a).

SECTION 7. Section 382.058, Health and Safety Code, is amended to read as follows:

Sec. 382.058. PERMITS BY RULE OR STANDARD PERMITS ~~[LIMITATION ON COMMISSION EXEMPTION]~~ FOR CONSTRUCTION OF CERTAIN CONCRETE PLANTS. (a) A person may not begin construction on any concrete plant that performs wet batching, dry batching, or central mixing under a standard permit under Section 382.05195 or a permit by rule ~~[an exemption]~~ adopted by the commission under Section 382.05196 ~~[382.057]~~ unless the person has complied with the notice and opportunity for hearing provisions under Section 382.056.

(b) This section does not apply to a concrete plant located temporarily in the right-of-way, or contiguous to the right-of-way, of a public works project.

(c) For purposes of this section, only those persons actually residing in a permanent residence within 440 yards of the proposed plant may request a hearing under Section 382.056(d) as a person who may be affected.

SECTION 8. Section 382.062(b), Health and Safety Code, is amended to read as follows:

(b) The commission may adopt rules relating to charging and collecting a fee for an exemption, for ~~[from]~~ a permit, for a permit by rule, for a voluntary emissions reduction permit, for a multiple plant permit, or for a standard permit ~~[authorized by commission rule]~~ and for a variance.

SECTION 9. The Texas Natural Resource Conservation Commission shall adopt, as soon as practicable after the effective date of this Act, any rules necessary to implement the changes in law made by this Act.

SECTION 10. Not later than January 15, 2001, the Texas Natural Resource Conservation Commission shall prepare and distribute to the governor, the lieutenant governor, the speaker of the house of representatives, the chair of the Senate Committee on Natural Resources, and the chair of the House Committee on Environmental Regulation a report on the number of companies that have obtained or applied for a permit under Section 382.0519, Health and Safety Code, as added by this Act, and the reductions in emissions anticipated to result from issuance of such permits.

SECTION 11. (a) The Texas Natural Resource Conservation Commission may not initiate an enforcement action against a person for the failure to obtain a preconstruction permit under Section 382.0518, Health and Safety Code, or a rule adopted or order issued by the commission under that section, that is related to the modification of a facility that may emit air contaminants if, on or before August 31, 2001, the person files an application for a permit for the facility under Section 382.0519, Health and Safety Code, as added by this Act.

(b) This section does not apply to an act related to the modification of a facility that occurs after March 1, 1999.

SECTION 12. 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.

Floor Amendment No. 3

Amend **CSSB 766** (House Committee Report) as follows:

(1) In Section 5 of the bill, strike added Subsection (b), Section 382.0519, Health and Safety Code (page 5, lines 10-16), and substitute:

(b) The commission shall grant within a reasonable time a permit under this section if, from the information available to the commission, including information presented at any public hearing or through written comment, the commission finds that:

(1) the facility will use an air pollution control method at least as beneficial as that described in Section 382.003(9)(E)(ii), considering the age and remaining useful life of the facility, except as provided by Subdivision (2); or

(2) the facility will use the best available control technology, considering the age and remaining useful life of the facility and the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility if the facility:

(A) emits more than 200 tons of air contaminants annually; and

(B) is located in:

(i) Bosque, Coryell, El Paso, Hood, Parker, Somervell, or Wise County;

(ii) a county traversed by any part of Interstate Highway 35 north of the city of San Antonio;

(iii) a county traversed by any part of Interstate Highway 37 south of the city of San Antonio; or

(iv) a county located east of a county described by Subparagraph (ii) or (iii).

(2) Add a new section to the bill, appropriately numbered, to read:

SECTION _____. To the extent that Section 382.0519, Health and Safety Code, as added by this Act, conflicts with another law enacted by the 76th Legislature specifically regarding emissions reduction requirements for electric generating facilities, the other law prevails over Section 382.0519.

(3) Renumber the Sections of the bill appropriately.

Floor Amendment No. 4

Amend **CSSB 766** (House Committee Report) as follows:

(1) Between Sections 4 and 5 of the bill (page 5, between lines 1 and 2) insert:

SECTION 5. (a) Section 382.0518(g), Health and Safety Code, is amended to read as follows:

(g) Subsections (a)-(d) do not apply to a person who has executed a contract or has begun construction for an addition, alteration, or modification to a new or an existing facility on or before August 30, 1971, and who has complied with the requirements of Section 382.060, as it existed on November 30, 1991. To qualify for any exemption under this subsection, a contract may not have a beginning construction date later than February 29, 1972. This subsection does not apply to a facility located less than two miles from the outer perimeter of a school, child day-care facility, hospital, or nursing home.

(b) This section takes effect September 1, 2001.

(2) Add a new section to the bill, numbered appropriately, to read:

SECTION _____. To the extent that Section 382.0518, Health and Safety Code, as amended by this Act, conflicts with another law enacted by the 76th Legislature

specifically regarding permitting or emissions reduction requirements for electric generating facilities, the other law prevails over Section 382.0518.

(3) Renumber the sections of the bill appropriately.

Floor Amendment No. 5

Amend **CSSB 766** (House Committee Report) as follows:

(1) Between Sections 8 and 9 of the bill (page 15, between lines 25 and 26) insert: SECTION 9. (a) Section 382.0518(g), Health and Safety Code, is repealed.

(b) The owner or operator of a facility that was exempted from the permit requirements of Section 382.0518, Health and Safety Code, by Subsection (g) of that section immediately before September 1, 2001, may operate the facility on or after that date only if:

(1) the owner or operator of the facility has a permit application under that section filed before that date and pending before the Texas Natural Resource Conservation Commission; or

(2) the facility is authorized to operate under a standard permit or permit by rule.

(c) The owner or operator of a facility operating under a pending permit application as provided by Subsection (b) of this section shall discontinue all operations resulting in the emission of an air contaminant on the second anniversary of the date the Texas Natural Resource Conservation Commission determines that the application is administratively complete unless the commission grants a permit before the date of the anniversary. If a court finds that more likely than not the Texas Natural Resource Conservation Commission will fail to make the determination of whether to grant or deny a permit application described by Subsection (b) of this section before the date this subsection would require the owner or operator of a facility to discontinue operations and that the commission's failure is not a result of an act or omission of the owner or operator of the facility, the court may issue:

(1) an order of mandamus directing the commission to make the determination before that date; or

(2) an injunction to prevent the commission from enforcing the requirement that the owner or operator discontinue operations before the date the commission makes the determination.

(d) The Texas Natural Resource Conservation Commission shall enforce this section as if it were a provision of Chapter 382, Health and Safety Code.

(e) To the extent that this section conflicts with another law enacted by the 76th Legislature specifically regarding air contaminant emissions reductions or permitting requirements for electric generating facilities, the other law prevails over this section.

(f) This section takes effect September 1, 2001.

(2) Renumber subsequent sections of the bill accordingly.

Floor Amendment No. 6

Amend **CSSB 766** (House Committee Printing) as follows:

(1) In the recitation to Section 5 of the bill (page 5, line 3), strike "382.0519" and substitute "382.05185, 382.0519,".

(2) In Section 5 of the bill, immediately following the recitation to that section (page 5, between lines 4 and 5), insert a new Section 382.05185, Health and Safety Code, to read:

Sec. 382.05185. PERMIT AMENDMENTS. (a) Before work is begun on the modification of a facility for which a permit has been issued under Section 382.0518 or on the construction of a facility at a site where a facility for which a permit has been issued under Section 382.0518 is located, the person planning the modification or construction must obtain from the commission:

(1) a permit;

(2) a permit amendment issued under this section; or

(3) an exemption adopted under Section 382.057.

(b) An applicant for a permit amendment under this section shall provide notice of the application under Section 382.056. This subsection does not apply to an application if the emissions at the site on which the facility is or is planned to be located will decrease and not change in character.

(c) Within a reasonable time after the commission receives an application for a permit amendment to authorize a modification of or the construction of a facility, the commission shall issue the permit amendment if, from the information available to the commission, the commission finds:

(1) each facility authorized to operate under the amended permit will use at least the best available control technology, considering the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility; and

(2) no indication that the emissions from the facility will contravene the intent of this chapter, including the protection of the public's health and physical property.

(d) In considering the permit amendment, the commission shall consider any adjudicated decision or compliance proceeding within the five years before the date on which the application was filed that addressed the applicant's past performance and compliance with the laws of the state, another state, or the United States governing air contaminants, or with the terms of any permit or order issued by the commission.

(3) Between Sections 8 and 9 of the bill (page 15, between lines 25 and 26), insert a new Section 9 to read as follows:

SECTION 9. Section 382.0518(h), Health and Safety Code, is repealed.

(4) Renumber the subsequent sections of the bill appropriately.

Floor Amendment No. 7

Amend **CSSB 766** (House committee report) as follows:

(1) In the recital to SECTION 5 of the bill (page 5, line 3), strike "382.0519" and substitute "382.05185, 382.0519,".

(2) In SECTION 5 of the bill, immediately following the recital (page 5, between lines 4 and 5), insert:

Sec. 382.05185. EMISSIONS REDUCTIONS FOR CERTAIN EXEMPT FACILITIES. (a) In this section, "electric generating facility" means a facility that generates electric energy for compensation and is owned or operated by a person in this state, including a municipal corporation, electric cooperative, or river authority.

(b) This section applies only to an electric generating facility existing on January 1, 1999, that is not subject to the requirement to obtain a permit under Section 382.0518(g).

(c) It is the intent of the legislature that, for the 12-month period beginning on May 1, 2003, and for each 12-month period after the end of that period, the total annual emissions of nitrogen oxides from facilities subject to this section may not exceed

levels equal to 50 percent of the total emissions of that pollutant during 1997, as reported to the commission, and the total annual emissions of sulphur dioxides from coal-fired facilities subject to this section may not exceed levels equal to 75 percent of the total emissions of that pollutant during 1997, as reported to the commission. The limitations prescribed by this subsection may be met through an emissions allocation and allowance transfer system described by this section.

(d) A municipal corporation, electric cooperative, or river authority may exclude any electric generating facility of 25 megawatts or less from the requirements prescribed by this section. Not later than January 1, 2000, a municipal corporation, electric cooperative, or river authority must inform the commission of its intent to exclude those facilities.

(e) The owner or operator of an electric generating facility shall apply to the commission for a permit for the emission of air contaminants on or before September 1, 2000. A permit issued by the commission under this section shall require the facility to achieve emissions reductions or trading emissions allowances as provided by this section. If the facility uses coal as a fuel, the permit must also be conditioned on the facility's emissions meeting opacity limitations provided by commission rules. Notwithstanding Section 382.0518(g), a facility that does not obtain a permit as required by this subsection may not operate after May 1, 2003, unless the commission finds good cause for an extension.

(f) The commission shall develop rules for the permitting of electric generating facilities. The rules adopted under this subsection shall provide, by region, for the allocation of emissions allowances of sulphur dioxides and nitrogen oxides among electric generating facilities and for facilities to trade emissions allowances for those contaminants.

(g) The commission by rule shall establish an East Texas Region, a West Texas Region, and an El Paso Region for allocation of air contaminants under the permitting program under Subsection (f). The East Texas Region must contain all counties traversed by or east of Interstate Highway 35 or Interstate Highway 37, including Bosque, Coryell, Hood, Parker, Somervell, and Wise counties. The West Texas Region includes all of the state not contained in the East Texas Region or the El Paso Region. The El Paso Region includes El Paso County.

(h) Not later than January 1, 2000, the commission shall allocate to each electric generating facility in each region a number of annual emissions allowances, with each allowance equal to one ton of sulphur dioxides or of nitrogen oxides emitted in a year, that permit emissions of the contaminants from the facility in that year. The commission must allocate to each facility a number of emissions allowances equal to an emissions rate measured in pounds per million British thermal units divided by 2,000 and multiplied by the facility's total heat input in terms of millions of British thermal units during 1997. For the East Texas Region, the emissions rate shall be 0.14 pounds per million British thermal units for nitrogen oxides and 1.38 pounds per million British thermal units for sulphur dioxides. For the West Texas and El Paso regions, the emissions rate shall be 0.195 pounds per million British thermal units for nitrogen oxides. Allowances for sulphur dioxides may only be allocated among coal-fired facilities.

(i) A person, municipal corporation, electric cooperative, or river authority that owns and operates an electric generating facility not covered by this section may elect to designate that facility to become subject to the requirements of this section and to receive emissions allowances for the purpose of complying with the emissions

limitations prescribed by Subsection (c). The commission shall adopt rules governing this election that:

(1) require an owner or operator of an electric generation facility to designate to the commission in its permit application under Subsection (e) any facilities that will become subject to this section;

(2) require the commission, notwithstanding the allocation mechanism provided by Subsection (h), to allocate additional allowances to facilities governed by this subsection in an amount equal to each facility's actual emissions in tons in 1997;

(3) provide that any unit designated under this subsection may not transfer or bank allowances conserved as a result of reduced utilization or shutdown, except that the allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this subsection with thermal energy generated by any other unit; and

(4) provide that emissions reductions from electing facilities designated in this subsection may only be used to satisfy the emissions reductions for grand fathered facilities defined in Subsection (c) to the extent that reductions used to satisfy the limitations in Subsection (c) are beyond the requirements of any other state or federal standard, or both.

(j) The commission by rule shall permit a facility to trade emissions allocations with other electric generating facilities only in the same region.

(k) The commission by rule shall provide methods for the commission to determine whether a facility complies with the permit issued under this section. The rules must provide for:

(1) monitoring and reporting actual emissions of sulphur dioxides and nitrogen oxides from each facility;

(2) provisions for saving unused allowances for use in later years; and

(3) a system for tracking traded allowances.

(l) A facility may not trade an unused allowance for a contaminant for use as a credit for another contaminant.

(m) A person possessing market power may not withhold emissions allowances from the market in a manner that is unreasonably discriminatory or tends to unreasonably restrict, impair, or reduce the level of competition.

(n) The commission shall penalize a facility that emits an air contaminant that exceeds the facility's allowances for that contaminant by:

(1) enforcing an administrative penalty, in an amount determined by commission rules, for each ton of air contaminant emissions by which the facility exceeds its allocated emissions allowances; and

(2) reducing the facility's emissions allowances for the next year by an amount of emissions equal to the excessive emissions in the year the facility emitted the excessive air contaminants.

(o) The commission may penalize a facility that emits an air contaminant that exceeds the facility's allowances for that contaminant by:

(1) ordering the facility to cease operations; or

(2) taking other enforcement action provided by commission rules.

(p) The commission by rule shall provide for a facility in the El Paso Region to meet emissions allowances by using credits from emissions reductions achieved in Ciudad Juarez, United Mexican States.

(q) If the commission or the United States Environmental Protection Agency determines that reductions in nitrogen oxides emissions in the El Paso Region otherwise required by this section would result in increased ambient ozone levels in El Paso County, facilities in the El Paso Region are exempt from the nitrogen oxides reduction requirements.

(r) An applicant for a permit under Subsection (e) shall publish notice of intent to obtain the permit in accordance with Section 382.056. The commission shall provide an opportunity for a public hearing and the submission of public comment and send notice of a decision on an application for a permit under Subsection (e) in the same manner as provided by Sections 382.0561 and 382.0562. The commission shall review and renew a permit issued under this section in accordance with Section 382.055.

(s) This section does not limit the authority of the commission to require additional reductions of nitrogen oxides, sulphur dioxides, or any other pollutant from generating facilities subject to this section.

(3) In SECTION 9 of the bill (page 15, line 27), between "Commission" and "shall" insert "and the Public Utility Commission of Texas".

(4) Add a new section to the bill, numbered appropriately, to read:

SECTION ____ Subchapter E, Chapter 36, Utilities Code, is amended by adding Section 36.209 to read as follows:

Sec. 36.209. ELECTRIC GENERATING FACILITY COST RECOVERY FOR AIR CONTAMINANT EMISSIONS PERMIT OR EMISSIONS REDUCTION.

(a) Subject to Subsection (b), if an electric utility makes a reasonable capital investment before May 1, 2003, to comply with Section 382.05185, Health and Safety Code, the commission, after an expedited review and approval based on the criteria under Subsection (b), shall authorize the use of an appropriate mechanism for full and concurrent recovery of the capital investment and a return on the investment at a rate of return that includes an equity return component that is equivalent to that of U.S. Treasury bonds of similar duration to the expected useful life of the investment.

(b) An investment described by Subsection (a) and a return on the investment is the amount eligible for full and concurrent recovery under that subsection only to the extent that:

(1) the cost is applied to offset or reduce the emission of air contaminants from an electric generating facility and;

(A) the offset or reduction is determined by the Texas Natural Resource Conservation Commission to be an essential component in achieving compliance with a national ambient air quality standard; or

(B) the offset or reduction is necessary for an unpermitted electric generating facility to obtain a permit under Section 382.05185, Health and Safety Code;

(2) the decision to retrofit a facility is determined to be the most cost-effective means of achieving the offset or reduction after consideration of alternative measures, including the retirement of the electric generating facility, taking into account the cost of replacement generating capacity and the net book value of the affected facility, including retirement costs and offsetting salvage value; and

(3) the amount and location of resulting emission reductions is consistent with the air quality goals and policies of the Texas Natural Resource Conservation Commission.

(5) Add a new section to the bill, numbered appropriately, to read:

SECTION _____. If **SB 7** of the 76th Legislature, Regular Session, 1999, is enacted and becomes law, Sections 382.05185, Health and Safety Code, as added by this Act, and Section 36.209, Utilities Code, as added by this Act, do not take effect.

Floor Amendment No. 8

Amend **CSSB 766** (House committee report) in Section 5 of the bill as follows:

(1) Strike added Section 382.05192, Health and Safety Code (page 6, line 25, through page 7, line 1), and substitute:

Sec. 382.05192. REVIEW AND RENEWAL OF VOLUNTARY EMISSION REDUCTIONS AND MULTIPLE PLANT PERMIT. Review and renewal of a permit issued under Section 382.0519 or 382.05194 shall be conducted in accordance with Section 382.055.

(2) In added Section 382.05195, Health and Safety Code, strike Subsections (e)-(g) (page 13, lines 16-24) and substitute:

(e) The commission by rule shall establish procedures for the amendment of a standard permit and for an application for, the issuance of, the renewal of, and the revocation of an authorization to use a standard permit.

(f) A facility authorized to emit air contaminants under a standard permit shall comply with an amendment to the standard permit beginning on the date the facility's authorization to use the standard permit is renewed or the date the commission otherwise provides. Before the date the facility is required to comply with the amendment, the standard permit, as it read before the amendment, applies to the facility.

(g) The adoption or amendment of a standard permit or the issuance, renewal, or revocation of an authorization to use a standard permit is not subject to Chapter 2001, Government Code.

(h) The commission may adopt rules as necessary to implement and administer this section.

(i) The commission may delegate to the executive director the authority to issue, amend, renew, or revoke an authorization to use a standard permit.

Floor Amendment No. 9

Amend **CSSB 766** (House Committee Report) as follows:

(1) In Section 5 of the bill, in added Section 382.05193, Health and Safety Code:

(A) In the heading of that section (page 7, lines 2-3), strike "ENVIRONMENTAL MITIGATION" and substitute "EMISSIONS REDUCTION".

(B) Strike Subsection (b) of that section (page 7, lines 15-22) and substitute:

(b) The commission by rule shall establish a program to grant emissions reduction credits to a facility if the owner or operator conducts an emissions reduction project to offset the facility's excessive emissions. To be eligible for a credit to offset a facility's emissions, the emissions reduction project must reduce emissions in the airshed, as defined by commission rule, in which the facility is located.

(C) In Subsection (c) of that section (page 7, lines 23-24), strike "A project included in the emissions reduction projects category" and substitute "The commission by rule shall provide that an emissions reduction project".

(D) In Subsection (c) of that section (page 8, line 1), strike "The emissions reduction projects category" and substitute "Qualifying emissions reduction projects".

(E) Strike Subsection (d) of that section (page 8, line 20, through page 9, line 5).

(F) Redesignate:

(i) Subsection (e) of that section (page 9, line 6) as Subsection (d);

(ii) Subsection (f) of that section (page 9, line 11) as Subsection (e); and

(iii) Subsection (g) of that section (page 9, line 21) as Subsection (f).

(2) Add a new section to the bill, appropriately numbered, to read:

SECTION _____. To the extent that Section 382.05193, Health and Safety Code, as added by this Act, conflicts with another law enacted by the 76th Legislature specifically regarding emissions reduction requirements for electric generating facilities, the other law prevails over Section 382.05193.

(3) Renumber the subsequent sections of the bill accordingly.

Floor Amendment No. 10

Amend **CSSB 766** (House committee report) in Section 5 of the bill by striking added Subsection (e), Section 382.0519, Health and Safety Code (page 5, lines 26 and 27, and page 6, lines 1-5) and by substituting:

(e) A permit issued under this section for a facility that annually emits more than 100,000 tons of air contaminants may defer the implementation of the requirement of reductions in the emissions of certain air contaminants only if the applicant will make substantial emissions reductions in other specific air contaminants. The commission shall base the deferral on a prioritization of air contaminants as necessary to meet local, regional, and statewide air quality needs. A deferral granted in a permit under this subsection continues to apply to the facility even if the facility's emissions fall below the threshold amount provided by this subsection.

Floor Amendment No. 11

Amend **CSSB 766** (House committee report) as follows:

(1) In SECTION 5 of the bill, added Subdivision (1), Subsection (a), Section 382.05195, Health and Safety Code (page 12, line 10), strike "can be" and substitute "is".

(2) In SECTION 5 of the bill, added Subsection (a), Section 382.05196, Health and Safety Code (page 14, lines 3 and 4), strike "a "major source" under" and substitute ""major" under any applicable preconstruction permitting requirements of".

(3) In SECTION 6 of the bill, in the third sentence of amended Subsection (a), Section 382.057, Health and Safety Code (page 14, lines 24 and 25), between "under" and "the federal Clean Air Act", insert "any applicable preconstruction permitting requirements of".

Floor Amendment No. 12

Amend **CSSB 766** (House Committee Report) as follows:

(1) Between Sections 8 and 9 of the bill (page 15, between lines 25 and 26) insert the following:

SECTION 9. (a) Section 382.0621(d), Health and Safety Code, is repealed.

(b) The Texas Natural Resource Conservation Commission shall deposit any increase in the amount of fees collected under Section 382.0621, Health and Safety Code, as amended by this section, that results from the repeal of Subsection (d) of that section into a special account in the general revenue fund. Interest earned on the account shall be credited to the account. The account is exempt from the application

of Section 403.095, Government Code. Money in the account may be appropriated only to the Texas Natural Resource Conservation Commission for a use related to:

(1) the small business stationary source technical and environmental compliance assistance program established under Section 382.0365, Health and Safety Code; and

(2) any other clean air program funded by fees on emissions of air contaminants.

(c) To the extent that this section conflicts with another law enacted by the 76th Legislature specifically regarding emissions reduction requirements for electric generating facilities, the other law prevails over this section.

(2) Renumber the subsequent sections of the bill accordingly.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 766** on third reading as follows:

(1) In the recitation to Section 5 of the bill as amended on second reading by Floor Amendment No. 6 by Kuempel, strike "382.05185, 382.0519," and substitute "382.0519".

(2) Strike Section 382.05185, Health and Safety Code, as added on second reading by Floor Amendment No. 6 by Kuempel.

(3) Strike Section 9 of the bill, repealing Section 382.0518(h), as added on second reading by Floor Amendment No. 6 by Kuempel.

Floor Amendment No. 2 on Third Reading

Amend **CSSB 766** on third reading as follows:

(1) In SECTION 5 of the bill, in proposed Section 382.05195, Health and Safety Code (committee printing page 12, line 7), strike the heading for that section and substitute "STANDARD PERMIT FOR FACILITIES UNDER SECTION 382.0518(g)".

(2) In Floor Amendment No. 8 adopted on second reading, at the end of proposed Subsection (g) of Section 382.05195, Health and Safety Code (page 1, between lines 24 and 25), add "The commission by rule shall provide for public notice and comment".

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 766** 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, Lucio, Fraser, and West.

CONFERENCE COMMITTEE ON HOUSE BILL 3620

Senator Bernsen 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 3620** 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 3620** 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 Bernsen, Chair; Jackson, Lucio, Armbrister, and Brown.

CONFERENCE COMMITTEE ON HOUSE BILL 3061

Senator Bernsen 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 3061** 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 3061** 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 Bernsen, Chair; Jackson, Ogden, Moncrief, and Shapleigh.

CONFERENCE COMMITTEE ON HOUSE BILL 662

Senator Wentworth 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 662** 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 662** 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 Wentworth, Chair; Ellis, Brown, Harris, and Duncan.

CONFERENCE COMMITTEE ON HOUSE BILL 2190

Senator Armbrister 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 2190** 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 2190** 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 Armbrister, Chair; Duncan, Whitmire, Harris, and Nelson.

SENATE BILL 947 WITH HOUSE AMENDMENT

Senator Barrientos called **SB 947** 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 947** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the authority of the board of regents of The University of Texas System to increase the student union fee at The University of Texas at Austin and to the use of the student union fee.

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

SECTION 1. Subsection (a), Section 54.530, Education Code, is amended to read as follows:

(a) The board of regents of The University of Texas System may levy and collect from each student a compulsory fee for operating, maintaining, improving, equipping, and/or constructing additions to the existing Texas Union building near Guadalupe Street. Unless a higher maximum amount is approved as provided by this subsection, the fee may not [to] exceed \$33 for each regular semester and \$16.50 for each term of each summer session. The money collected from the [with such] fees shall [to] be deposited to an account known as the Texas Union Fee Account. With the concurrence of the student fees advisory committee, the board may increase the amount of the [this] fee [may be raised] to an amount that is not more than 10 percent of the amount imposed in the preceding academic year if that method for increasing the amount of the fee has been approved by a majority vote of those students participating in a general election called for that purpose. The board may increase the amount of the fee to an amount that is more than 10 percent of the amount imposed in the preceding academic year [not to exceed \$40 for each regular semester and \$20 for each term of each summer session] if that increase in the fee is approved by a majority vote of those students participating in a general election called for that purpose. The board may increase the amount of the fee to an amount that is more than \$33 but not more than \$50 for each regular semester, and more than \$16.50 but not more than \$30 for each term of each summer session, but only if the maximum amount has been approved by a majority vote of those students participating in a general election called for that purpose. The activities of said Texas Union building financed in whole or in part by the [this] fee shall be limited to those activities in which the entire student body is eligible to participate, and in no event shall any of the activities so financed be held outside of the territorial limits of the campus of The University of Texas at Austin.

SECTION 2. (a) A review panel consisting of three members appointed under this section and financed by the office of the vice president for student affairs at The

University of Texas at Austin shall conduct an external review of the operation of the Texas Union to ensure the appropriate use of the student union fee imposed by Section 54.530, Education Code. The review shall include an examination of management decisions and other areas relating to the operation of the Texas Union as necessary. Not later than the first day of the 2000 fall semester, the review panel shall make to the Board of Directors of the Texas Union related recommendations on ways to improve the facilities and operations of the Texas Union.

(b) The vice president for student affairs at The University of Texas at Austin shall compile a list of seven proposed members of the review panel, which must consist of current or former student union directors, associate student union directors, or college or university vice presidents with student union experience. A proposed member of the review panel may have acquired the necessary union experience at a college or university in or outside of this state. The vice president for student affairs may not serve on the review panel.

(c) The vice president for student affairs at The University of Texas at Austin shall submit the list to a student committee consisting of five representatives to the Student Assembly of The University of Texas at Austin, to be selected by the Student Assembly. The student committee shall select three persons from the list submitted by the vice president for student affairs to constitute the review panel. If a vacancy occurs on the review panel, the student committee shall select another person from the list to fill the vacant position. The selections of the student committee, including any replacement selections, are final unless a proposed member is unable to serve, in which event the student committee shall select a replacement.

(d) If, at any time, the list of proposed members of the review panel consists of fewer than five persons, the vice president for student affairs at The University of Texas at Austin shall submit to the student committee additional names as necessary to restore the list of proposed members to seven.

(e) This section expires January 1, 2001.

SECTION 3. Section 1 of this Act applies beginning with the 1999 fall semester and applies to fees charged on or after that date. Fees charged before the 1999 fall semester are governed by the law in effect at the time the fees are charged, and that law is continued in effect for that purpose.

SECTION 4. 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 Barrientos 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 947** 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 Barrientos, Chair; West, Nelson, Zaffirini, and Cain.

CONFERENCE COMMITTEE ON HOUSE BILL 542

Senator Fraser 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 542** 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 542** 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 Fraser, Chair; Jackson, Lucio, Carona, and Madla.

CONFERENCE COMMITTEE ON HOUSE BILL 1444

Senator Moncrief 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 1444** 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 1444** 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 Moncrief, Chair; Nelson, West, Lindsay, and Shapleigh.

CONFERENCE COMMITTEE ON HOUSE BILL 744

Senator Bernsen 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 744** 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 744** 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 Bernsen, Chair; Jackson, Sibley, Cain, and Ellis.

CONFERENCE COMMITTEE ON HOUSE BILL 2224

Senator Shapiro 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 2224** 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 2224** 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 Shapiro, Chair; Brown, Madla, Harris, and Shapleigh.

CONFERENCE COMMITTEE ON HOUSE BILL 1933

Senator Shapiro 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 1933** 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 1933** 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 Shapiro, Chair; Wentworth, Fraser, Bivins, and Lindsay.

SENATE BILL 558 WITH HOUSE AMENDMENTS

Senator Lucio called **SB 558** 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 558** in SECTION 2 of the bill by striking "September 1, 1999" and substituting "January 1, 2000".

Floor Amendment No. 2

Amend **SB 558** on page 1, line 23 as follows:

Strike the phrase "in addition to" and substitute the phrase "as a component of".

The amendments were read.

Senator Lucio 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 558** 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 Lucio, Chair; Gallegos, Carona, Bernsen, and Nixon.

CONFERENCE COMMITTEE ON HOUSE BILL 3793

Senator Sibley 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 3793** 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 3793** 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 Sibley, Chair; Brown, Armbrister, Bivins, and Lucio.

CONFERENCE COMMITTEE ON HOUSE BILL 1283

Senator Brown 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 1283** 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 1283** 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 Brown, Chair; Armbrister, Bernsen, Bivins, and Ratliff.

CONFERENCE COMMITTEE ON HOUSE BILL 1104

Senator Cain 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 1104** 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 1104** 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 Cain, Chair; Ogden, West, Sibley, and Ratliff.

CONFERENCE COMMITTEE ON HOUSE BILL 3182

Senator Harris 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 3182** 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 3182** 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 Harris, Chair; Lindsay, Lucio, Madla, and Shapiro.

CONFERENCE COMMITTEE ON SENATE BILL 731 DISCHARGED

On motion of Senator Harris and by unanimous consent, the Senate conferees on **SB 731** were discharged.

Question—Shall the Senate concur in the House amendments to **SB 731**?

Senator Harris moved to concur in the House amendments to **SB 731**.

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

Absent-excused: Luna.

CONFERENCE COMMITTEE ON HOUSE BILL 3582

Senator Haywood 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 3582** 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 3582** 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 Haywood, Chair; Brown, Armbrister, Lucio, and Shapleigh.

(Senator Moncrief in Chair)

CONFERENCE COMMITTEE ON HOUSE BILL 3470

Senator Zaffirini 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 3470** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3470** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Zaffirini, Chair; Carona, Gallegos, Bernsen, and Barrientos.

SENATE BILL 50 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 50** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 50** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the application for, issuance of, and contents of a protective order.

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

SECTION 1. Subsection (a), Section 82.008, Family Code, is amended to read as follows:

(a) ~~An [If an] application for a protective order [alleges that the respondent has violated a previously rendered protective order by committing an act prohibited by the order and] that is filed after a previously rendered [the] protective order has expired [after the date that the violation occurred, the application for the new protective order] must include:~~

(1) a copy of the expired protective order attached to the application or, if a copy of the expired protective order is unavailable, a statement that the order is unavailable to the applicant and that a copy of the order will be filed with the court before the hearing on the application;

(2) a description of either:

(A) the violation of the expired protective order, if the application alleges that the respondent violated the expired protective order by committing an act prohibited by that order before the order expired; or

(B) the threatened harm that reasonably places the applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault; and

(3) if a violation of the expired order is alleged, a statement that the violation of the expired order has not been grounds for any other order protecting the applicant that has been issued or requested under this subtitle.

SECTION 2. Subchapter A, Chapter 82, Family Code, is amended by adding Section 82.0085 to read as follows:

Sec. 82.0085. APPLICATION FILED BEFORE EXPIRATION OF PREVIOUSLY RENDERED PROTECTIVE ORDER. (a) If an application for a protective order alleges that an unexpired protective order applicable to the respondent is due to expire not later than the 30th day after the date the application was filed, the application for the subsequent protective order must include:

(1) a copy of the previously rendered protective order attached to the application or, if a copy of the previously rendered protective order is unavailable, a statement that the order is unavailable to the applicant and that a copy of the order will be filed with the court before the hearing on the application; and

(2) a description of the threatened harm that reasonably places the applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault.

(b) The procedural requirements for an original application for a protective order apply to a protective order requested under this section.

SECTION 3. Section 85.025, Family Code, is amended to read as follows:

Sec. 85.025. DURATION OF PROTECTIVE ORDER. (a) Except as provided by Subsection (b) or (c), an ~~[An]~~ order under this subtitle is effective:

(1) for the period stated in the order, not to exceed two years; or

(2) if a period is not stated in the order, until ~~[one year. An order that does not specify the period for which the order is effective expires on]~~ the second ~~[first]~~ anniversary of the date the order was issued.

(b) A person who is the subject of a protective order may file a motion not earlier than the first anniversary of the date on which the order was rendered requesting that the court review the protective order and determine whether there is a continuing need for the order. After a hearing on the motion, if the court finds there is a continuing need for the protective order, the protective order remains in effect until the date the order expires under this section. If the court finds there is no continuing need for the protective order, the court shall order that the protective order expires on a date set by the court.

(c) If a person who is the subject of a protective order is confined or imprisoned on the date the protective order would expire under Subsection (a), the period for which the order is effective is extended, and the order expires on the first anniversary of the date the person is released from confinement or imprisonment.

SECTION 4. Section 85.026, Family Code, is amended to read as follows:

Sec. 85.026. WARNING ON PROTECTIVE ORDER. (a) Each protective order issued under this subtitle, including a temporary ex parte order, must contain the following prominently displayed statements ~~[printed statement]~~ in boldfaced ~~[bold-faced]~~ type, ~~[or]~~ capital letters, or underlined:

"A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH.

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER.

"IT IS UNLAWFUL FOR ANY PERSON WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION."

(b) Each protective order issued under this subtitle, except for a temporary ex parte order, must contain the following prominently displayed ~~[printed]~~ statement in boldfaced ~~[bold-faced]~~ type, ~~[or]~~ capital letters, or underlined:

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS."

~~[(c) Each protective order issued under this subtitle, including a temporary ex parte order, must contain the following printed statement in bold-faced type or capital letters:~~

["NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR

~~VIOULATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."~~

SECTION 5. Section 87.002, Family Code, is amended to read as follows:

Sec. 87.002. MODIFICATION MAY NOT EXTEND DURATION OF ORDER. A protective order may not be modified to extend the period of the order's validity beyond the second ~~[first]~~ anniversary of the date the original order was rendered or beyond the date the order expires under Section 85.025(c), whichever date occurs later.

SECTION 6. (a) This Act takes effect September 1, 1999.

(b) The change in law made by this Act to Subchapter A, Chapter 82, Family Code, by the amendment of Subsection (a), Section 82.008, and the addition of Section 82.0085 applies to an application for a protective order that is filed on or after the effective date of this Act. An application for a protective order that is filed before that date is covered by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act to Sections 85.025, 85.026, and 87.002, Family Code, applies to a protective order issued on or after the effective date of this Act. A protective order issued before that date is governed by the law in effect on the date the order was issued, and the former law is continued in effect for that purpose.

SECTION 7. 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 on Third Reading

Amend **CSSB 50** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . Section 82.002(a), Family Code, is amended to read as follows:

(a) An application for a protective order to protect the applicant or any other member of the applicant's family or household may be filed by:

- (1) a ~~[an adult]~~ member of the family or household; or
- (2) any adult for the protection of a child.

The amendments were read.

Senator Nelson 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 50** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Nelson, Chair; Shapiro, Moncrief, Jackson, and Armbrister.

CONFERENCE COMMITTEE ON HOUSE BILL 352

Senator Brown 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 352** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 352** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Armbrister, Lindsay, Madla, and Moncrief.

CONFERENCE COMMITTEE ON HOUSE BILL 1939

Senator Harris 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 1939** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1939** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chair; Shapiro, Madla, Ellis, and Nelson.

SENATE BILL 694 WITH HOUSE AMENDMENT

Senator Cain called **SB 694** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 694** as follows:

(1) In SECTION 1 of the bill, in amended Sections 25.19(b)(3) and (4), Tax Code (Senate Engrossment, on page 1, line 23-page 2, line 1), strike:

"(3) [~~the taxable value of the property in the preceding year for each taxing unit taxing the property;~~

~~(4)]~~", and substitute:

"(3) the taxable value of the property in the preceding year for each taxing unit taxing the property;

(4)".

(2) In SECTION 1 of the bill, in amended Section 25.19(b)(5), Tax Code (Senate Engrossment, on page 2, line 4), strike "~~(4) [(5)]~~", and substitute "(5)".

(3) In SECTION 1 of the bill, in amended Section 25.19(b)(6), Tax Code (Senate Engrossment, on page 2, line 20), strike "~~(5) [(6)]~~", and substitute "(6)".

(4) In SECTION 1 of the bill, in amended Section 25.19(b)(7), Tax Code (Senate Engrossment, on page 2, line 25), strike "(6) [~~(7)~~]", and substitute "(7)".

(5) In SECTION 1 of the bill, in amended Section 25.19(b)(8), Tax Code (Senate Engrossment, on page 3, line 1), strike "(7) [~~(8)~~]", and substitute "(8)".

(6) In SECTION 1 of the bill, in amended Section 25.19(b)(9), Tax Code (Senate Engrossment, on page 3, line 3), strike "(8) [~~(9)~~]", and substitute "(9)".

(7) In SECTION 1 of the bill, in amended Section 25.19, Tax Code (Senate Engrossment, on page 4, lines 11-15), strike:

"(f) [~~(h)~~] In the notice of appraised value for real property, the chief appraiser shall list separately:

(1) the market value of the land; and

(2) the total market value of the structures and other improvements on the property."; and substitute:

"(f) [~~(h)~~] In the notice of appraised value for real property, the chief appraiser shall list separately:

(1) the market value of the land; and

(2) the total market value of the structures and other improvements on the property.

(g) In the notice of appraised value for real property, the chief appraiser shall include the market value of each structure or improvement on the property, regardless of the date on which the structure or improvement was erected or affixed to the land.

(8) In SECTION 1 of the bill, in amended Section 25.19(i), Tax Code (Senate Engrossment, on page 4, line 16), strike "[~~(i)~~]" and substitute "(h) [~~(i)~~]"

(9) In SECTION 1 of the bill, in proposed Section 25.19(g), Tax Code (Senate Engrossment, on page 5, line 8), strike "(g)" and substitute "(i)".

(10) In SECTION 1 of the bill, in amended Section 25.19(j), Tax Code (Senate Engrossment, on page 5, line 10), strike "(h) [~~(j)~~]", and substitute "(j)".

(11) In SECTION 1 of the bill, in amended Section 25.19(j), Tax Code (Senate Engrossment, on page 5, line 15), strike "(b)(6) [~~(b)(7)~~] or (f)(3)", and substitute "(b)(7) or (h)(3)".

(12) In SECTION 1 of the bill, in amended Section 25.19(k), Tax Code (Senate Engrossment, on page 5, line 16), strike "(i) [~~(k)~~]", and substitute "(k)".

(13) In SECTION 1 of the bill, in amended Section 25.19(k), Tax Code (Senate Engrossment, on page 5, line 17), strike "(f)", and substitute "(h)".

The amendment was read.

Senator Cain 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 694** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Cain, Chair; Moncrief, Harris, Wentworth, and Nixon.

CONFERENCE COMMITTEE ON HOUSE BILL 3079

Senator Brown 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 3079** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3079** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Ratliff, Barrientos, Lucio, and Armbrister.

CONFERENCE COMMITTEE ON HOUSE BILL 673

Senator Lindsay 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 673** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 673** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lindsay, Chair; Zaffirini, Shapiro, Wentworth, and Moncrief.

CONFERENCE COMMITTEE ON HOUSE BILL 1702

Senator West 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 1702** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1702** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators West, Chair; Bivins, Cain, Ellis, and Ratliff.

SENATE BILL 996 WITH HOUSE AMENDMENTS

Senator Lindsay called **SB 996** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 996** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to funeral expenses for children in foster care.

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

SECTION 1. Section 264.012, Family Code, is amended to read as follows:

Sec. 264.012. FUNERAL EXPENSES FOR CHILD IN FOSTER CARE. (a) The department shall request that the parents pay reasonable and necessary funeral expenses for a child for whom the department has been appointed managing conservator and who dies in foster care, including a request that if the parents have an insurance policy or a bank account for the child, that the parents spend the proceeds from the policy or money in the account on the funeral expenses. If the parents cannot pay all or part of the funeral expenses, the department shall [may] spend funds appropriated for the child protective services program to pay reasonable and necessary funeral expenses for the [a] child [for whom the department has been appointed managing conservator and who dies in foster care].

(b) The department may accept donations, gifts, or in-kind contributions to cover the costs of any funeral expenses for children for whom the department has been appointed managing conservator.

(c) This section does not apply to a foster parent.

SECTION 2. This Act takes effect September 1, 1999.

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.

Floor Amendment No. 1

Amend **CSSB 996** House Committee Report page 1 line 2, line 6, line 8, line 12, line 13, line 15 and line 19, by replacing the word "funeral" with the word "burial".

Amend page 1, line 16 by inserting the following after the word "expenses":
not to exceed \$2000 per child.

The amendments were read.

Senator Lindsay 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 996** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Lindsay, Chair; Wentworth, Carona, Moncrief, and Zaffirini.

CONFERENCE COMMITTEE ON HOUSE BILL 2825

Senator Bernsen 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 2825** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2825** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Bernsen, Chair; Jackson, Haywood, Armbrister, and Duncan.

CONFERENCE COMMITTEE ON HOUSE BILL 3549

Senator Wentworth 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 3549** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3549** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Wentworth, Chair; Harris, Brown, Cain, and Ratliff.

SENATE BILL 982 WITH HOUSE AMENDMENT

Senator Madla called **SB 982** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Moncrief in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 982** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to persons authorized to provide diabetes self-management training.

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

SECTION 1. It is the intent of the legislature that the health care providers authorized by this Act to provide diabetes self-management training or a component of diabetes self-management training be skilled and experienced professionals with education in diabetes, educational principles, and behavior strategies necessary to meet the needs of a patient diagnosed with diabetes and, to the extent possible, that the health care providers coordinate the care provided to the patient.

SECTION 2. Section 1, Article 21.53G, Insurance Code, is amended by adding Subdivision (5) to read as follows:

(5) "Nutrition counseling" has the meaning assigned by Section 2, Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes).

SECTION 3. Section 4, Article 21.53G, Insurance Code, is amended to read as follows:

Sec. 4. DIABETES SELF-MANAGEMENT TRAINING. (a) Diabetes self-management training under this article must be provided by a health care practitioner or provider who is licensed, registered, or certified in this state to provide appropriate health care services and who is acting within the scope of practice authorized by the practitioner's or provider's license, registration, or certification. Self-management training includes:

(1) training provided to a qualified insured after the initial diagnosis of diabetes in the care and management of that condition, including nutrition [nutritional] counseling and proper use of diabetes equipment and supplies;

(2) additional training authorized on the diagnosis of a physician or other health care practitioner of a significant change in the qualified insured's symptoms or condition that requires changes in the qualified insured's self-management regime; and

(3) periodic or episodic continuing education training when prescribed by an appropriate health care practitioner as warranted by the development of new techniques and treatments for diabetes.

(b) Coverage for diabetes self-management training provided by a health benefit plan under this article to a qualified insured must include coverage for the following, if provided on the written order of a physician or health care practitioner, including the written order of a health care practitioner practicing under protocols jointly developed with a physician:

(1) a diabetes self-management training program recognized by the American Diabetes Association;

(2) diabetes self-management training given by a multidisciplinary team:

(A) the non-physician members of which are coordinated by:

(i) a diabetes educator who is certified by the National Certification Board for Diabetes Educators; or

(ii) a person who has completed at least 24 hours of continuing education that meets guidelines established by the Texas Board of Health and that includes a combination of diabetes-related educational principles and behavioral strategies;

(B) that consists of at least a licensed dietitian and a registered nurse and may include a pharmacist and a social worker; and

(C) each member of which, other than a social worker, has recent didactic and experiential preparation in diabetes clinical and educational issues as determined by the member's licensing agency, in consultation with the commissioner of public health, unless the member's licensing agency, in consultation with the commissioner of public health, determines that the core educational preparation for the member's license includes the skills the member needs to provide diabetes self-management training;

(3) diabetes self-management training provided by a diabetes educator certified by the National Certification Board for Diabetes Educators; or

(4) diabetes self-management training in which one or more of the following components are provided:

(A) the nutrition counseling component provided by a licensed dietitian, for which the licensed dietitian shall be paid;

(B) the pharmaceutical component provided by a pharmacist, for which the pharmacist shall be paid;

(C) any component of the training provided by a physician assistant or registered nurse, for which the physician assistant or registered nurse shall be paid, except that the physician assistant or registered nurse may not be paid for providing a nutrition counseling or pharmaceutical component unless a licensed dietitian or pharmacist is unavailable to provide that component; or

(D) any component of the training provided by a physician.

(c) A person may not provide a component of diabetes self-management training under Subsection (b)(4) unless the subject matter of the component is within the scope of the person's practice.

SECTION 4. This Act takes effect September 1, 1999, and applies only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2000. A health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2000, 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.

SECTION 5. 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 Madla 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 982** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Madla, Chair; Lindsay, Nelson, Nixon, and Lucio.

CONFERENCE COMMITTEE ON HOUSE BILL 551

Senator Fraser 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 551** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 551** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Fraser, Chair; Ratliff, Sibley, Duncan, and Ellis.

CONFERENCE COMMITTEE ON HOUSE BILL 826

Senator Wentworth 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 826** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 826** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Wentworth, Chair; Cain, West, Harris, and Ratliff.

CONFERENCE COMMITTEE ON HOUSE BILL 932

Senator Shapleigh 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 932** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 932** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Shapleigh, Chair; Bernsen, Haywood, Jackson, and Shapiro.

CONFERENCE COMMITTEE ON HOUSE BILL 564

Senator Shapleigh 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 564** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 564** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Shapleigh, Chair; Lucio, Ogden, Sibley, and Truan.

SENATE BILL 339 WITH HOUSE AMENDMENT

Senator Madla called **SB 339** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 339** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of mass gatherings; imposing a penalty.

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

SECTION 1. Subdivision (1), Section 751.002, Health and Safety Code, is amended to read as follows:

(1) "Mass gathering" means a gathering that is held outside the limits of a municipality and that attracts or is expected to attract more than 5,000 persons who will remain at the meeting location for more than five ~~[+2]~~ continuous hours.

SECTION 2. Section 751.005, Health and Safety Code, is amended to read as follows:

Sec. 751.005. INVESTIGATION. (a) After a permit application is filed with the county judge, the county judge shall send a copy of the application to the county health authority, the county fire marshal or the person designated under Subsection (c), and the sheriff.

(b) The county health authority shall inquire into preparations for the mass gathering. At least five days before the date on which the hearing prescribed by Section 751.006 is held, the county health authority shall submit to the county judge a report stating whether the health authority believes that the minimum standards of health and sanitation prescribed by state and local laws, rules, and orders will be maintained.

(c) The county fire marshal shall investigate preparations for the mass gathering. If there is no county fire marshal in that county, the commissioners court shall designate a person to act under this section. At least five days before the date on which the hearing prescribed by Section 751.006 is held, the county fire marshal or the commissioners court designee shall submit to the county judge a report stating whether the fire marshal or designee believes that the minimum standards for ensuring public fire safety and order as prescribed by state and local laws, rules, and orders will be maintained.

(d) The sheriff shall investigate preparations for the mass gathering. At least five days before the date on which the hearing prescribed by Section 751.006 is held, the sheriff shall submit to the county judge a report stating whether the sheriff believes that the minimum standards for ensuring public safety and order that are prescribed by state and local laws, rules, and orders will be maintained.

(e) ~~[(d)]~~ The county judge may conduct any additional investigation that the judge considers necessary.

(f) ~~[(e)]~~ The county health authority, county fire marshal or commissioners court designee, and sheriff shall be available at the hearing prescribed by Section 751.006 to give testimony relating to their reports.

SECTION 3. Chapter 751, Health and Safety Code, is amended by adding Sections 751.012 and 751.013 to read as follows:

Sec. 751.012. INSPECTIONS. (a) The county health authority may inspect a mass gathering during the mass gathering to ensure that the minimum standards of health and sanitation prescribed by state and local laws, rules, and orders are being maintained. If the county health authority determines a violation of the minimum standards is occurring, the health authority may order the promoter of the mass gathering to correct the violation.

(b) The county fire marshal or the person designated under Section 751.005(c) may inspect a mass gathering during the mass gathering to ensure that the minimum standards for ensuring public fire safety and order as prescribed by state and local laws, rules, and orders are being maintained. If the marshal or commissioners court designee determines a violation of the minimum standards is occurring, the marshal or designee may order the promoter of the mass gathering to correct the violation.

(c) The sheriff may inspect a mass gathering during the mass gathering to ensure that the minimum standards for ensuring public safety and order prescribed by state and local laws, rules, and orders are being maintained. If the sheriff determines a violation of the minimum standards is occurring, the sheriff may order the promoter of the mass gathering to correct the violation.

(d) A promoter who fails to comply with an order issued under this section commits an offense. An offense under this section is a Class C misdemeanor.

Sec. 751.013. INSPECTION FEES. (a) A commissioners court may establish and collect a fee for an inspection performed under Section 751.012. The fee may not exceed the amount necessary to defray the costs of performing the inspections. The fee shall be deposited into the general fund of the county.

(b) A commissioners court may use money collected under this section to reimburse the county department or, if a state agency performs the inspection on behalf of the county, the state agency, the cost of performing the inspection.

SECTION 4. This Act applies only to a permit application under Chapter 751, Health and Safety Code, filed on or after the effective date of this Act.

SECTION 5. 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 Madla moved to concur in the House amendment to **SB 339**.

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

Absent-excused: Luna.

SENATE BILL 1520 WITH HOUSE AMENDMENT

Senator Madla called **SB 1520** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1520** in SECTION 1 of the bill, in added Subdivision (8), Article 717q, Vernon's Texas Civil Statutes (Engrossed Printing, page 3, line 1), immediately following the last sentence, by adding the following:

A lease-leaseback agreement must be approved by a majority of the voters within the boundaries of the issuer if the agreement:

(A) involves a pledge of tax revenue; and

(B) is executed on or after September 1, 1999.

The amendment was read.

Senator Madla 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1520** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Madla, Chair; Nixon, Brown, Lucio, and Lindsay.

CONFERENCE COMMITTEE ON HOUSE BILL 3211

Senator Duncan 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 3211** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3211** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Duncan, Chair; Ratliff, Fraser, Moncrief, and Armbrister.

CONFERENCE COMMITTEE ON HOUSE BILL 1223

Senator Armbrister 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 1223** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1223** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Zaffirini, Wentworth, Shapiro, Shapleigh.

SENATE BILL 1451 WITH HOUSE AMENDMENT

Senator West called **SB 1451** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Moncrief in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1451** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the disposition of surplus and salvage property of certain institutions of higher education.

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

SECTION 1. Section 2175.302, Government Code, is amended to read as follows:

Sec. 2175.302. EXCEPTION FOR ELEEMOSYNARY INSTITUTIONS [~~AND INSTITUTIONS AND AGENCIES OF HIGHER EDUCATION~~]. This chapter does not apply to the disposition of surplus or salvage property by a state eleemosynary institution [~~or an institution or agency of higher education~~].

SECTION 2. Subchapter F, Chapter 2175, Government Code, is amended by adding Section 2175.304 to read as follows:

Sec. 2175.304. EXCEPTION FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) This chapter does not apply to the disposition of surplus or salvage property of a university system or of an institution or agency of higher education except as provided by this section.

(b) The governing board of each university system or institution or agency of higher education included within the definition of "state agency" under Section 2151.002 shall establish written procedures for the disposition of surplus or salvage property of the system, institution, or agency. The procedures shall allow for the direct transfer of materials or equipment that can be used for instructional purposes to a public school or school district at a price or for other consideration to which the system, institution, or agency and the public school or school district agree or for no consideration as the system, institution, or agency determines appropriate.

(c) The procedures established under Subsection (b) must give preference to transferring the property directly to a public school or school district before disposing of the property in another manner. If more than one public school or school district seeks to acquire the same property on substantially the same terms, the system, institution, or agency shall give preference to a public school that is considered low-performing by the commissioner of education or to a school district that has a taxable wealth per student that entitles the district to an allotment of state funds under Subchapter F, Chapter 42, Education Code.

SECTION 3. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.085 to read as follows:

Sec. 61.085. ON-LINE SURPLUS PROPERTY RESOURCE. (a) The board shall establish and maintain an Internet site or similar facility accessible to school districts by telecommunication to allow an institution of higher education to provide notice to school districts in this state of any available surplus or salvage property of the institution that consists of instructional materials or that may be used for instructional purposes. The board shall operate the facility to allow a school district to make a direct inquiry to an institution regarding the possible acquisition of property by the school district.

(b) The board may charge a fee for an institution or school district to use the facility.

SECTION 4. This Act takes effect September 1, 1999.

SECTION 5. 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.

On motion of Senator West, the Senate concurred in the House amendment to **SB 1451** by a viva voce vote.

SENATE BILL 1804 WITH HOUSE AMENDMENT

Senator Barrientos called **SB 1804** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1804** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the calculation of the rollback tax rate of a taxing unit in certain circumstances.

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

SECTION 1. Section 26.04, Tax Code, is amended by adding Subsections (k), (l), (m), (n), (o), (p), and (q) to read as follows:

(k) This subsection applies to a taxing unit that has agreed by written contract to transfer all or part of the responsibility for funding a distinct department, function, or activity to another taxing unit and that reduces its taxation for the purpose of funding that distinct department, function, or activity if that reduced portion of the funding of that department, function, or activity in all or a majority of the territory of the taxing unit is continued by another existing taxing unit or by a new taxing unit. The rollback tax rate of a taxing unit to which this subsection applies in the first tax year in which a budget is adopted that reduces the funding of the department, function, or activity is calculated as otherwise provided by this section, except that last year's levy used to calculate the effective maintenance and operations rate of the unit is reduced by the decrease in the amount of maintenance and operations tax revenue spent by the taxing unit on the department, function, or activity compared to the amount of maintenance and operations tax revenue spent in the 12 months preceding the month in which the calculations required by this chapter are made. If the taxing unit did not fund all or part of that department, function, or activity for the full 12 months preceding the month in which the calculations required by this chapter are made, the taxing unit shall reduce last year's levy used for calculating the effective maintenance and operations rate of the taxing unit by the amount of the decrease in the amount of maintenance and operations tax compared to the amount of revenue spent in the last full fiscal year in which the taxing unit funded all or part of the department, function, or activity.

(l) This subsection applies to a taxing unit that has agreed by written contract to accept the transfer of all or part of the responsibility for funding a distinct department, function, or activity from another taxing unit and that funds all or part of that distinct department, function, or activity if the funding for a substantially similar department,

function, or activity in all or a majority of the territory of the taxing unit has been reduced by another taxing unit, including a dissolved taxing unit. The rollback tax rate of a taxing unit to which this subsection applies in the first tax year after the other taxing unit reduced the funding of the substantially similar department, function, or activity in which a budget is adopted that allocates revenue to the department, function, or activity is calculated as otherwise provided by this section, except that last year's levy used to calculate the effective maintenance and operations rate of the taxing unit is increased by the amount of the decrease of maintenance and operations tax revenue spent by the taxing unit that reduced funding for the substantially similar department, function, or activity compared to the amount of maintenance and operations tax revenue spent on that department, function, or activity in the 12 months preceding the month in which the calculations required by this chapter are made. If the taxing unit did not fund the department, function, or activity for the full 12 months preceding the month in which the calculations required by this chapter are made, the taxing unit may increase last year's levy used to calculate the effective maintenance and operations rate by an amount not to exceed the decrease in the amount of property tax revenue spent by the other taxing unit to fund the department, function, or activity compared to the amount of maintenance and operations tax revenue spent in the last full fiscal year before the other taxing unit reduced funding for the department, function, or activity.

(m) In Subsections (k) and (l), "funding" includes a payment made to another taxing unit in accordance with a written contract for the operation of the department, function, or activity. The term does not include a payment made by a taxing unit from funds received from another taxing unit in accordance with a written contract to operate the department, function, or activity.

(n) Notwithstanding any other provision of this section, for purposes of calculating the rollback tax rate of a taxing unit under Subsection (k) or (l), the effective maintenance and operations rate of the taxing unit is increased or reduced only by the rate that would generate the amount of ad valorem tax revenue spent by the taxing unit on that part of the funding of the department, function, or activity that is assumed or discontinued by the taxing unit. If the department, function, or activity has been funded by revenue sources other than ad valorem taxes, the taxing unit may use any reasonable method to calculate the amount of ad valorem tax revenue that is or has been spent to fund the department, function, or activity.

(o) In a year in which a taxing unit calculates an adjustment under Subsection (k) or (l), the taxing unit shall publish in the manner provided by Subsection (e) a schedule that includes the following elements:

(1) the name of the taxing unit transferring responsibility for funding of the department, function, or activity;

(2) the amount of property tax revenue spent by that taxing unit to operate the department, function, or activity in the 12 months preceding the month in which the calculations required by this chapter are made; and

(3) the name of the taxing unit that accepted funding responsibility for a distinct department, function, or activity in all or a majority of the territory of the taxing unit that transferred responsibility for funding of the distinct department, function, or activity.

(p) In the year immediately following a year in which the rollback tax rate of a taxing unit is increased under Subsection (l), the taxing unit shall publish in the manner provided by Subsection (e) a schedule that includes the following elements:

(1) the amount of property tax revenue spent by the taxing unit to fund the department, function, or activity for which the taxing unit's rollback tax rate was increased under Subsection (l) for the 12 months preceding the month in which the calculations required by this chapter are made; and

(2) the amount published by the taxing unit in the preceding tax year under Subsection (o)(2).

(q) This subsection and Subsections (k), (l), (m), (n), (o), and (p) expire January 1, 2001.

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 Barrientos, the Senate concurred in the House amendment to **SB 1804** by a viva voce vote.

SENATE BILL 73 WITH HOUSE AMENDMENT

Senator Truan called **SB 73** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 73** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the establishment of a video teleconferencing pilot program to assist certain businesses in establishing international trade relationships.

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

SECTION 1. PILOT PROGRAM. (a) The International Trade and Technology Center at The University of Texas—Pan American shall develop and implement a video teleconferencing pilot program designed to assist small businesses in establishing international trade relationships by allowing the businesses access to certain video conferencing facilities for a fee.

(b) In developing the pilot program, the center shall:

(1) work in conjunction with small business development centers affiliated with public or private institutions of higher education and the General Services Commission;

(2) ensure that the pilot program is designed to allow small businesses with limited resources to explore trade possibilities with foreign countries before actually traveling to those countries;

(3) determine the amount of the usage fees to be charged to participants of the pilot program, which in the aggregate may not be more than the amount necessary to cover the cost of administering and implementing the pilot program;

(4) use available mobile telecommunications facilities; and

(5) set a timetable to implement and complete the pilot program.

(c) To cover the cost of administering and implementing the pilot program, the center may obtain federal foundation funds available for that purpose or private funds from any source.

SECTION 2. REPORTS. Not later than January 15, 2001, the International Trade and Technology Center at The University of Texas—Pan American shall submit to the governor and the legislature an initial report concerning the effectiveness of the pilot program. The center shall submit to the governor and the legislature a subsequent report not later than January 15, 2003.

SECTION 3. EFFECTIVE DATE AND DEADLINES. (a) This Act takes effect September 1, 1999.

(b) The International Trade and Technology Center at The University of Texas—Pan American should establish the pilot program required by this Act not later than January 1, 2000.

SECTION 4. EXPIRATION DATE. This Act expires September 1, 2004.

SECTION 5. EMERGENCY. 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.

On motion of Senator Truan, the Senate concurred in the House amendment to **SB 73** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1275

Senator Zaffirini 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 1275** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1275** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Zaffirini, Chair; West, Carona, Barrientos, and Cain.

SENATE BILL 655 WITH HOUSE AMENDMENT

Senator Madla called **SB 655** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Moncrief in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 655** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the creation of a defense base development authority; validating certain acts of a defense base development corporation; granting the right to issue bonds.

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

SECTION 1. Subtitle A, Title 12, Local Government Code, is amended by adding Chapter 378 to read as follows:

CHAPTER 378. DEFENSE BASE DEVELOPMENT AUTHORITIES

Sec. 378.001. DEFINITIONS. In this chapter:

(1) "Authority" means a defense base development authority established under this chapter.

(2) "Base property" means land inside the boundaries of the defense base for which the authority is established and improvements and personal property on that land.

(3) "Board" means the board of directors of the authority.

(4) "Bond" means an interest-bearing obligation issued by an authority under this chapter, including a bond, certificate, note, or other evidence of indebtedness.

(5) "Defense base" means a military installation or facility closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note) and its subsequent amendments.

Sec. 378.002. ESTABLISHMENT; SUCCESSOR. (a) A municipality by resolution may establish an authority. The resolution must include a legal description of the base property. On adoption of the resolution, the authority is established as a special district and political subdivision of this state, with a boundary coterminous with the base property described in the resolution.

(b) When establishing an authority, the municipality may designate the authority in the municipality's resolution to be the successor in interest to a nonprofit corporation organized under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes). On adoption of the resolution, the corporation is dissolved and the authority succeeds to all rights and liabilities of that corporation.

Sec. 378.003. PURPOSE AND NATURE OF AUTHORITY. (a) An authority is created to:

(1) accept title to or operate under a lease from the United States or any other person all or a part of the base property and areas around the base property; and

(2) engage in the economic development of the base property and areas around the base property.

(b) An authority exercises public and essential governmental functions.

Sec. 378.004. POWERS AND DUTIES OF AUTHORITY. (a) An authority may exercise power necessary or convenient to carry out a purpose of this chapter, including the power to:

(1) adopt an official seal, or alter it;

(2) adopt rules;

(3) enter into a contract or incur a liability;

(4) acquire and dispose of money;

(5) select a depository;

(6) establish a system of accounts for the authority;

(7) invest funds in accordance with Chapter 2256, Government Code;

(8) set the fiscal year for the authority;

(9) adopt an annual operating budget for major expenditures before the beginning of the fiscal year;

(10) borrow money or issue a bond in an amount that does not exceed the maximum amount set by the governing body of the municipality;

- (11) loan money;
 - (12) acquire, lease, lease-purchase, convey, grant a mortgage, or otherwise dispose of a property right, including a right regarding base property;
 - (13) lease property located on the base property to a person to effect the purposes of this chapter;
 - (14) request and accept a donation, grant, guaranty, or loan from any source;
 - (15) operate and maintain an office;
 - (16) charge for a facility or service; and
 - (17) exercise a power granted to a municipality by Chapter 380.
 - (b) An authority shall establish and maintain an office and agent registered with the secretary of state.
 - (c) An authority shall endeavor to raise revenue sufficient to pay its debts.
- Sec. 378.005. SUITS; INDEMNITY. (a) An authority may sue and be sued.
- (b) In a suit against an authority, process may be served on the president, vice president, or registered agent.
 - (c) An authority may not be required to give a bond on an appeal or writ of error taken in a civil case that the authority is prosecuting or defending.
 - (d) An authority may indemnify an authority employee or board member or a former authority employee or board member for necessary expenses and costs, including attorney's fees, incurred by that person in connection with a claim asserted against that person if:
 - (1) the claim relates to an act or omission of the person when acting in the scope of the person's board membership or authority employment; and
 - (2) the person has not been found liable or guilty on the claim.
- Sec. 378.006. UTILITIES. (a) An authority may accept an electric, gas, potable water, or sanitary sewage utility conveyed by the United States, but may not operate it.
- (b) An authority shall convey a utility received under Subsection (a) to the municipality that established the authority. The municipality shall pay the authority fair market value for the utility.
 - (c) If state or federal law prohibits the operation or ownership of the utility by the municipality, the municipality shall convey the utility to an entity that may operate it. The municipality may charge fair market value for the conveyance.
- Sec. 378.007. BOARD OF DIRECTORS. (a) The board consists of 11 members and is responsible for the management, operation, and control of the authority.
- (b) The governing body of the municipality that established the authority shall appoint each board member to a term not exceeding two years. A vacancy on the board is filled in the same manner as the original appointment.
 - (c) The municipality may remove a board member by adopting a resolution.
 - (d) The members of the board shall elect from its membership a president, vice president, secretary, and treasurer. The board by rule may provide for the election of other officers.
 - (e) A board member serves without compensation but may be reimbursed for a reasonable and necessary expense incurred in the performance of an official duty.
 - (f) The board shall adopt rules for its proceedings and may employ and compensate persons to carry out the powers and duties of the authority.
- Sec. 378.008. POWERS AND DUTIES OF BOARD. (a) The board shall:
- (1) monitor the proposed closing of the defense base;
 - (2) manage and operate the defense base transition and development on behalf of the municipality that established the authority;

(3) review options related to the most appropriate use of the defense base;
(4) conduct a study on issues related to the closure, conversion,
redevelopment, and future use of the defense base;

(5) formulate, adopt, and implement a plan to convert and redevelop the
defense base; and

(6) submit the plan to an appropriate agency or agencies of the federal
government.

(b) For the base property and areas adjacent to the base property the board shall:

(1) promote economic development;

(2) attempt to reduce unemployment;

(3) encourage the development of new industry by private businesses; and

(4) encourage financing of projects designated under Section 378.009.

Sec. 378.009. REDEVELOPMENT PROJECTS. (a) The board may designate
as a redevelopment project, a project that relates to:

(1) the development of base property and the surrounding areas; or

(2) the development of a defense base in the territory of the municipality that
established the authority and areas surrounding that base.

(b) A project designated under Subsection (a) is for a public purpose.

Sec. 378.010. BONDS. (a) An authority may issue bonds only if the
municipality that established the authority authorizes the issuance by resolution.

(b) A bond issued under this chapter must:

(1) be payable solely from authority revenue;

(2) mature not later than 40 years after its date of issuance; and

(3) state on its face that it is not an obligation of this state or the municipality.

Sec. 378.011. TAX EXEMPTIONS. (a) An authority's property, income, and
operations are exempt from taxes imposed by the state or a political subdivision of the
state.

(b) Section 25.07(a), Tax Code, does not apply to a leasehold or other possessory
interest granted by an authority for a project designated under Section 378.009(a)
except to the extent that it applies to a leasehold or other possessory interest in real
property constituting a project described by Subsection (k), Section 4B, Development
Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as that Act is
in effect on January 1, 1999. This subsection does not apply to personal property
owned or used by a lessee or other person who holds a possessory interest granted by
an authority for a project designated under Section 378.009(a).

Sec. 378.012. DISSOLUTION. The governing body of a municipality that
established the authority by resolution may dissolve the authority after all debts or
obligations of the authority have been satisfied. Property of the authority that remains
after dissolution is conveyed to the municipality.

SECTION 2. (a) For purposes of this section, a "defense base development
corporation" means a corporation established under the Development Corporation Act
of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) for the purpose of promoting
projects regarding a military base closure or realignment under the Defense Base
Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note) and its
subsequent amendments.

(b) Each of the following acts of a defense base development corporation is
validated and confirmed as of the date it occurred:

(1) each act or proceeding of the corporation taken before March 1, 1999;

(2) the election or appointment and each act of a director or other official of
the corporation who took office before the effective date of this Act;

(3) each act or proceeding relating to a bond or other obligation of the corporation authorized before the effective date of this Act; and

(4) each act or proceeding relating to the entity's incorporation under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

(c) This section does not apply to:

(1) an act, proceeding, bond, or obligation the validity of which is the subject of litigation that is pending on the effective date of this Act;

(2) an election or appointment of a director or official the validity of which is the subject of litigation that is pending on the effective date of this Act;

(3) an act or proceeding that was void or that, under a statute of this state at the time the action or proceeding occurred, was a misdemeanor or felony; or

(4) an act or proceeding that has been held invalid by a final judgment of a court.

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 Madla 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 655** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Madla, Chair; Shapleigh, Lucio, Ogden, and Carona.

(Senator Ratliff in Chair)

SENATE BILL 155 WITH HOUSE AMENDMENT

Senator Lindsay called **SB 155** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amendment to **SB 155**:

Add the following to Section 3(c)(1) & Section 3(c)(2):

(1) In print at least six inches in height, the rate that is normally charged for parking a vehicle in the facility; and

(2) In print at least six inches in height, the rate that is charged for parking a vehicle in the facility in connection with a special event.

The amendment was read.

On motion of Senator Lindsay, the Senate concurred in the House amendment to **SB 155** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 2896

Senator Moncrief 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 2896** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2896** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Moncrief, Chair; Shapleigh, Lindsay, Nelson, and West.

CONFERENCE COMMITTEE ON HOUSE BILL 153

Senator Moncrief 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 153** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 153** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Moncrief, Chair; Ratliff, Whitmire, Armbrister, and Nelson.

CONFERENCE COMMITTEE ON HOUSE BILL 2147

Senator Shapleigh 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 2147** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2147** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Shapleigh, Chair; Ogden, Barrientos, Duncan, and Zaffirini.

CONFERENCE COMMITTEE ON HOUSE BILL 577

Senator Nelson 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 577** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 577** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Nelson, Chair; Shapiro, Jackson, Armbrister, and Moncrief.

CONFERENCE COMMITTEE ON HOUSE BILL 3016

Senator Sibley 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 3016** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3016** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sibley, Chair; Madla, Jackson, Nelson, and Armbrister.

SENATE BILL 374 WITH HOUSE AMENDMENTS

Senator Zaffirini called **SB 374** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 2

1. Amend the Engrossed version of **SB 374** on page 18, line 16, before "Not" insert the following:

The Texas Planning Council for Developmental Disabilities will serve as the lead agency in convening working meetings, coordinating and completing the report.

2. On page 18, line 19, insert the following:

(b) The report will include recommendations addressing the following:

(1) fiscal and program barriers to consumer friendly services;

(2) progress toward a service delivery system individualized to each consumer based on functional needs;

(3) progress on the development of local cross-disability access structures;

(4) projections of future long-term care services needs and availability; and

(5) consumer satisfaction, consumer preferences and desired outcomes.

3. Renumber subsequent sections appropriately.

Floor Amendment No. 3

Amend the Engrossed version of **SB 374** on page 1, line 22, (new Section 531.02481, Government Code) by striking subsection (2) and replacing with the following:

(2) develop a system of blended funds, consistent with the requirements of federal law and the General Appropriations Act, to allow the community to customize services to fit individual community needs; and

Committee Amendment No. 4

Amend **SB 374** as follows:

(1) In the recital to SECTION 1.02 of the bill (Senate Engrossment, page 3, line 3), strike "Section 22.034" and substitute "Sections 22.034 and 22.035".

(2) In SECTION 1.02 of the bill (Senate Engrossment, page 5, between lines 20 and 21), add a new Section 22.035, Human Resources Code, to read as follows:

Sec. 22.035. WORK GROUP ON CHILDREN'S LONG-TERM CARE AND HEALTH PROGRAMS. (a) A work group is created to assist the commissioner of health and human services, the department, and the Texas Department of Health in the creation of a system for families and children to administer long-term care and health programs for children.

(b) The commissioner of health and human services shall appoint the members of the work group, which must include the following:

(1) a consumer of long-term care and health programs for children;

(2) a relative of a consumer of long-term care and health programs for children;

(3) a representative from an organization that is an advocate for consumers of long-term care and health programs for children;

(4) a representative from a state agency that provides long-term care and health programs for children;

(5) a person from a private entity that provides long-term care and health programs for children; and

(6) a person with expertise in the availability of funding and the application of funding formulas for children's long-term care and health services.

(c) The department and the Texas Department of Health shall equally provide administrative support, including staff, to the work group.

(d) A member of the work group serves at the will of the commissioner of health and human services.

(e) The commissioner of health and human services shall appoint a member of the work group to serve as a presiding officer.

(f) The work group shall meet at the call of the presiding officer.

(g) A member of the work group receives no additional compensation for serving on the work group. Persons serving on the work group shall be reimbursed for travel and other expenses necessary for participation as provided in the General Appropriations Act.

(h) The work group shall study and make recommendations in the following areas:

(1) access of a child or a child's family to services with a single case manager;

(2) the transition needs of children who reach an age at which they are no longer eligible for services at the Texas Department of Health;

(3) the blending of funds, including case management funding, for children needing long-term care and health services; and

(4) collaboration and coordination of children's services between the department, the Texas Department of Health, and any other agency determined to be applicable by the work group.

(i) Not later than September 1 of each even-numbered year, the work group shall report on its findings and recommendations to the commissioner of health and human services.

(j) After evaluating and considering recommendations reported under Subsection (e), the Health and Human Services Commission shall adopt rules to implement guidelines for providing long-term care and health services to children.

(k) The work group is not subject to Chapter 2110, Government Code.

(3) After SECTION 1.18 of the bill (Senate Engrossment, page 22, between lines 7 and 8), insert two new SECTIONS to the bill to be numbered appropriately to read as follows and renumber the subsequent sections of Article 1 of the bill appropriately:

SECTION ____ Not later than December 1, 1999, the commissioner of health and human services shall appoint the members of the work group created by Section 22.035, Human Resources Code, as added by this Act.

SECTION ____ (a) On September 1, 2000, all powers, duties, functions, and activities relating to the Medically Dependent Children's Waiver Program assigned to or performed by the Texas Department of Health immediately before that date are transferred to the Texas Department of Human Services.

(b) All employees of the Texas Department of Health who primarily perform duties related to the program listed in Subsection (a) of this section become employees of the Texas Department of Human Services, to be assigned duties by the commissioner of human services.

(c) A rule or form adopted by the Texas Department of Health that relates to the program listed in Subsection (a) of this section is a rule or form of the Texas Department of Human Services and remains in effect until altered by the agency.

(d) A reference in law or an administrative rule to the Texas Department of Health that relates to the program listed in Subsection (a) of this section means the Texas Department of Human Services.

(e) A license, permit, or certification in effect that was issued by the Texas Department of Health for the program listed in Subsection (a) of this section is continued in effect as a license, permit, or certification of the Texas Department of Human Services.

(f) A complaint, investigation, or other proceeding pending before the Texas Department of Health that is related to the program listed in Subsection (a) of this section is transferred without change in status to the Texas Department of Human Services.

(g) On October 1, 1999:

(1) all funds, obligations, and contracts of the Texas Department of Health related to the program listed in Subsection (a) of this section are transferred to the Texas Department of Human Services; and

(2) all property and records in the custody of the Texas Department of Health related to the program listed in Subsection (a) of this section and all funds appropriated by the legislature for the program listed in Subsection (a) of this section are transferred to the Texas Department of Human Services.

Floor Amendment No. 5

Amend Committee Amendment No. 4 to **SB 374** as follows:

(1) In Item (2), amending SECTION 1.02 of the bill, in added Section 22.035(h), Human Resources Code (House Committee Printing, page 38, line 6), strike "and" at the end of Subdivision (3).

(2) In Item (2), amending SECTION 1.02 of the bill, in added Section 22.035(h), Human Resources Code (House Committee Printing, page 38, line 9), between "group" and the period at the end of Subdivision (4), insert:
: and

(5) budgeting and the use of funds appropriated for children's long-term care services and children's health services from 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

Floor Amendment No. 6

Amend Committee Amendment No. 4 to **SB 374** as follows:

(1) In Item (3), in Subsection (a) of the second added unnumbered SECTION after SECTION 1.18 of the bill (House Committee Printing, page 39, line 1), strike "2000" and substitute "2001."

(2) In Item (3), in subsection (g) of the second added unnumbered SECTION after SECTION 1.18 of the bill (House Committee Printing, page 40, line 1), strike "1999" and substitute "2001."

(3) Amending SECTION 1.02 of the bill, in added section 22.035(j), Human Resources Code (House Committee Printing, page 39, line 14), by striking "(e)" and substituting "(i)".

Floor Amendment No. 7

Amend **SB 374** as follows:

(1) After SECTION 1.01 of the bill (House Committee Printing, page 3, between lines 1 and 2), insert a new SECTION 1.02 to the bill to read as follows and renumber the subsequent sections of Article 1 of the bill appropriately:

SECTION 1.02. Chapter 22, Human Resources Code, is amended by adding Section 22.011, to read as follows:

Sec. 22.011. DEFINITION. In this chapter, except in Section 22.032, "long-term care services" means the provision of personal care and assistance related to health and social services given episodically or over a sustained period to assist individuals of all ages and their families to achieve the highest level of functioning possible, regardless of the setting in which the assistance is given.

(2) In the recital to SECTION 1.03 of the bill (House Committee Printing, page 5, line 23), strike "22.035" and substitute "22.036".

(3) In SECTION 1.03 of the bill (House Committee Printing, page 6, line 3), in redesignated Section 22.035, Human Resources Code, strike "22.035" and substitute "22.036".

(4) In SECTION 1.06 of the bill, in added Section 101.0012, Human Resources Code (House Committee Printing, page 11, between lines 12 and 13), insert a new subsection (d) to read as follows:

(d) In this section, "independent living philosophy" means control over one's life based on the choice of acceptable options that minimize reliance on others in making a decision or in performing every day activities. The term includes:

(1) managing one's affairs;

(2) participating in day to day life in the community;

(3) fulfilling a range of social roles; and

(4) making decisions that lead to self-determination and the minimization of physical and psychological dependence upon others.

(5) In SECTION 2.06 of the bill, in added Section 21.0033, Human Resources Code (House Committee Printing, page 29, between lines 12 and 13), insert a new Subsection (d) to read as follows:

(d) In this section, "independent living philosophy" means control over one's life based on the choice of acceptable options that minimize reliance on others in making a decision or in performing every day activities. The term includes:

(1) managing one's affairs;

(2) participating in day to day life in the community;

(3) fulfilling a range of social roles; and

(4) making decisions that lead to self-determination and the minimization of physical and psychological dependence on others.

Floor Amendment No. 8

Amend **SB 374**, in Article 1 of the bill, by inserting the following sections, appropriately numbered, and renumbering the subsequent sections of the article accordingly:

SECTION __. Section 242.309, Health and Safety Code, as added by Section 1.01, Chapter 1280, Acts of the 75th Legislature, Regular Session, 1997 (effective until federal determination of failure to comply with federal regulations), is amended to read as follows:

Sec. 242.309. PROVISIONAL LICENSE. (a) The board shall issue [On application, the department shall grant] a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who [under this subchapter. An applicant for a provisional license under this section must]:

(1) has been [be] licensed in good standing as a nursing facility administrator for at least two years in another jurisdiction, including a foreign country, [in another state, the District of Columbia, or a territory of the United States] that has licensing requirements that are substantially equivalent to the requirements of this subchapter;

(2) has [have] passed a national or other examination recognized by the board relating to the practice of nursing facility administration; and

(3) is [be] sponsored by a person licensed by the board under this subchapter with whom the provisional license holder will [may] practice during the time the person holds a provisional license [under this section].

(b) The board may waive [An applicant for a provisional license may be excused from] the requirement of Subsection (a)(3) for an applicant if the board [department] determines that compliance with that subsection would be [constitutes] a hardship to the applicant.

(c) A provisional license is valid until the date the board [department] approves or denies the provisional license holder's application for a license. The board [department] shall issue a license under this subchapter to the provisional license holder [of a provisional license under this section] if:

(1) the provisional license holder is eligible to be licensed under [passes the examination required by] Section 242.306 [242.306(c)]; or

(2) the provisional license holder passes the part of the examination under Section 242.307 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of nursing facility administration in this state and:

(A) the board ~~[department]~~ verifies that the provisional license holder ~~meets [has]~~ the academic and experience requirements for a license under this subchapter; and

(B) ~~[(3)]~~ the provisional license holder satisfies all other license requirements under this subchapter.

(d) The ~~board must approve or deny [department shall complete the processing of]~~ a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board ~~[department]~~ may extend ~~the 180-day period if the results of an examination have not been received by the board before the end of that period [this time in order to receive the results of a national examination or other examination administered or graded by an outside organization recognized by the department]~~.

(e) The board may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

SECTION __. Section 242.310, Health and Safety Code, as added by Section 1.01, Chapter 1280, Acts of the 75th Legislature, Regular Session, 1997 (effective until federal determination of failure to comply with federal regulations), is amended to read as follows:

Sec. 242.310. LICENSE RENEWAL. (a) A person ~~who is otherwise eligible to renew a license~~ may renew an unexpired license by paying ~~[to the department before the expiration of the license]~~ the required renewal fee to the department before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose ~~[If a person's]~~ license has been expired for 90 days or less ~~[-, the person]~~ may renew the license by paying to the department a ~~[the required]~~ renewal fee ~~[and a fee]~~ that is equal to 1-1/2 times the normally required renewal fee ~~[one-half of the examination fee for the license]~~.

(c) A person whose ~~[If a person's]~~ license has been expired for ~~more [longer]~~ than 90 days but less than one year~~[-, the person]~~ may renew the license by paying to the department a renewal fee that is equal to two times the normally required renewal fee ~~[all unpaid renewal fees and a fee that is equal to the examination fee for the license]~~.

(d) A person whose ~~[If a person's]~~ license has been expired for one year or ~~more [longer, the person]~~ may not renew the license. The person may obtain a new license by complying with the requirements and procedures, ~~including the examination requirements,~~ for obtaining an original license.

(e) ~~A [However, the department may renew without reexamination an expired license of a]~~ person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. The ~~[Such]~~ person must pay to the department a fee that is equal to ~~two times the normally required renewal [the examination]~~ fee for the license.

(f) Not later than the 31st day ~~[(e) At least 30 days]~~ before the date ~~[expiration of]~~ a person's license ~~is scheduled to expire~~, the department shall send written notice of the impending ~~[license]~~ expiration to the person at the person's ~~[license holder's]~~ last known address according to the records of the department.

SECTION __. Section 242.314, Health and Safety Code, as added by Section 2.01, Chapter 1280, Acts of the 75th Legislature, Regular Session, 1997 (effective upon federal determination of failure to comply with federal regulations), is amended to read as follows:

Sec. 242.314. PROVISIONAL LICENSE. (a) ~~The [On application, the] board shall issue [grant] a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who [under this subchapter. An applicant for a provisional license under this section must]:~~

(1) ~~has been [be] licensed in good standing as a nursing facility administrator for at least two years in another jurisdiction, including a foreign country, [state, the District of Columbia, or a territory of the United States] that has licensing requirements that are substantially equivalent to the requirements of this subchapter;~~

(2) ~~has [have] passed a national or other examination recognized by the board relating to the practice of nursing facility administration; and~~

(3) ~~is [be] sponsored by a person licensed by the board under this subchapter with whom the provisional license holder will [may] practice during the time the person holds a provisional license [under this section].~~

(b) ~~The board may waive [An applicant for a provisional license may be excused from] the requirement of Subsection (a)(3) for an applicant if the board determines that compliance with that subsection would be [constitutes] a hardship to the applicant.~~

(c) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this subchapter to the provisional license holder ~~[of a provisional license under this section] if:~~

(1) ~~the provisional license holder is eligible to be licensed under [passes the examination required by] Section 242.311 [242.311(e)]; or~~

(2) ~~the provisional license holder passes the part of the examination under Section 242.312 that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of nursing facility administration in this state and:~~

(A) ~~the board verifies that the provisional license holder meets [has] the academic and experience requirements for a license under this subchapter; and~~

(B) ~~[(3)] the provisional license holder satisfies any other license requirements under this subchapter.~~

(d) ~~The board must approve or deny [shall complete the processing of] a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period [this time in order to receive the results of a national examination or other examination administered or graded by an outside organization recognized by the board].~~

(e) ~~The board may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.~~

SECTION __. Section 242.315, Health and Safety Code, as added by Section 2.01, Chapter 1280, Acts of the 75th Legislature, Regular Session, 1997 (effective upon federal determination of failure to comply with federal regulations), is amended to read as follows:

Sec. 242.315. LICENSE RENEWAL. (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying ~~[to the board before the expiration date of the license]~~ the required renewal fee to the board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose [If a person's] license has been expired for 90 days or less [-the person] may renew the license by paying to the board a [the required] renewal fee that is equal to 1-1/2 times the normally required fee [and a fee that is one-half of the examination fee for the license].

(c) A person whose [If a person's] license has been expired for more [longer] than 90 days but less than one year[-the person] may renew the license by paying to the board a [all unpaid] renewal [fees and a] fee that is equal to two times the normally required renewal fee [the examination fee for the license].

(d) A person whose [If a person's] license has been expired for one year or more [longer, the person] may not renew the license. The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.

(e) A [However, the board may renew without reexamination an expired license of a] person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. The person must pay to the board a fee that is equal to two times the normally required renewal [the examination] fee for the license.

(f) Not later than the 31st day [(e) At least 30 days] before the date [expiration of] a person's license is scheduled to expire, the board shall send written notice of the impending [license] expiration to the person at the person's [license holder's] last known address according to the records of the board.

SECTION _____. The changes in law made by this article to Section 242.309, Health and Safety Code, as added by Section 1.01, Chapter 1280, Acts of the 75th Legislature, Regular Session, 1997, Section 242.310, Health and Safety Code, as added by Section 1.01, Chapter 1280, Acts of the 75th Legislature, Regular Session, 1997, Section 242.314, Health and Safety Code, as added by Section 2.01, Chapter 1280, Acts of the 75th Legislature, Regular Session, 1997, and Section 242.315, Health and Safety Code, as added by Section 2.01, Chapter 1280, Acts of the 75th Legislature, Regular Session, 1997, relating to the qualifications for a license issued by the Texas Department of Human Services apply only to an application for a license made on or after the effective date of this article. An application made for a license issued by the Texas Department of Human Services before the effective date of this article is governed by the law in effect on the date the application was made, and the former law is continued in effect for that purpose.

Floor Amendment No. 9

Amend **SB 374**, in Article 1 of the bill, by inserting the following sections, appropriately numbered, and renumbering the subsequent sections of the article accordingly:

SECTION _____. Section 22.018, Human Resources Code, is amended to read as follows:

Sec. 22.018. COOPERATION WITH STATE OFFICE OF ADMINISTRATIVE HEARINGS [DIVISION]. (a) The department and the chief administrative law judge of the State Office of Administrative Hearings shall adopt a memorandum of understanding under which the State Office of Administrative Hearings, on behalf of the department, conducts all contested case hearings authorized or required by law to be conducted by the department under the administrative procedure law, [shall establish and maintain a hearings division that is separate from the legal division to administer each hearing held under] Chapter 2001, Government Code.

(b) The memorandum of understanding shall require the chief administrative law judge, the department, and the commissioner to cooperate in connection with a contested case hearing and may authorize the State Office of Administrative Hearings to perform any administrative act, including giving of notice, that is required to be performed by the department or commissioner [Neither the department nor the department's legal division may directly or indirectly influence a decision or the decision-making process of the hearings division].

(c) The memorandum of understanding shall address whether the administrative law judge who conducts a contested case hearing for the State Office of Administrative Hearings on behalf of the department shall:

(1) enter the final decision in the case after completion of the hearing; or

(2) propose a decision to the department or the commissioner for final consideration.

(d) The department by interagency contract shall reimburse the State Office of Administrative Hearings for the costs incurred in conducting contested case hearings for the department. The department may pay an hourly fee for the costs of conducting those hearings or a fixed annual fee negotiated biennially by the department and the State Office of Administrative Hearings to coincide with the department's legislative appropriations request.

(e) A reference in law to the hearings division of the department is considered to be a reference to the State Office of Administrative Hearings when used in relation to a contested case hearing under the administrative procedure law, Chapter 2001, Government Code.

SECTION __. (a) The change in law made to Section 22.018, Human Resources Code, by this article relating to a contested case hearing conducted by the State Office of Administrative Hearings on behalf of the Texas Department of Human Services applies only to a hearing that begins on or after January 1, 2000. Notwithstanding any other provision of this article, a hearing that begins before that date is governed by the law in effect at the time the hearing begins, and that law is continued in effect for that purpose.

(b) The Commissioner of Human Services and the chief administrative law judge of the State Office of Administrative Hearings may agree to transfer contested cases pending before the Texas Department of Human Services to the State Office of Administrative Hearings before January 1, 2000.

Floor Amendment No. 10

Amend **SB 374** by striking SECTION 1.20 of the bill (House Committee Printing, page 22, line 20, through page 23, line 13) and substituting the following:

SECTION 1.20. (a) The Health and Human Services Commission shall study the feasibility of a subacute care pilot project. The Texas Department of Human Services and the Texas Department of Health shall cooperate with and assist the commission in this study. In conducting the study, the commission shall consider:

(1) estimates of the potential fiscal impact, including the potential to save money;

(2) the impact of subacute care on quality of care;

(3) reimbursement under the state's reimbursement and regulatory policies;

(4) the capacity of facilities in this state to provide subacute care; and

(5) the impact of subacute care reimbursement on Medicaid, including managed care initiatives.

(b) Not later than September 1, 2000, the Health and Human Services Commission shall submit a report on the feasibility of a subacute care pilot project to the governor, lieutenant governor, speaker of the house of representatives, and chair of each legislative committee with jurisdiction over long-term care.

(c) This section expires September 1, 2001.

Floor Amendment No. 11

Amend **SB 374** by inserting the following appropriately numbered ARTICLE and renumbering existing ARTICLES and SECTIONS of the bill appropriately:

ARTICLE ____.

CHILDREN WITH SPECIAL HEALTH CARE NEEDS

SECTION _____. Section 35.001, Health and Safety Code, is amended to read as follows:

Sec. 35.001. **SHORT TITLE.** This chapter may be cited as the Children with Special Health Care Needs [~~Chronically Ill and Disabled Children's~~] Services Act.

SECTION _____. Chapter 35, Health and Safety Code, is amended by adding Sections 35.0021 and 35.0022 to read as follows:

Sec. 35.0021. DEFINITIONS. In this chapter:

(1) "Case management services" includes:

(A) coordinating medical services, marshaling available assistance, serving as a liaison between the child and the child's family and caregivers, insurance services, and other services needed to improve the well-being of the child and the child's family; and

(B) counseling for the child and the child's family about measures to prevent the transmission of AIDS or HIV and the availability in the geographic area of any appropriate health care services, such as mental health care, psychological health care, and social and support services.

(2) "Child with special health care needs" has the meaning assigned by Section 35.0022.

(3) "Dentist" means a person licensed by the State Board of Dental Examiners to practice dentistry in this state.

(4) "Facility" includes a hospital, an ambulatory surgical center, and an outpatient clinic.

(5) "Family support services" means support, resources, or other assistance provided to the family of a child with special health care needs. The term may include services described by Part A of the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.), as amended, and permanency planning, as that term is defined by Section 531.151, Government Code.

(6) "Other benefit" means a benefit, other than a benefit provided under this chapter, to which a person is entitled for payment of the costs of services provided under the program, including benefits available from:

(A) an insurance policy, group health plan, health maintenance organization, or prepaid medical or dental care plan;

(B) Title XVIII, Title XIX, or Title XXI of the Social Security Act (42 U.S.C. Sections 1395 et seq., 1396 et seq., and 1397aa et seq.), as amended;

(C) the Department of Veterans Affairs;

(D) the Civilian Health and Medical Program of the Uniformed Services;

(E) workers' compensation or any other compulsory employers' insurance program;

(F) a public program created by federal or state law or the ordinances or rules of a municipality or other political subdivision of the state, excluding benefits created by the establishment of a municipal or county hospital, a joint municipal-county hospital, a county hospital authority, a hospital district, or the facilities of a publicly supported medical school; or

(G) a cause of action for the cost of care, including medical care, dental care, facility care, and medical supplies, required for a person applying for or receiving services from the department, or a settlement or judgment based on the cause of action, if the expenses are related to the need for services provided under this chapter.

(7) "Physician" means a person licensed by the Texas State Board of Medical Examiners to practice medicine in this state.

(8) "Program" means the services program for children with special health care needs.

(9) "Provider" means a person who delivers services purchased by the department for the purposes of this chapter.

(10) "Rehabilitation services" means the process of the physical restoration, improvement, or maintenance of a body function destroyed or impaired by congenital defect, disease, or injury and includes:

(A) facility care, medical and dental care, and occupational, speech, and physical therapy;

(B) the provision of braces, artificial appliances, durable medical equipment, and other medical supplies; and

(C) other types of care specified by the board in the program rules.

(11) "Services" means the care, activities, and supplies provided under this chapter or program rules, including medical care, dental care, facility care, medical supplies, occupational, physical, and speech therapy, and other care specified by program rules.

(12) "Specialty center" means a facility and staff that meet minimum standards established under the program and are designated by the board for program use in the comprehensive diagnostic and treatment services for a specific medical condition.

(13) "Support" means to contribute money or services necessary for a person's maintenance, including food, clothing, shelter, transportation, and health care.

Sec. 35.0022. CHILD WITH SPECIAL HEALTH CARE NEEDS. (a) In this chapter, "child with special health care needs" means a person who:

(1) is younger than 21 years of age and who has a chronic physical or developmental condition; or

(2) has cystic fibrosis, regardless of the person's age.

(b) The term "child with special health care needs" may include a person who has a behavioral or emotional condition that accompanies the person's physical or developmental condition. The term does not include a person who has a behavioral or emotional condition without having an accompanying physical or developmental condition.

SECTION ____. Section 35.003, Health and Safety Code, is amended to read as follows:

Sec. 35.003. ~~[CHRONICALLY ILL AND DISABLED CHILDREN'S]~~ SERVICES PROGRAM FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS. (a) The program is in the department to provide services to eligible ~~[chronically ill and disabled]~~ children with special health care needs. The program shall provide:

(1) early identification of ~~[chronically ill and disabled]~~ children with special health care needs;

(2) diagnosis and evaluation of ~~[chronically ill and disabled]~~ children with special health care needs;

(3) rehabilitation services to ~~[chronically ill and disabled]~~ children with special health care needs;

(4) development and improvement of standards and services for ~~[chronically ill and disabled]~~ children with special health care needs; ~~[and]~~

(5) case management services;

(6) other family support services; and

(7) access to health benefits plan coverage under Section 35.0031.

(b) The board by rule shall:

(1) specify the type, amount, and duration of services to be provided under this chapter;

~~[(2) specify the diseases and conditions covered by the program;]~~ and

(2) ~~[(3)]~~ permit the payment of insurance premiums for eligible children.

(c) If budgetary limitations exist, the board by rule shall establish a system of priorities relating to the types of services or the classes of persons eligible for the services. A waiting list of eligible persons may be established if necessary for the program to remain within the budgetary limitations. The department shall collect from each applicant for services who is placed on a waiting list appropriate information to facilitate contacting the applicant when services become available and to allow efficient enrollment of the applicant in those services. The information collected must include:

(1) the applicant's name, address, and phone number;

(2) the name, address, and phone number of a contact person other than the applicant;

(3) the date of the applicant's earliest application for services;

(4) the applicant's functional needs;

(5) the range of services needed by the applicant; and

(6) a date on which the applicant is scheduled for reassessment.

(d) The program may provide:

(1) transportation and subsistence for an eligible ~~[chronically ill and disabled]~~ child with special health care needs and the child's parent, managing conservator, guardian, or other adult caretaker approved by the program to obtain services provided by the program; and

(2) the following services to an eligible child with special health care needs ~~[chronically ill and disabled children]~~ who dies ~~[die]~~ in an approved facility outside the child's municipality of residence while receiving program services ~~[for a condition covered by the program]~~:

(A) the transportation of the child's remains, and the transportation of a parent or other person accompanying the remains, from the facility to the place of burial in this state that is designated by the parent or other person legally responsible for interment;

(B) the expense of embalming, if required for transportation;
(C) the cost of a coffin purchased at a minimum price, if a coffin is required for transportation; and

(D) any other necessary expenses directly related to the care and return of the child's remains to the place of burial in this state.

(e) The department may:

(1) develop methods to improve the efficiency and effectiveness of the program; and

(2) conduct pilot studies[; ~~and~~

~~[(3) provide services only for conditions specified by this chapter or by the board].~~

(f) The program is separate from the financial or medical assistance program established by Chapters 31 and 32, Human Resources Code.

SECTION _____. Chapter 35, Health and Safety Code, is amended by adding Sections 35.0031, 35.0032, 35.0033, 35.0034, and 35.0035 to read as follows:

Sec. 35.0031. HEALTH BENEFITS PLAN COVERAGE FOR CERTAIN ELIGIBLE CHILDREN. The department shall obtain coverage under a health benefits plan for a child who:

(1) is eligible for services under this chapter; and

(2) is not eligible for assistance under:

(A) a program established under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended; or

(B) the medical assistance program under Chapter 32, Human Resources Code.

Sec. 35.0032. BENEFITS COVERAGE REQUIRED. To the extent possible, the health benefits plan required by Section 35.0031 must provide benefits comparable to the benefits provided under the state child health plan established by this state to implement Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended.

Sec. 35.0033. HEALTH BENEFITS PLAN PROVIDER. (a) A health benefits plan provider who provides coverage for benefits under Section 35.0031 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 under Section 35.0031; 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 department, 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. 35.0034. COST-SHARING PAYMENTS. (a) Except as provided by Subsection (b), the department may not require a child who is provided health benefits plan coverage under Section 35.0031 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 department may require a child described by Subsection (a) to pay a co-payment as a condition of health benefits plan coverage under Section 35.0031 that is equal to any co-payment required under the state child health plan established by this state to implement Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended.

(c) The department may require a child who is provided health benefits plan coverage under Section 35.0031 and who meets the income eligibility requirement of a program established under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, to pay a premium, deductible, coinsurance, or other cost-sharing payment as a condition of health benefits plan coverage. The payment must be equal to any premium, deductible, coinsurance, or other cost-sharing payment required under the state child health plan established by this state to implement Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended.

Sec. 35.0035. DISALLOWANCE OF MATCHING FUNDS FROM FEDERAL GOVERNMENT. Expenditures made to provide health benefits plan coverage under Section 35.0031 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 _____. Section 35.004, Health and Safety Code, is amended by adding Subsection (j) to read as follows:

(j) This section does not apply to services for which coverage is provided under the health benefits plan established under Section 35.0031.

SECTION _____. Section 35.005, Health and Safety Code, is amended to read as follows:

Sec. 35.005. ELIGIBILITY FOR SERVICES. (a) The board by rule shall:

(1) define medical, financial, and other criteria for eligibility to receive services; and

(2) establish a system for verifying eligibility information submitted by an applicant for or recipient of services.

(b) In defining medical and financial criteria for eligibility under Subsection (a), the board may not:

(1) establish an exclusive list of coverable medical conditions; or

(2) consider as a source of support to provide services assets legally owned or available to a child's household.

(c) [(b)] A child is not eligible to receive rehabilitation services unless:

(1) the child is a resident of this state;

(2) at least one physician or dentist certifies to the department that the physician or dentist has examined the child and finds the child to be a [chronically ill and disabled] child with special health care needs whose disability meets the medical criteria established by the board;

(3) [the certifying physician or dentist has reason to expect that services will improve the child's condition or will extend the child's ability to function independently;

[(4)] the department determines that the persons who have any legal obligation to provide services for the child are unable to pay for the entire cost of the services;

(4) the child has a family income that is less than or equal to 200 percent of the federal poverty level; and

(5) the child meets all other eligibility criteria established by board rules.

(d) [(e)] A child is not eligible to receive services, other than rehabilitation services, unless the child:

(1) is a resident of this state; and

(2) meets all other eligibility criteria established by board rules.

(e) Notwithstanding Subsection (c)(4), a child with special health care needs who has a family income that is greater than 200 percent of the federal poverty level and who meets all other eligibility criteria established by this section and by board rules is eligible for services if the department determines that the child's family is or will be responsible for medical expenses that are equal to or greater than the amount by which the family's income exceeds 200 percent of the federal poverty level.

SECTION _____. Chapter 35, Health and Safety Code, is amended by adding Section 35.0061 to read as follows:

Sec. 35.0061. REFERRAL FOR BEHAVIORAL OR EMOTIONAL CONDITIONS. If a child with special health care needs who is eligible for services under this chapter has a behavioral or emotional condition and the child is eligible for services from another provider of services that would address the behavioral or emotional condition, the department shall refer the child to that provider for those services.

SECTION _____. Section 35.007(e), Health and Safety Code, is amended to read as follows:

(e) The department may collect the cost of services provided under this chapter directly:

(1) in accordance with [from] Title XVIII, [or] Title XIX, or Title XXI of the Social Security Act (42 U.S.C. Sections 1395 et seq., [and] 1396 et seq., and 1397aa et seq.), as amended; or

(2) from any personal insurance, a health maintenance organization, or any other third party who has a legal obligation to pay other benefits.

SECTION _____. Sections 35.012(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The department may take a census, make surveys, and establish permanent records of ~~[chronically ill and disabled]~~ children with special health care needs.

(b) The department shall maintain a record of orthotic and prosthetic devices, durable medical equipment, and medical supplies purchased by the department for ~~[chronically ill and disabled]~~ children with special health care needs. Those items are not state-owned personal property and are exempt from the personal property inventory requirements of Subtitle D, Title 10, Government Code.

SECTION _____. The heading of Chapter 35, Health and Safety Code, is amended to read as follows:

CHAPTER 35. CHILDREN WITH SPECIAL HEALTH CARE NEEDS
~~[CHRONICALLY ILL AND DISABLED CHILDREN'S SERVICES]~~

SECTION _____. Section 33.031, Health and Safety Code, is amended to read as follows:

Sec. 33.031. COORDINATION WITH CHILDREN WITH SPECIAL HEALTH CARE NEEDS ~~[CHRONICALLY ILL AND DISABLED CHILDREN'S]~~ SERVICES. (a) All newborn children and other individuals under 21 years of age who have been screened, have been found to be presumptively positive through the newborn screening program, and may be financially eligible may be referred to the department's ~~[chronically ill and disabled children's]~~ services program for children with special health care needs.

(b) An individual who is determined to be eligible for services under the ~~[chronically ill and disabled children's]~~ services program for children with special health care needs shall be given approved services through that program. An individual who does not meet that eligibility criteria shall be referred to the newborn

screening program for a determination of eligibility for newborn screening program services.

SECTION _____. Section 109.066, Health and Safety Code, is amended to read as follows:

Sec. 109.066. TEXAS DEPARTMENT OF HEALTH PROGRAMS. (a) The department may use appropriated funds, in accordance with the General Appropriations Act, to purchase coverage under a health benefit plan provided through the program for children who are eligible for coverage for the program if:

(1) the children receive health care benefits under the services ~~[chronically ill and disabled children's]~~ program for children with special health care needs or another federally funded or state-funded program, other than the state Medicaid program, that is administered by the department;

(2) provision of the benefits through a health benefit plan provided through the program is a more cost-effective means of providing some or all of the benefits described by Subdivision (1); and

(3) no benefit or service provided to the children is eliminated or adversely affected as a result of the provision of the benefits through the program.

(b) Services provided to children under a federally funded or state-funded program administered by the department, including the ~~[chronically ill and disabled children's]~~ program for children with special health care needs, may not be reduced or eliminated because some or all of the services are provided through the program or otherwise provided because of the establishment of the corporation or the program.

SECTION _____. Section 14(b)(2), Article 21.58A, Insurance Code, is amended to read as follows:

(2) Except as provided by Subsection (g) of this section, this article shall not apply to the Texas Medicaid Program, the ~~[chronically ill and disabled children's]~~ services program for children with special health care needs created pursuant to Chapter 35, Health and Safety Code, any program administered under Title 2, Human Resources Code, any program of the Texas Department of Mental Health and Mental Retardation, or any program of the Texas Department of Criminal Justice.

SECTION _____. Section 35.002, Health and Safety Code, is repealed.

SECTION _____. (a) The change in law made by this article to Chapter 35, Health and Safety Code, applies only to delivery of services under that chapter on or after July 1, 2001.

(b) The Texas Department of Health shall implement the health benefits plan required by Section 35.0031, Health and Safety Code, as added by this article, not later than July 1, 2001.

(c) The Texas Board of Health shall adopt all rules necessary to implement the changes in law made by this article not later than July 1, 2001.

Floor Amendment No. 12

Amend the Maxey amendment to **SB 374** by adding an appropriately numbered SECTION to the article related to children with special health care needs added by the amendment to read as follows and by renumbering the existing SECTIONS of the article appropriately:

SECTION _____. A state agency is required to implement the article related to children with special health care needs only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, an agency may, but it is not required to, implement that article using other appropriations available for the purpose.

Floor Amendment No. 13

Amend **SB 374** as follows:

(1) In SECTION 1.01 of the bill, in added Section 531.02481(f), Government Code (House Committee Printing, page 2, line 26), strike "or".

(2) In SECTION 1.01 of the bill, in added Section 531.02481(f), Government Code (House Committee Printing, page 2, line 26), between "organization" and the period, insert: ;

(5) a community mental health and mental retardation center

Floor Amendment No. 14

Amend **SB 374** as follows:

On page 3, line 1 (new Section 531.02481, Government Code) of the House Committee printing of **SB 374**, insert or for-profit after "nonprofit."

Floor Amendment No. 15

Amend **SB 374** as follows:

On page 3, line 14 of the House Committee printing of **SB 374**, strike out "18" and substitute in its place "20".

On page 4, line 9 of the House Committee printing of **SB 374**, strike out subsection (9) and replace with the following:

(9) 4 long term care services providers, jointly appointed by the commissioner and the commissioner of mental health and mental retardation, representative of the broadest array of settings listed in subsection (a) above.

Floor Amendment No. 16

Amend **SB 374** by inserting the following SECTIONS, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION ___. Section 32.024(t), Human Resources Code, is amended to read as follows:

(t) The department by rule shall require a physician, nursing facility, health care provider, or other responsible party to obtain authorization from the department or a person authorized to act on behalf of the department before an ambulance is used to transport a recipient of medical assistance under this chapter in circumstances not involving an emergency. The rules must provide that:

(1) except as provided by Subdivision (3), a request for authorization must be evaluated based on the recipient's medical needs and may be granted for a length of time appropriate to the recipient's medical condition;

(2) except as provided by Subdivision (3), a response to a request for authorization must be made not later than 48 hours after receipt of the request; ~~and~~

(3) a request for authorization must be immediately granted and must be effective for a period of 180 days from the date of issuance if the request includes a written statement from a physician that:

(A) states that alternative means of transporting the recipient are contraindicated; and

(B) is dated not earlier than the 60th day before the date on which the request for authorization is made; and

(4) a person denied payment for services rendered because of failure to obtain prior authorization or because a request for prior authorization was denied is entitled to appeal the denial of payment to the department.

SECTION _____. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

The amendments were read.

On motion of Senator Zaffirini, the Senate concurred in the House amendments to **SB 374** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 211

Senator Sibley 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 211** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 211** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sibley, Chair; Bivins, Cain, Nelson, and West.

SENATE BILL 223 WITH HOUSE AMENDMENT

Senator Ogden called **SB 223** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Ratliff in Chair, laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 223** as follows:

(1) In SECTION 1 of the bill, in added Section 656.101(1), Government Code, between "Section 572.002" and the period (engrossed version, page 1, line 9), insert "except that the terms do not include a river authority or an employee of a river authority".

(2) In SECTION 2 of the bill, in added Section 666.001, Government Code, between "Section 572.002" and the period (engrossed version, page 3, line 20), insert "except that the term does not include a river authority".

The amendment was read.

On motion of Senator Ogden, the Senate concurred in the House amendment to **SB 223** by a viva voce vote.

SENATE BILL 602 WITH HOUSE AMENDMENT

Senator Moncrief called **SB 602** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 602** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the membership and powers of the Interagency Council for Genetic Services.

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

SECTION 1. Subsections (b) and (c), Section 134.001, Human Resources Code, are amended to read as follows:

(b) The council consists of:

(1) a representative of the Texas Department of Mental Health and Mental Retardation, appointed by the commissioner of mental health and mental retardation;

(2) a representative of the Texas Department of Health, appointed by the commissioner of health;

(3) a representative of the Texas Department of Insurance [~~Human Services~~], appointed by the commissioner of insurance [~~human services~~];

(4) a representative of The University of Texas health science centers, appointed by the chancellor of The University of Texas System;

(5) a representative of the public and private entities that contract with the Texas Department of Health to provide genetic services, elected from their membership; and

(6) two consumers of genetic services, family members of consumers of genetic services, or representatives of consumer groups related to the provision of genetic services, appointed by the governor.

(c) The members provided for by Subdivisions (5) and (6) of Subsection (b) of this section serve two-year terms and may be reappointed or reelected for subsequent terms. A representative of the Texas Department of Mental Health and Mental Retardation, Texas Department of Health, Texas Department of Insurance [~~Human Services~~], or The University of Texas health science centers serves at the pleasure of his respective commissioner or chancellor or until termination of his employment with the entity he represents.

SECTION 2. Chapter 134, Human Resources Code, is amended by adding Section 134.002 to read as follows:

Sec. 134.002. RULES. A state agency that is a member of the council shall work in coordination with the council when initiating, considering, or proposing a rule relating to human genetics or human genetic services.

SECTION 3. Subsection (b), Section 134.003, Human Resources Code, is amended to read as follows:

(b) The Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Department of Insurance [~~Human Services~~], and The University of Texas health science centers shall share the cost of providing clerical and advisory support staff to the council.

SECTION 4. Section 134.004, Human Resources Code, is amended to read as follows:

Sec. 134.004. DUTIES. The council shall:

(1) survey current resources for human genetic services in the state;

(2) initiate a scientific evaluation of the current and future needs for the services;

(3) develop a comparable data base among providers that will permit the evaluation of cost-effectiveness and the value of different human genetic services and methods of service delivery;

(4) promote a common statewide data base to study the epidemiology of human genetic disorders;

(5) assist in coordinating statewide human genetic services for all state residents;

(6) increase the flow of information among separate providers and appropriation authorities;

(7) develop guidelines to monitor the provision of human genetic services, including laboratory testing; ~~and~~

(8) identify state entities that serve persons who are affected by or who are at risk of having children who are affected by environmental genetic disorders and coordinate activities with those agencies; and

(9) work in coordination with the state agencies named in Sections 134.001(b)(1), (2), and (3) when the agency initiates, considers, or proposes a rule relating to human genetics or human genetic services.

SECTION 5. Subsection (b), Section 134.005, Human Resources Code, is amended to read as follows:

(b) If the Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Department of Insurance [~~Human Services~~], or The University of Texas health science centers receive federal funds to be used only to coordinate and plan statewide genetic services, the department or system shall transfer the funds to the council through the Texas Department of Health to be used for the purposes for which the funds were received.

SECTION 6. Section 134.006, Human Resources Code, is amended to read as follows:

Sec. 134.006. ANNUAL REPORTS. The council shall annually submit a progress report to the boards of the Texas Department of Health and the[-] Texas Department of Mental Health and Mental Retardation, to the commissioner of the [~~and~~] Texas Department of Insurance, [~~Human Services~~] and to the board of regents of The University of Texas System.

SECTION 7. This Act takes effect September 1, 1999.

SECTION 8. 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.

On motion of Senator Moncrief, the Senate concurred in the House amendment to **SB 602** by a viva voce vote.

SENATE BILL 673 WITH HOUSE AMENDMENT

Senator Moncrief called **SB 673** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 673** in SECTION 1 of the bill, added Section 46.001, Health and Safety Code, as follows:

(1) In Subdivision (a)(2), between "organ" and "donor" (senate engrossment, page 1, line 13), insert ", eye, or tissue".

(2) In Subdivision (a)(3), between "organ" and "donation" (senate engrossment, page 1, line 15), insert ", eye, or tissue".

The amendment was read.

On motion of Senator Moncrief, the Senate concurred in the House amendment to **SB 673** by a viva voce vote.

SENATE BILL 528 WITH HOUSE AMENDMENTS

Senator West called **SB 528** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 528** by adding an appropriately numbered SECTION to the bill to read as follows and by renumbering the existing SECTIONS of the bill accordingly:

SECTION ____ Chapter 106, Alcoholic Beverage Code, is amended by adding Section 106.16 to read as follows:

Sec. 106.16. PRESENCE OF MINOR ON LICENSED PREMISES. (a) Except as provided by Subsection (b), a minor may not be on premises covered by a permit or license issued under Chapter 25, 28, 29, 32, 69, or 70.

(b) Subsection (a) does not apply if:

(1) the minor at all times while on the premises is in the presence of the minor's parent, adult spouse, or legal guardian;

(2) the business operated on the premises derives:

(A) 65 percent or more of its gross revenues from the sale of food and other goods, not including alcoholic beverages; or

(B) 50 percent or more of its gross revenues from the sale of tickets to outdoor live performances;

(3) the minor's presence is in the course of employment permitted under this code; or

(4) the minor is attending an event on the premises of a fraternal organization or a veterans organization, as defined by Section 32.11, and that attendance is authorized by the minor's parent, adult spouse, or legal guardian.

Amendment No. 2

Amend the Alvarado amendment to **SB 528** as follows:

(1) On page 1, line 16, of the amendment, adding Sec. 106.16 to the Alcoholic Beverage Code, insert the following in (b)(2)(A), between "goods" and the comma: "or services".

(2) On page 1, line 20, of the amendment, adding Sec. 106.16 to the Alcoholic Beverage Code, insert the following at the end (b)(2)(B):

(3) the premises is covered by a food and beverage certificate; or
(4) ~~(3)~~ the minor's presence is in the course of employment permitted under
this code; or
(5) ~~(4)~~".

Floor Amendment No. 1 on Third Reading

Amend **SB 528** on third reading by amending the second reading Alvarado amendment to **SB 528**, as amended by the Brimer amendment, in proposed Section 106.16(b)(5), Alcoholic Beverage Code, by striking "fraternal organization or a veterans organization, as defined by Section 32.11." and substituting "fraternal organization or veterans organization, as defined by Section 32.11, or on the premises of a labor organization as defined by Section 21.002, Labor Code.".

The amendments were read.

Senator West 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 528** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators West, Chair; Whitmire, Gallegos, Duncan, and Shapiro.

SENATE BILL 581 WITH HOUSE AMENDMENT

Senator Harris called **SB 581** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend **SB 581** as ENGROSSED as follows:

(1) On page 1, delete SECTION 1 and renumber accordingly.

The amendment was read.

On motion of Senator Harris, the Senate concurred in the House amendment to **SB 581** by a viva voce vote.

SENATE BILL 86 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 86** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 86** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the protection of telecommunications and electric services customers; providing penalties.

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

SECTION 1. Section 11.002, Utilities Code, is amended by adding Subsection (c) to read as follows:

(c) Significant changes have occurred in the telecommunications and electric power industries since the Public Utility Regulatory Act was originally adopted. Changes in technology and market structure have increased the need for minimum standards of service quality, customer service, and fair business practices to ensure high-quality service to customers and a healthy marketplace where competition is permitted by law. It is the purpose of this title to grant the Public Utility Commission of Texas authority to make and enforce rules necessary to protect customers of telecommunications and electric services consistent with the public interest.

SECTION 2. Section 15.024(c), Utilities Code, is amended to read as follows:

(c) A penalty may not be assessed under this section if the person against whom the penalty may be assessed remedies the violation before the 31st day after the date the person receives the notice under Subsection (b). A person who claims to have remedied an alleged violation has the burden of proving to the commission that the alleged violation was remedied and was accidental or inadvertent. This subsection does not apply to a violation of Chapter 17 or 55.

SECTION 3. Subtitle A, Title 2, Utilities Code, is amended by adding Chapter 17 to read as follows:

CHAPTER 17. CUSTOMER PROTECTION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 17.001. CUSTOMER PROTECTION POLICY. (a) The legislature finds that new developments in telecommunications services and the production and delivery of electricity, as well as changes in market structure, marketing techniques, and technology, make it essential that customers have safeguards against fraudulent, unfair, misleading, deceptive, or anticompetitive business practices and against businesses that do not have the technical and financial resources to provide adequate service.

(b) The purpose of this chapter is to establish retail customer protection standards and confer on the commission authority to adopt and enforce rules to protect retail customers from fraudulent, unfair, misleading, deceptive, or anticompetitive practices.

(c) Nothing in this section shall be construed to abridge customer rights set forth in commission rules in effect at the time of the enactment of this chapter.

(d) This chapter does not limit the constitutional, statutory, and common law authority of the office of the attorney general.

(e) Nothing in this chapter authorizes a customer to receive retail electric service from a person other than a certificated retail electric utility.

Sec. 17.002. DEFINITIONS. In this chapter:

(1) "Billing agent" means any entity that submits charges to the billing utility on behalf of itself or any provider of a product or service.

(2) "Billing utility" means any telecommunications provider, as defined by Section 51.002, retail electric provider, or electric utility that issues a bill directly to a customer for any telecommunications or electric product or service.

(3) "Certificated telecommunications utility" means a telecommunications utility that has been granted either a certificate of convenience and necessity, a certificate of operating authority, or a service provider certificate of operating authority.

(4) "Customer" means any person in whose name telephone or retail electric service is billed, including individuals, governmental units at all levels of government, corporate entities, and any other entity with legal capacity to be billed for telephone or retail electric service.

(5) "Electric utility" has the meaning assigned by Section 31.002.

(6) "Retail electric provider" means a person that sells electric energy to retail customers in this state after the legislature authorizes a customer to receive retail electric service from a person other than a certificated retail electric utility.

(7) "Service provider" means any entity that offers a product or service to a customer and that directly or indirectly charges to or collects from a customer's bill an amount for the product or service on a customer's bill received from a billing utility.

(8) "Telecommunications utility" has the meaning assigned by Section 51.002.

Sec. 17.003. CUSTOMER AWARENESS. (a) The commission shall promote public awareness of changes in the electric and telecommunications markets, provide customers with information necessary to make informed choices about available options, and ensure that customers have an adequate understanding of their rights.

(b) The commission shall compile a report on customer service at least once each year showing the comparative customer information from reports given to the commission it deems necessary.

(c) The commission shall adopt and enforce rules to require a certificated telecommunications utility, a retail electric provider, or an electric utility to give clear, uniform, and understandable information to customers about rates, terms, services, customer rights, and other necessary information as determined by the commission.

(d) Customer awareness efforts by the commission shall be conducted in English and Spanish and any other language as necessary.

Sec. 17.004. CUSTOMER PROTECTION STANDARDS. (a) All buyers of telecommunications and retail electric services are entitled to:

(1) protection from fraudulent, unfair, misleading, deceptive, or anticompetitive practices, including protection from being billed for services that were not authorized or provided;

(2) choice of a telecommunications service provider, a retail electric provider, or an electric utility, where that choice is permitted by law, and to have that choice honored;

(3) information in English and Spanish and any other language as the commission deems necessary concerning rates, key terms and conditions, and the basis for any claim of environmental benefits of certain production facilities;

(4) protection from discrimination on the basis of race, color, sex, nationality, religion, marital status, income level, or source of income and from unreasonable discrimination on the basis of geographic location;

(5) impartial and prompt resolution of disputes with a certificated telecommunications utility, a retail electric provider, or an electric utility and disputes with a telecommunications service provider related to unauthorized charges and switching of service;

(6) privacy of customer consumption and credit information;

(7) accuracy of metering and billing;

(8) bills presented in a clear, readable format and easy-to-understand language;

(9) information in English and Spanish and any other language as the commission deems necessary concerning low-income assistance programs and deferred payment plans;

(10) all consumer protections and disclosures established by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) and the Truth in Lending Act (15 U.S.C. Section 1601 et seq.); and

(11) programs that offer eligible low-income customers energy efficiency programs, an affordable rate package, and bill payment assistance programs designed to reduce uncollectible accounts.

(b) The commission may adopt and enforce rules as necessary or appropriate to carry out this section, including rules for minimum service standards for a certificated telecommunications utility, a retail electric provider, or an electric utility relating to customer deposits and the extension of credit, switching fees, levelized billing programs, and termination of service and to energy efficiency programs, an affordable rate package, and bill payment assistance programs for low-income customers. The commission may waive language requirements for good cause.

(c) The commission shall request the comments of the office of the attorney general in developing the rules that may be necessary or appropriate to carry out this section.

(d) The commission shall coordinate its enforcement efforts regarding the prosecution of fraudulent, misleading, deceptive, and anticompetitive business practices with the office of the attorney general in order to ensure consistent treatment of specific alleged violations.

(e) Nothing in this section shall be construed to abridge customer rights set forth in commission rules in effect at the time of the enactment of this chapter.

Sec. 17.005. PROTECTIONS FOR CUSTOMERS OF MUNICIPALLY OWNED UTILITIES. A municipally owned utility may not be deemed to be a "service provider" or "billing agent" for purposes of Sections 17.156(b) and (e). For electric customers within a municipally owned utility's certificated service area or otherwise served through its distribution facilities, the governing body of a municipally owned utility shall adopt, implement, and enforce rules that shall have the effect of accomplishing the objectives set out in Sections 17.004(a) and (b) and 17.102. The governing body of a municipally owned utility or its designee shall perform the dispute resolution function provided for by Section 17.157 for electric customers served within the municipally owned utility's certificated service area or otherwise served through its distribution facilities. With respect to electric customers served by a municipally owned utility outside its certificated service area or otherwise served through others' distribution facilities, after retail competition begins as authorized by the legislature, the provisions of this chapter as administered by the commission apply. Nothing in this chapter shall be deemed to apply to a wholesale customer of a municipally owned utility.

SUBCHAPTER B. CERTIFICATION, REGISTRATION, AND REPORTING REQUIREMENTS

Sec. 17.051. ADOPTION OF RULES. (a) The commission shall adopt rules relating to certification, registration, and reporting requirements for a certificated telecommunications utility, a retail electric provider, or an electric utility, as well as all telecommunications utilities that are not dominant carriers, pay telephone providers,

qualifying facilities that are selling capacity into the wholesale or retail market, exempt wholesale generators, and power marketers.

(b) The rules adopted under Subsection (a) shall be consistent with and no less effective than federal law and may not require the disclosure of highly sensitive competitive or trade secret information.

Sec. 17.052. SCOPE OF RULES. The commission may adopt and enforce rules to:

(1) require certification or registration with the commission as a condition of doing business in this state, except that this requirement does not apply to municipally owned utilities;

(2) amend certificates or registrations to reflect changed ownership and control;

(3) establish rules for customer service and protection;

(4) suspend or revoke certificates or registrations for repeated violations of this chapter or commission rules, except that the commission may not revoke a certificate of convenience and necessity of an electric utility except as provided by Section 37.059 or a certificate of convenience and necessity of a telecommunications utility except as provided by Section 54.008; and

(5) order disconnection of a pay telephone service provider's pay telephones or revocation of certification or registration for repeated violations of this chapter or commission rules.

Sec. 17.053. REPORTS. The commission may require a telecommunications service provider, a retail electric provider, or an electric utility to submit reports to the commission concerning any matter over which it has authority under this chapter.

SUBCHAPTER C. CUSTOMER'S RIGHT TO CHOICE

Sec. 17.101. POLICY. It is the policy of this state that all customers be protected from the unauthorized switching of a telecommunications service provider, a retail electric provider, or an electric utility selected by the customer to provide service, where choice is permitted by law.

Sec. 17.102. RULES RELATING TO CHOICE. The commission shall adopt and enforce rules that:

(1) ensure that customers are protected from deceptive practices employed in obtaining authorizations of service and in the verification of change orders, including negative option marketing, sweepstakes, and contests that cause customers to unknowingly change their telecommunications service provider, retail electric provider, or electric utility, where choice is permitted by law;

(2) provide for clear, easily understandable identification, in each bill sent to a customer, of all telecommunications service providers, retail electric providers, or electric utilities submitting charges on the bill;

(3) ensure that every service provider submitting charges on the bill is clearly and easily identified on the bill along with its services, products, and charges;

(4) provide that unauthorized changes in service be remedied at no cost to the customer within a period established by the commission;

(5) require refunds or credits to the customer in the event of an unauthorized change; and

(6) provide for penalties for violations of commission rules adopted under this section, including fines and revocation of certificates or registrations, by this action denying the certificated telecommunications utility, the retail electric provider, or the electric utility the right to provide service in this state, except that the

commission may not revoke a certificate of convenience and necessity of an electric utility except as provided by Section 37.059 or a certificate of convenience and necessity of a telecommunications utility except as provided by Section 54.008.

SUBCHAPTER D. PROTECTION AGAINST
UNAUTHORIZED CHARGES

Sec. 17.151. REQUIREMENTS FOR SUBMITTING CHARGES. (a) A service provider, retail electric provider, or billing agent may submit charges for a new product or service to be billed on a customer's telephone or retail electric bill on or after the effective date of this section only if:

(1) the service provider offering the product or service has thoroughly informed the customer of the product or service being offered, including all associated charges, and has explicitly informed the customer that the associated charges for the product or service will appear on the customer's telephone or electric bill;

(2) the customer has clearly and explicitly consented to obtain the product or service offered and to have the associated charges appear on the customer's telephone or electric bill and the consent has been verified as provided by Subsection (b); and

(3) the service provider offering the product or service and any billing agent for the service provider:

(A) has provided the customer with a toll-free telephone number the customer may call and an address to which the customer may write to resolve any billing dispute and to answer questions; and

(B) has contracted with the billing utility to bill for products and services on the billing utility's bill as provided by Subsection (c).

(b) The customer consent required by Subsection (a)(2) must be verified by the service provider offering the product or service by authorization from the customer. A record of the customer consent, including verification, must be maintained by the service provider offering the product or service for a period of at least 24 months immediately after the consent and verification have been obtained. The method of obtaining customer consent and verification must include one or more of the following:

(1) written authorization from the customer;

(2) toll-free electronic authorization placed from the telephone number that is the subject of the product or service;

(3) oral authorization obtained by an independent third party; or

(4) any other method of authorization approved by the commission or the Federal Communications Commission.

(c) The contract required by Subsection (a)(3)(B) must include the service provider's name, business address, and business telephone number and shall be maintained by the billing utility for as long as the billing for the products and services continues and for the 24 months immediately following the permanent discontinuation of the billing.

(d) A service provider offering a product or service to be charged on a customer's telephone or electric bill and any billing agent for the service provider may not use any fraudulent, unfair, misleading, deceptive, or anticompetitive marketing practice to obtain customers, including the use of negative option marketing, sweepstakes, and contests.

(e) Unless verification is required by federal law or rules implementing federal law, Subsection (b) does not apply to customer-initiated transactions with a certificated telecommunications provider or an electric utility for which the service provider has the appropriate documentation.

(f) If a service provider is notified by a billing utility that a customer has reported to the billing utility that a charge made by the service provider is unauthorized, the service provider shall cease to charge the customer for the unauthorized product or service.

(g) This section does not apply to message telecommunications services charges that are initiated by dialing 1+, 0+, 0-, 1010XXX, or collect calls and charges for video services if the service provider has the necessary call detail record to establish the billing for the call or service.

Sec. 17.152. RESPONSIBILITIES OF BILLING UTILITY. (a) If a customer's telephone or retail electric bill is charged for any product or service without proper customer consent or verification, the billing utility, on its knowledge or notification of any unauthorized charge, shall promptly, not later than 45 days after the date of knowledge or notification of the charge:

(1) notify the service provider to cease charging the customer for the unauthorized product or service;

(2) remove any unauthorized charge from the customer's bill;

(3) refund or credit to the customer all money that has been paid by the customer for any unauthorized charge, and if the unauthorized charge is not adjusted within three billing cycles, shall pay interest on the amount of the unauthorized charge;

(4) on the customer's request, provide the customer with all billing records under its control related to any unauthorized charge within 15 business days after the date of the removal of the unauthorized charge from the customer's bill; and

(5) maintain for at least 24 months a record of every customer who has experienced any unauthorized charge for a product or service on the customer's telephone or electric bill and who has notified the billing utility of the unauthorized charge.

(b) A record required by Subsection (a)(5) shall contain for each unauthorized charge:

(1) the name of the service provider that offered the product or service;

(2) any affected telephone numbers or addresses;

(3) the date the customer requested that the billing utility remove the unauthorized charge;

(4) the date the unauthorized charge was removed from the customer's telephone or electric bill; and

(5) the date any money that the customer paid for the unauthorized charges was refunded or credited to the customer.

(c) A billing utility may not:

(1) disconnect or terminate telecommunications or electric service to any customer for nonpayment of an unauthorized charge;

(2) file an unfavorable credit report against a customer who has not paid charges the customer has alleged were unauthorized unless the dispute regarding the unauthorized charge is ultimately resolved against the customer, except that the customer shall remain obligated to pay any charges that are not in dispute, and this subsection does not apply to those undisputed charges; or

(3) interrupt or terminate local exchange service if charges for local exchange service are paid, unless the customer's local exchange service provider:

(A) offers to the customer prepaid local telephone service in accordance with terms and conditions established by the commission; and

(B) provides eligible customers with notice of their eligibility for this service in accordance with commission rules.

Sec. 17.153. RECORDS OF DISPUTED CHARGES. (a) Every service provider shall maintain a record of every disputed charge for a product or service placed on a customer's bill.

(b) The record required under Subsection (a) shall contain for every disputed charge:

(1) any affected telephone numbers or addresses;

(2) the date the customer requested that the billing utility remove the unauthorized charge;

(3) the date the unauthorized charge was removed from the customer's telephone or retail electric bill; and

(4) the date action was taken to refund or credit to the customer any money that the customer paid for the unauthorized charges.

(c) The record required by Subsection (a) shall be maintained for at least 24 months following the completion of all steps required by Section 17.152(a).

Sec. 17.154. NOTICE. (a) A billing utility shall provide notice of a customer's rights under this section in the manner prescribed by the commission.

(b) Notice of a customer's rights must be provided by mail to each residential and retail business customer within 60 days of the effective date of this section or by inclusion in the publication of the telephone directory next following the effective date of this section. In addition, each billing utility shall send the notice to new customers at the time service is initiated or to any customer at that customer's request.

Sec. 17.155. PROVIDING COPY OF RECORDS. A billing utility shall provide a copy of records maintained under Sections 17.152, 17.153, and 17.154 to the commission staff on request.

Sec. 17.156. VIOLATIONS. (a) If the commission finds that a billing utility violated this subchapter, the commission may implement penalties and other enforcement actions under Chapter 15.

(b) If the commission finds that any other service provider or billing agent subject to this subchapter has violated this subchapter or has knowingly provided false information to the commission on matters subject to this subchapter, the commission may enforce the provisions of Chapter 15 against the service provider or billing agent as if it were regulated by the commission.

(c) Neither the authority granted under this section nor any other provision of this subchapter shall be construed to grant the commission jurisdiction to regulate service providers or billing agents who are not otherwise subject to commission regulation, other than as specifically provided by this chapter.

(d) If the commission finds that a billing utility or service provider repeatedly violates this subchapter, the commission may, if the action is consistent with the public interest, suspend, restrict, or revoke the registration or certificate of the telecommunications service provider, retail electric provider, or electric utility, by this action denying the telecommunications service provider, retail electric provider, or electric utility the right to provide service in this state, except that the commission may not revoke a certificate of convenience and necessity of an electric utility except as provided by Section 37.059 or a certificate of convenience and necessity of a telecommunications utility except as provided by Section 54.008.

(e) If the commission finds that a service provider or billing agent has repeatedly violated any provision of this subchapter, the commission may order the billing utility to terminate billing and collection services for that service provider or billing agent.

(f) Nothing in this subchapter shall be construed to preclude a billing utility from taking action on its own to terminate or restrict its billing and collection services.

Sec. 17.157. DISPUTES. (a) The commission may resolve disputes between a retail customer and a billing utility, service provider, telecommunications utility, retail electric provider, or electric utility.

(b) In exercising its authority under Subsection (a), the commission may:

(1) order a billing utility, service provider, retail electric provider, or electric utility to produce information or records;

(2) require that all contracts, bills, and other communications from a billing utility, service provider, retail electric provider, or electric utility display a working toll-free telephone number that customers may call with complaints and inquiries;

(3) require a billing utility, service provider, retail electric provider, or electric utility to refund or credit overcharges or unauthorized charges with interest if the billing utility, service provider, retail electric provider, or electric utility has failed to comply with commission rules or a contract with the customer;

(4) order appropriate relief to ensure that a customer's choice of a telecommunications service provider, a retail electric provider, or an electric utility that encompasses a geographic area in which more than one provider has been certificated is honored;

(5) require the continuation of service to a residential or small commercial customer while a dispute is pending regarding charges the customer has alleged were unauthorized; and

(6) investigate an alleged violation.

(c) The commission shall adopt procedures for the resolution of disputes in a timely manner, which in no event shall exceed 60 days.

Sec. 17.158. CONSISTENCY WITH FEDERAL LAW. Rules adopted by the commission under this subchapter shall be consistent with and not more burdensome than applicable federal laws and rules.

SECTION 4. Section 51.002(10), Utilities Code, is amended to read as follows:

(10) "Telecommunications provider":

(A) means:

(i) a certificated telecommunications utility;

(ii) a shared tenant service provider;

(iii) a nondominant carrier of telecommunications services;

(iv) a provider of commercial mobile service as defined by Section 332(d), Communications Act of 1934 (47 U.S.C. Section 151 et seq.), Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), except that the term does not include these entities for the purposes of Chapter 17 or 55;

(v) a telecommunications entity that provides central office based PBX-type sharing or resale arrangements;

(vi) an interexchange telecommunications carrier;

(vii) a specialized common carrier;

(viii) a reseller of communications;

(ix) a provider of operator services;

(x) a provider of customer-owned pay telephone service; or

(xi) another person or entity determined by the commission to provide telecommunications services to customers in this state; and

(B) does not mean:

(i) a provider of enhanced or information services, or another user of telecommunications services, who does not also provide telecommunications services; or

(ii) a state agency or state institution of higher education, or a service provided by a state agency or state institution of higher education.

SECTION 5. Section 3.312, Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), as added by Section 1, Chapter 919, Acts of the 75th Legislature, Regular Session, 1997, is codified as Subchapter K, Chapter 55, Utilities Code, and amended to read as follows:

SUBCHAPTER K. SELECTION OF TELECOMMUNICATIONS UTILITIES

Sec. 55.301. STATE POLICY. It is the policy of this state to ensure that all customers are protected from the unauthorized switching of a telecommunications utility selected by the customer to provide telecommunications service.

Sec. 55.302. COMMISSION RULES. (a) The commission shall adopt nondiscriminatory and competitively neutral rules to implement this subchapter, including rules that:

(1) ensure that customers are protected from deceptive practices in the obtaining of authorizations and verifications required by this subchapter;

(2) are applicable to all local exchange telephone services, interexchange telecommunications service, and other telecommunications service provided by telecommunications utilities in this state;

(3) are consistent with the rules and regulations prescribed by the Federal Communications Commission for the selection of telecommunications utilities;

(4) permit telecommunications utilities to select any method of verification of a ~~carrier-initiated~~ change order authorized by Section 55.303;

(5) ~~[require telecommunications utilities to maintain records relating to a customer-initiated change in accordance with Section 55.304;~~

~~[(6)]~~ require the reversal of certain changes in the selection of a customer's telecommunications utility in accordance with Section 55.304(a) ~~[55.305(a)]~~;

~~[(6)] [(7)]~~ prescribe, in accordance with Section 55.304(b) ~~[55.305(b)]~~, the duties of a telecommunications utility that initiates an unauthorized customer change; and

~~[(7)] [(8)]~~ provide for corrective action and the imposition of penalties in accordance with Sections 55.305 ~~[55.306]~~ and 55.306 ~~[55.307]~~.

(b) The commission is granted all necessary jurisdiction to adopt rules required by this subchapter and to enforce those rules and this subchapter.

(c) The commission may notify customers of their rights under the rules.

Sec. 55.303. VERIFICATION OF ~~[CARRIER-INITIATED]~~ CHANGE. ~~[(a)]~~ A telecommunications utility may verify a ~~carrier-initiated~~ change order by:

(1) obtaining written authorization from the customer;

(2) obtaining a toll-free electronic authorization placed from the telephone number that is the subject of the change order; or

(3) an oral authorization obtained by an independent third party.

~~[(b)] In addition to the methods provided by Subsection (a), a telecommunications utility may verify a carrier-initiated change order by mailing to the customer an information package that is consistent with the requirements of 47 C.F.R. Section 64.1100(d) and that contains a postage-prepaid postcard or mailer. The~~

change is considered verified if the telecommunications utility does not receive a cancellation of the change order from the customer within 14 days after the date of the mailing.

~~[Sec. 55.304. CUSTOMER-INITIATED CHANGE. (a) A telecommunications utility to whom a customer has changed its service on the initiative of the customer shall maintain a record of nonpublic customer-specific information that could be used to establish that the customer authorized the change.~~

~~[(b) Notwithstanding Subsection (a), if the Federal Communications Commission requires verification, the telecommunications utility shall use the verification methods required by the Federal Communications Commission.]~~

Sec. 55.304 [55.305]. UNAUTHORIZED CHANGE. (a) If a change in the selection of a customer's telecommunications utility is not made or verified in accordance with this subchapter, the change, on request by the customer, shall be reversed within a period established by commission ruling.

(b) A telecommunications utility that initiates an unauthorized customer change shall:

(1) pay all usual and customary charges associated with returning the customer to its original telecommunications utility;

(2) pay the telecommunications utility from which the customer was changed any amount paid by the customer that would have been paid to that telecommunications utility if the unauthorized change had not been made;

(3) return to the customer any amount paid by the customer that exceeds the charges that would have been imposed for identical services by the telecommunications utility from which the customer was changed if the unauthorized change had not been made; and

(4) provide to the original telecommunications utility from which the customer was changed all billing records to enable that telecommunications utility to comply with this subchapter.

(c) The telecommunications utility from which the customer was changed shall provide to the customer all benefits associated with the service on receipt of payment for service provided during the unauthorized change.

(d) A customer is not liable for charges incurred during the first 30 days after the date of an unauthorized carrier change.

Sec. 55.305 [55.306]. CORRECTIVE ACTION AND PENALTIES. (a) If the commission finds that a telecommunications utility has repeatedly violated the commission's telecommunications utility selection rules, the commission shall order the utility to take corrective action as necessary. In addition, the utility may be subject to administrative penalties under Sections 15.023-15.027.

(b) An administrative penalty collected under this section shall be used to enforce this subchapter.

Sec. 55.306 [55.307]. REPEATED AND RECKLESS VIOLATION. If the commission finds that a telecommunications utility has repeatedly and recklessly violated the commission's telecommunications utility selection rules, the commission may, if consistent with the public interest, suspend, restrict, deny, or revoke the registration or certificate, including an amended certificate, of the telecommunications utility and, by taking that action, deny the telecommunications utility the right to provide service in this state.

Sec. 55.307. DECEPTIVE OR FRAUDULENT PRACTICE. The commission may prohibit a utility from engaging in a deceptive or fraudulent practice, including a

marketing practice, involving the selection of a customer's telecommunications utility. The commission may define deceptive and fraudulent practices to which this section applies.

SECTION 6. 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.

Floor Amendment No. 1

Amend **CSSB 86** by striking Section 17.155, Utilities Code, as added by SECTION 3 of the bill (page 16, lines 4-6, House Committee Report), and substituting:

Sec. 17.155. PROVIDING COPY OF RECORDS. A billing utility shall provide a copy of records maintained under Sections 17.151(c), 17.152, and 17.154 to the commission staff on request. A service provider shall provide a copy of records maintained under Sections 17.151(b) and 17.153 to the commission on request.

Floor Amendment No. 2

Amend **CSSB 86** at the end of Section 17.004, Utilities Code, as added by SECTION 3 of the bill (house committee report, page 7, between lines 3 and 4), by adding Subsection (f) to read as follows:

(f) The commission shall adopt rules to provide automatic enrollment of eligible utility customers for lifeline telephone service and reduced electric rates available to low-income households. Each state agency, on the request of the commission, shall assist in the adoption and implementation of those rules.

Floor Amendment No. 3

Amend **CSSB 86** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS appropriately:

SECTION _____. Subchapter A, Chapter 55, Utilities Code, is amended by adding Section 55.012 to read as follows:

Sec. 55.012. LIMITATIONS ON DISCONTINUANCE OF BASIC LOCAL TELECOMMUNICATIONS SERVICE. (a) A provider of basic local telecommunications service may not discontinue that service because of nonpayment by a residential customer of charges for long distance service. Payment shall first be allocated to basic local telecommunications service.

(b) For purposes of allocating payment in this section, if the provider of basic local telecommunications service bundles its basic local telecommunications service with long distance service or any other service and provides a discount for the basic local telecommunications service because of that bundling, the rate of basic local telecommunications service shall be the rate the provider charges for stand-alone basic local telecommunications service.

(c) Notwithstanding Subsection (a), the commission shall adopt and implement rules, not later than January 1, 2000, to prevent customer abuse of the protections afforded by this section. The rules must include:

(1) provisions requiring a provider of basic local telecommunications service to offer and implement, at the request and expense of a long distance service provider, toll blocking capability to limit a customer's ability to incur additional charges for long distance services after nonpayment for long distance services; and

(2) provisions regarding fraudulent activity in response to which a provider may discontinue a residential customer's basic local telecommunications service.

(d) Notwithstanding any other provision of this title, the commission has all jurisdiction necessary to establish a maximum price that an incumbent local exchange company may charge a long distance service provider to initiate the toll blocking capability required to be offered under the rules adopted under Subsection (c). The maximum price established under this subsection shall be observed by all providers of basic local telecommunications service in the incumbent local exchange company's certificated service area. Notwithstanding Sections 52.102 and 52.152, the commission has all jurisdiction necessary to enforce this section.

Floor Amendment No. 4

Amend **CSSB 86** as follows:

In SECTION 3 of the bill, add a new Section 17.006 of the Utilities Code at page 7 immediately after line 23, as follows:

Sec. 17.006. PROTECTIONS FOR CUSTOMERS OF ELECTRIC COOPERATIVES. An electric cooperative shall not be deemed to be a "service provider" or "billing agent" for purposes of Section 17.156(b) and 17.156(e). The electric cooperative shall adopt, implement and enforce rules which shall have the effect of accomplishing the objectives set out in Section 17.004(a) and (b) and Section 17.102. The board of directors of the electric cooperative or its designee shall perform the dispute resolution function provided for by Section 17.157 for electric customers served by the electric cooperative within its certificated service area. With respect to electric customers served by an electric cooperative outside its certificated service area or otherwise served through others' distribution facilities, after the legislature authorizes retail competition, the provisions of this chapter as administered by the commission shall apply. Nothing in this chapter shall be deemed to apply to a wholesale customer of an electric cooperative.

Floor Amendment No. 5

Amend **CSSB 86** by adding the following appropriately numbered section to the bill and renumbering sections appropriately:

SECTION _____. Subchapter A, Chapter 55, Utilities Code, is amended by adding Section 55.012 to read as follows:

Sec. 55.012. CHARGES FOR SERVICES OF CERTAIN COMPANIES. (a) This section applies only to an affiliate of an incumbent local exchange company that has elected regulation under Chapter 58 and serves fewer than five million access lines in this state.

(b) An affiliate that provides cellular telephone service may charge a customer for a cellular telephone call not more than the rate that applies to the call at the time the call is made, as provided by the agreement between the affiliate and the customer, regardless of when the affiliate receives notification of the call.

(b) On violation of Subsection (a), the agreement for provision of telephone service between the affiliate providing the service and the customer is voidable by the customer.

(c) An affiliate that violates Subsection (a) is subject to a civil penalty of \$1,000 for each violation. The civil penalty is recoverable in a suit filed in the name of the commission by the attorney general on the attorney general's own initiative or at the request of the commission.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 86**, on third reading, as follows:

(1) In Section 17.004(a)(11), Utilities Code, as added by SECTION 3 of the bill (House committee report page 6, line 6), strike "programs" and substitute "after retail competition begins as authorized by the legislature, programs provided by retail electric providers".

(2) In Section 17.004(e), Utilities Code, as added by SECTION 3 of the bill (House committee report page 7, line 2), insert "or to abridge the rights of low-income customers to receive benefits through pending or operating programs" between "rules" and "in".

(3) In Section 17.004, Utilities Code, as added by SECTION 3 of the bill (House committee report page 7, between lines 3 and 4), insert a new Subsection (g) to read as follows:

(g) Notwithstanding any other provision of this title, the rules adopted under Subsection (b) shall provide full, concurrent reimbursement for the costs of any programs provided under Subsection (a)(11) and for reimbursement for the difference between any affordable rate package provided under Subsection (a)(11) and any rates otherwise applicable.

(4) In Section 17.005, Utilities Code, as added by SECTION 3 of the bill (House committee report, page 7, lines 7 through 9), strike "For electric customers within a municipally owned utility's certificated service area or otherwise served through its distribution facilities, the" and substitute "The".

(5) In Section 17.005, Utilities Code, as added by SECTION 3 of the bill (House committee report, page 7, line 12) insert ", as to the municipally owned utility within its certificated service area" between "17.102" and the period.

(6) In Section 17.005, Utilities Code, as added by SECTION 3 of the bill (House committee report, page 7, line 14) insert "disputes arising from services provided by the municipally owned utility to" between "for" and "electric".

(7) In Section 17.005 Utilities Code, as added by SECTION 3 of the bill (House committee report, page 7, lines 16 and 17) strike "or otherwise served through its distribution facilities" between "area" and the period.

Floor Amendment No. 2 on Third Reading

Amend **CSSB 86**, on third reading, by striking the Janek Amendment (Second Reading Amendment No. 5), which added Section 55.012, Utilities Code, in its entirety.

The amendments were read.

Senator Nelson 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 86** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Nelson, Chair; West, Barrientos, Sibley, and Fraser.

SENATE BILL 294 WITH HOUSE AMENDMENT

Senator Harris called **SB 294** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Ratliff in Chair, laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 294** in SECTION 1 of the bill in added Section 54.602, Government Code, (House committee printing, page 1, line 10) between "Dallas County" and the period by inserting "or Harris County".

The amendment was read.

On motion of Senator Harris, the Senate concurred in the House amendment to **SB 294** by a viva voce vote.

SENATE BILL 153 WITH HOUSE AMENDMENT

Senator Harris called **SB 153** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 153** by striking lines 5 through 9, and replacing with the following:
SECTION 1. Section 571.018, Health and Safety Code, is amended by adding Subsection (j) to read as follows:

(j) When an inpatient mental health facility as defined under 571.003(9)(B) or (E), files an affidavit with the clerk of the court certifying that it has received no compensation or reimbursement for the treatment of a person for whom court costs have been paid or advanced, the judge of the probate court shall order the clerk of the court to refund the costs.

The amendment was read.

Senator Harris moved to concur in the House amendment to **SB 153**.

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

Absent-excused: Luna.

SENATE BILL 391 WITH HOUSE AMENDMENT

Senator Harris called **SB 391** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend **SB 391** as ENGROSSED as follows:

(1) On page 5, delete SECTION 3 and renumber accordingly.

The amendment was read.

Senator Harris moved to concur in the House amendment to **SB 391**.

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

Absent-excused: Luna.

SENATE BILL 1106 WITH HOUSE AMENDMENT

Senator Harris called **SB 1106** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1106** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to a statement of facts concerning the identity of heirs.

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

SECTION 1. Section 52, Texas Probate Code, is amended to read as follows:

Sec. 52. RECORDED INSTRUMENTS AS PRIMA FACIE EVIDENCE. (a) A ~~[Any]~~ statement of facts concerning the family history, genealogy, marital status, or the identity of the heirs of a decedent shall be received in a proceeding to declare heirship, or in a [any] suit involving title to real or personal property, as prima facie evidence of the facts therein stated, if the ~~[when such]~~ statement is contained in either an affidavit or any other instrument legally executed and acknowledged or sworn to before, and certified by, an officer authorized to take acknowledgments or oaths as applicable, or any judgment of a court of record, and if the ~~[such]~~ affidavit or instrument has been of record for five years or more in the deed records of any county in this state in which such real or personal property is located at the time the suit is instituted, or in the deed records of any county of this state in which the decedent had his domicile or fixed place of residence at the time of his death. If there is any error in the statement of facts in such recorded affidavit or instrument, the true facts may be proved by anyone interested in the proceeding in which said affidavit or instrument is offered in evidence.

(b) An affidavit of facts concerning the identity of heirs of a decedent as to an interest in real property that is filed in a proceeding or suit described by Subsection (a) of this section may be in the form described by Section 52A of this code.

(c) An affidavit of facts concerning the identity of heirs of a decedent does not affect the rights of an omitted heir or a creditor of the decedent as otherwise provided by law. This statute shall be cumulative of all other statutes on the same subject, and shall not be construed as abrogating any right to present evidence or to rely on an affidavit of facts conferred by any other statute or rule of law.

SECTION 2. Chapter III, Texas Probate Code, is amended by adding Section 52A to read as follows:

Sec. 52A. FORM OF AFFIDAVIT OF FACTS CONCERNING IDENTITY OF HEIRS. An affidavit of facts concerning the identity of heirs of a decedent may be in substantially the following form:

AFFIDAVIT OF FACTS CONCERNING THE IDENTITY OF HEIRS

Before me, the undersigned authority, on this day personally appeared _____ ("Affiant") (insert name of affiant) who, being first duly sworn, upon his/her oath states:

1. My name is _____ (insert name of affiant), and I live at _____ (insert address of affiant's residence). I am personally familiar with the family and marital history of _____ ("Decedent") (insert name of decedent), and I have personal knowledge of the facts stated in this affidavit.

2. I knew decedent from _____ (insert date) until _____ (insert date). Decedent died on _____ (insert date of death). Decedent's place of death was _____ (insert place of death). At the time of decedent's death, decedent's residence was _____ (insert address of decedent's residence).

3. Decedent's marital history was as follows: _____ (insert marital history and, if decedent's spouse is deceased, insert date and place of spouse's death).

4. Decedent had the following children: _____ (insert name, birth date, name of other parent, and current address of child or date of death of child and descendants of deceased child, as applicable, for each child).

5. Decedent did not have or adopt any other children and did not take any other children into decedent's home or raise any other children, except: _____ (insert name of child or names of children, or state "none").

6. (Include if decedent was not survived by descendants.) Decedent's mother was: _____ (insert name, birth date, and current address or date of death of mother, as applicable).

7. (Include if decedent was not survived by descendants.) Decedent's father was: _____ (insert name, birth date, and current address or date of death of father, as applicable).

8. (Include if decedent was not survived by descendants or by both mother and father.) Decedent had the following siblings: _____ (insert name, birth date, and current address or date of death of each sibling and parents of each sibling and descendants of each deceased sibling, as applicable, or state "none").

9. (Optional.) The following persons have knowledge regarding the decedent, the identity of decedent's children, if any, parents, or siblings, if any: _____ (insert names of persons with knowledge, or state "none").

10. Decedent died without leaving a written will. (Modify statement if decedent left a written will.)

11. There has been no administration of decedent's estate. (Modify statement if there has been administration of decedent's estate.)

12. Decedent left no debts that are unpaid, except: _____ (insert list of debts, or state "none").

13. There are no unpaid estate or inheritance taxes, except: _____ (insert list of unpaid taxes, or state "none").

14. To the best of my knowledge, decedent owned an interest in the following real property: _____ (insert list of real property in which decedent owned an interest, or state "none").

15. (Optional.) The following were the heirs of decedent: _____ (insert names of heirs).

16. (Insert additional information as appropriate, such as size of the decedent's estate.)

Signed this _____ day of _____, _____.

(signature of affiant)

State of _____

County of _____

Sworn to and subscribed to before me on _____ (date)

by _____ (insert name of affiant).

(signature of notarial officer)

(Seal, if any, of notary) _____

(printed name)

My commission expires: _____

SECTION 3. (a) This Act takes effect September 1, 1999, and applies only to an affidavit of facts concerning the identity of heirs of a decedent that is executed on or after the effective date of this Act.

(b) An affidavit of facts concerning the identity of heirs of a decedent that is executed before the effective date of this Act is governed by the law in effect on the date the affidavit was executed, and the former law is continued in effect for that purpose.

SECTION 4. 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.

On motion of Senator Harris, the Senate concurred in the House amendment to **SB 1106** by a viva voce vote.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 28, 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 310, Instructing the enrolling clerk of the house to make technical corrections in **HB 2045**.

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 1861

House Conferees: Gutierrez - Chair/Alexander/Hawley/Noriega/Siebert

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

SB 957

House Conferees: Eiland - Chair/Moreno, Joe/Seaman/Smithee/Thompson

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1607 (Viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 571

Senator Nelson 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 571** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 571** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Nelson, Chair; Shapiro, Wentworth, Zaffirini, and Haywood.

SENATE BILL 1031 WITH HOUSE AMENDMENT

Senator Madla called **SB 1031** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1031** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to weight standards for loaves of bread.

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

SECTION 1. Section 434.007, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) This section does not apply to a food establishment as defined under Chapter 437 or a food establishment licensed under Chapter 431 as a food manufacturer.

SECTION 2. This Act takes effect September 1, 1999.

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.

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 1031** by a viva voce vote.

SENATE BILL 542 WITH HOUSE AMENDMENTS

Senator Madla called **SB 542** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 542** in SECTION 11 of the bill, in added Section 534.0603, Health and Safety Code (Engrossed printing, page 13, between lines 24 and 25), by inserting Subsection (c) to read as follows:

(c) This section, and a protocol developed under this section, do not apply to an audit conducted under Chapter 321, Government Code.

Floor Amendment No. 2

Amend **SB 542** as follows:

In Section 13 of the bill as engrossed, page 15, line 14, strike "Local Authority Advisory Committee" and substitute "Advisory Committee".

The amendments were read.

On motion of Senator Madla, the Senate concurred in the House amendments to **SB 542** by a viva voce vote.

SENATE BILL 779 WITH HOUSE AMENDMENT

Senator Madla called **SB 779** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 779** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the payment of ad valorem taxes by electronic funds transfer.

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

SECTION 1. Subsection (a), Section 31.06, Tax Code, is amended to read as follows:

(a) Except as provided by Section 31.061, taxes are payable only in currency of the United States. However, a collector may accept a check or money order in payment

of taxes, and may accept payment by credit card or electronic funds transfer. A collector and a person may enter into an agreement under which the person pays taxes by electronic funds transfer. The agreement must:

- (1) be in writing;
- (2) be signed by the collector and the person; and
- (3) specify the means or format of payment by electronic funds transfer.

SECTION 2. Section 33.011, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) The governing body of a taxing unit shall waive penalties and interest on a delinquent tax if:

(1) the tax is payable by electronic funds transfer under an agreement entered into under Section 31.06(a); and

(2) the taxpayer submits evidence sufficient to show that:

(A) the taxpayer attempted to pay the tax by electronic funds transfer in the proper manner before the delinquency date;

(B) the taxpayer's failure to pay the tax before the delinquency date was caused by an error in the transmission of the funds; and

(C) the tax was properly paid by electronic funds transfer or otherwise not later than the 21st day after the date the taxpayer knew or should have known of the delinquency.

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 Madla moved to concur in the House amendment to **SB 779**.

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

Absent-excused: Luna.

SENATE BILL 932 WITH HOUSE AMENDMENT

Senator Madla called **SB 932** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 932** by inserting a new SECTION 4 to read as follows and renumber subsequent SECTIONS accordingly:

SECTION 4. Section 146.012, Health and Safety Code, is amended to read as follows:

(a) A tattooist may not tattoo:

(1) a person younger than 18 years of age without ~~[written and notarized]~~ consent from the individual's [a] parent or guardian who determines it to be in the best interest to cover a tattoo which contains:

(A) obscene or offensive language or symbols;
(B) gang-related names, symbols, or markings;
(C) drug-related names, symbols, or pictures; or
(D) some other type of words, symbols, or markings that the court considers would be in the best interest of the minor to cover; or
(2) a person whom the tattooist suspects is under the influence of alcohol or drugs.

(b) The consent required by subsection (a) may be satisfied by:

(1) written and notarized consent by the individual's parent or guardian; or

(2) the individual's parent or guardian:

(A) being physically present at the tattoo studio at the time the tattooing is performed;

(B) executing an affidavit stating that the person is the parent or guardian of the individual on whom the tattooing is to be performed;

(C) presenting evidence of the person's identity to the person who will perform the tattooing; and

(D) presenting evidence of the person's status as parent or guardian of the individual who will receive the tattoo.

(c) [(b)] If a parent or guardian of the minor and the minor agree to the covering of a tattoo described by Subsection (a), a justice court may issue the order. If the parent or guardian and the minor do not agree, the order must be issued by a district court or other court with jurisdiction of a suit affecting the parent-child relationship or a civil proceeding brought under Title 3 or 4, Family Code.

(d) [(c)] The ~~[written]~~ consent required by Subsection (a) must indicate the location on the person's body at which the tattoo may be placed.

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 932** by a viva voce vote.

SENATE BILL 984 WITH HOUSE AMENDMENT

Senator Madla called **SB 984** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 984** as follows:

(1) On page 1, lines 15 through 18, strike subsection (1) and renumber the remaining subsections accordingly.

(2) On page 1, lines 19 and 20, strike subsection (2) and substitute "(1) state the precise incident, circumstance, or risk factor or factors applicable to the applicant or policyholder that violate the guideline or guidelines;".

(3) On page 1, line 22 insert "incident, circumstance, or" between "the" and "risk".

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 984** by a viva voce vote.

SENATE BILL 1436 WITH HOUSE AMENDMENT

Senator Duncan called **SB 1436** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Ratliff in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1436** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the authority of a judge to conduct certain judicial proceedings in a county other than the one in which the suit is filed.

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

SECTION 1. Section 74.094, Government Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) A judge who has jurisdiction over a suit pending in one county may, unless objected to by any party, conduct any of the judicial proceedings except the trial on the merits in a different county.

(f) A pretrial judge assigned to hear pretrial matters in related cases under Rule 11, Texas Rules of Judicial Administration, may hold pretrial proceedings and hearings on pretrial matters for a case to which the judge has been assigned in:

(1) the county in which the case is pending; or

(2) a county in which there is pending a related case to which the pretrial judge has been assigned.

SECTION 2. (a) This Act takes effect September 1, 1999.

(b) Section 74.094(e), Government Code, as added by this Act, applies only to a suit filed on or after the effective date of this Act. A suit filed before the effective date of this Act is covered by the law in effect when the suit was filed, and the former law is continued in effect for that purpose.

(c) Section 74.094(f), Government Code, as added by this Act, applies to a suit pending or filed on or after the effective date of this Act.

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.

The amendment was read.

On motion of Senator Duncan, the Senate concurred in the House amendment to **SB 1436** by a viva voce vote.

SENATE BILL 1088 WITH HOUSE AMENDMENT

Senator Duncan called **SB 1088** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1088** by striking SECTION 3 of the bill and adding the following appropriately numbered SECTIONS:

SECTION _____. (a) Except as provided by Subsection (b), this Act takes effect September 1, 1999.

(b) Not later than August 31, 1999, the Texas Higher Education Coordinating Board shall review and determine whether to approve the creation of the Texas Tech University System as provided by this Act. If the coordinating board does not approve the creation of that system on or before August 31, 1999, the Texas Tech University System is not created and this Act has no effect.

SECTION _____. 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 according to its terms, and it is so enacted.

The amendment was read.

Senator Duncan moved to concur in the House amendment to **SB 1088**.

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

Absent-excused: Luna.

SENATE BILL 1435 WITH HOUSE AMENDMENT

Senator Duncan called **SB 1435** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1435** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to appraisal of heavy equipment for ad valorem tax purposes.

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

SECTION 1. Section 23.1241(a)(2), Tax Code, is amended to read as follows:

(2) "Dealer's heavy equipment inventory" means all items of heavy equipment that a dealer holds for sale at retail. The term includes items of heavy equipment that are leased or rented but subject to a purchase option by the lessee or renter.

SECTION 2. Section 23.1241(a)(7), Tax Code, is amended to read as follows:

(7) "Sales price" means:

(A) the total amount of money paid or to be paid to a dealer for the purchase of an item of heavy equipment; or

(B) for a lease or rental with an option to purchase, the total amount of the lease or rental payments plus any final consideration, excluding interest.

SECTION 3. Section 23.1241(b), Tax Code, is amended to read as follows:

(b) For the purpose of the computation of property tax;

(1) [;] the market value of a dealer's heavy equipment inventory on January 1 is the total annual sales, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the preceding tax year, divided by 12; and

(2) a sale is considered to occur when possession of an item of heavy equipment is transferred from the dealer to the purchaser.

SECTION 3. This Act takes effect January 1, 2000, and applies to the appraisal of heavy equipment for ad valorem tax purposes for a tax year that begins on or after that date.

SECTION 4. 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.

On motion of Senator Duncan, the Senate concurred in the House amendment to **SB 1435** by a viva voce vote.

SENATE RESOLUTION 1167

Senator Sibley offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 76th Legislature, Regular Session, 1999, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 3697**, relating to the operation of the Texas Workers' Compensation Insurance Fund and the disposition of certain surpluses of that fund, to consider and take action on the following matters:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add text incorporating a new section in the bill, appropriately numbered, to amend Section 5(10), Article 21.28-C, Insurance Code, to read as follows:

SECTION __. Section 5(10), Article 21.28-C, Insurance Code, is amended to read as follows:

(10) "Member insurer" means any insurer [person] who:

(A) writes any kind of insurance to which this Act applies under Section 3 of this Act, including the exchange of reciprocal or inter-insurance contracts; and

(B) is licensed to transact insurance in this state, including any stock, mutual, Lloyds insurer, reciprocal or inter-insurance exchange, or county mutual insurance company.

Explanation: This change is necessary to clarify membership in the Texas Property and Casualty Insurance Guaranty Association, which will now include the Texas Workers' Compensation Insurance Fund.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

SENATE RESOLUTION 1172

Senator Zaffirini offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 76th Legislature, Regular Session, 1999, That Senate Rule 12.03 be suspended in part as provided by

Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 3470**, relating to the creation of a Parents as Scholars pilot program for certain persons eligible to receive TANF benefits, to consider and take action on the following matters:

(1) Senate Rules 12.03(1), (2), and (4) are suspended to permit the committee to omit text that is not in disagreement, to change text that is not in disagreement, and to add text on a matter that is not included in either the house or senate version of the bill, so that added Section 31.045(a), Human Resources Code, reads as follows:

(a) The department may by rule establish a student financial aid pilot program, entitled the Parents as Scholars pilot program, under which the department, with the cooperation of the Texas Higher Education Coordinating Board, assists certain recipients of financial assistance in obtaining student financial aid available under Subchapter M, Chapter 56, Education Code. If the department establishes the program, the department and the coordinating board must comply with the requirements of this section.

Explanation: This change is necessary to reflect the modification of the program from one in which a welfare recipient receives student financial aid provided by the Texas Department of Human Services in lieu of financial assistance under the Temporary Assistance for Needy Families (TANF) program to a program in which a welfare recipient is assisted by the department in obtaining student financial aid available to the general population under Subchapter M, Chapter 56, Education Code, as added by **HB 713**, Acts of the 76th Legislature, Regular Session, 1999. The new text also makes a change by providing that the department is not required to establish the program.

(2) Senate Rules 12.03(1), (3), and (4) are suspended to permit the committee to substitute "a program participant meet" for "the person satisfy" and to add "at the time that the person begins participation in the program" and "the eligibility requirements for a TEXAS grant under Subchapter M, Chapter 56, Education Code", so that added Section 31.045(b)(1), Human Resources Code, reads as follows:

(1) require that a program participant meet:

(A) the eligibility criteria for financial assistance at the time that the person begins participation in the program; and

(B) the eligibility requirements for a TEXAS grant under Subchapter M, Chapter 56, Education Code;

Explanation: This change is necessary to reflect the requirement that a welfare recipient must comply with the eligibility requirements under Subchapter M, Chapter 56, Education Code, to be able to receive student financial aid under that subchapter, and to reflect the fact that a welfare recipient eligible under that subchapter may continue to receive student financial aid after the person ceases receiving welfare. This change also makes technical language changes to provide consistency throughout the bill.

(3) Senate Rule 12.03(2) is suspended to permit the committee to omit text in added Section 31.045(b), Human Resources Code, that is not in disagreement. The omitted text reads as follows:

(2) prohibit a person who possesses a bachelor's degree from any public or private institution of higher education from participating in the program;

Explanation: This change is necessary because the omitted language is no longer necessary. The requirement duplicates a requirement contained in Subchapter M, Chapter 56, Education Code, as added by **HB 713**, Acts of the 76th Legislature, Regular Session, 1999.

(4) Senate Rule 12.03(1) is suspended to permit the committee to change text that is not in disagreement by substituting "program participant seek an undergraduate degree or certificate" for "person seek a postsecondary degree" and by substituting "participant's" for subsequent references to "person's" in the subsection, so that added Section 31.045(b)(2), Human Resources Code, reads as follows:

(2) require that the program participant seek an undergraduate degree or certificate that the department, in cooperation with the Texas Higher Education Coordinating Board, considers likely to improve the participant's ability to obtain employment in the participant's local labor market; and

Explanation: This change is necessary to conform the language of the bill to the language of Subchapter M, Chapter 56, Education Code, as added by **HB 713**, Acts of the 76th Legislature, Regular Session, 1999.

(5) Senate Rule 12.03(1) is suspended to permit the committee to change text that is not in disagreement by substituting "program participants" for "persons" and by substituting "undergraduate degree or certificate" for "postsecondary degree" in added Section 31.045(b)(3), Human Resources Code.

Explanation: This change is necessary for the reason stated in Item (4) of this resolution.

(6) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text reads as follows:

(c) Under the program, the department shall:

(1) advise recipients of financial assistance of:

(A) the availability of financial aid under Subchapter M, Chapter 56, Education Code, and the eligibility requirements for that aid;

(B) the need for recipients who are high school students to make informed curriculum choices to be prepared for success beyond high school;

(C) sources of information on higher education admissions and financial aid; and

(D) eligibility criteria and application procedures for participation in the program; and

(2) assist a recipient chosen to participate in the program in obtaining financial aid available under Subchapter M, Chapter 56, Education Code.

(d) A program participant who obtains financial aid available under Subchapter M, Chapter 56, Education Code, may continue to receive financial aid as provided by that subchapter, regardless of whether the participant ceases to receive financial assistance.

(e) The department may cooperate with the Legislative Oversight Committee under Section 56.311, Education Code, by providing information relating to program participants receiving financial aid under Subchapter M, Chapter 56, Education Code, that is necessary for the committee to perform its duty of monitoring the financial aid programs established under that subchapter.

(f) The department and the Texas Higher Education Coordinating Board shall jointly develop procedures necessary for administration of the program, including procedures for:

(1) determining and monitoring a program participant's initial and continuing eligibility for financial aid under Subchapter M, Chapter 56, Education Code;

(2) providing appropriate information to financial aid officers of institutions of higher education; and

(3) exchanging all necessary information between the department and the coordinating board, including copies of rules adopted by the coordinating board relating to the administration of the financial aid programs under Subchapter M, Chapter 56, Education Code.

...

(h) This section takes effect only if **HB 713**, Acts of the 76th Legislature, Regular Session, 1999, is enacted and becomes law. If this section takes effect, it expires September 1, 2003.

Explanation: This change is necessary to reflect the modification of the program, as described in Item (1) of this resolution.

(7) Senate Rule 12.03(2) is suspended to permit the committee to omit text that is not in disagreement. The omitted text reads as follows:

(e) The department shall fund the program from state funds specifically appropriated for that purpose or from other state funds otherwise available to the department for the program. The department may accept gifts and grants from public or private sources to be used to fund the program. The department shall establish and administer the program in such a manner that money spent under the program is included in determining the state's compliance with federal maintenance of effort requirements under Part A, Title IV, Social Security Act (42 U.S.C. Section 601 et seq.).

Explanation: This change is necessary because the omitted language is no longer necessary. As a result of the modification of the program, as described in Item (1) of this resolution, the student financial aid will be provided under Subchapter M, Chapter 56, Education Code, as added by **HB 713**, Acts of the 76th Legislature, Regular Session, 1999, and the reference to federal maintenance of efforts requirements is not appropriate in that context.

(8) Senate Rule 12.03(1) is suspended to permit the committee to change text that is not in disagreement in added Section 31.045(g), Human Resources Code, by substituting "2001" for "2003" and by substituting "financial assistance" for "Temporary Assistance for Needy Families (TANF) benefits".

Explanation: This change is necessary to provide for an earlier date by which the Texas Department of Human Services must submit a report concerning the program and to provide for consistent use of terminology in the bill.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

SENATE BILL 896 WITH HOUSE AMENDMENT

Senator Brown called **SB 896** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Ratliff in Chair, laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 896** as follows:

(1) On page 1, line 7, after "total" strike: "cost for public improvements necessitated by the developer".

(2) On page 1, line 7, after "total" insert: "contract price".

(3) On page 1, line 12, after "area" strike: "[contract price]".

The amendment was read.

On motion of Senator Brown, the Senate concurred in the House amendment to **SB 896** by a viva voce vote.

SENATE BILL 1026 WITH HOUSE AMENDMENTS

Senator Brown called **SB 1026** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 1026** as follows:

(1) In SECTION 1 of the bill (Senate engrossment, page 1, lines 5 and 6), strike "SECTION 1. Subchapter A, Chapter 130, Education Code, is amended by adding Sections 130.010 and 130.011" and substitute "SECTION 1. Subchapter E, Chapter 111, Education Code, is amended by adding Sections 111.86 and 111.87".

(2) In SECTION 1 of the bill, in proposed Section 130.010, Education Code (Senate engrossment, page 1, line 7), strike "Sec. 130.010." and substitute "Sec. 111.86.".

(3) In SECTION 1 of the bill, in proposed Section 131.010(a), Education Code (Senate engrossment, page 1, lines 8 through 10), strike "The junior college district in which the Lyndon B. Johnson Space Center of the National Aeronautics and Space Administration is located" and substitute "The university".

(4) In SECTION 1 of the bill, in proposed Section 131.010(a), Education Code (Senate engrossment, page 1, lines 12 and 13), strike "by the junior college district" and substitute "by the university".

(5) In SECTION 1 of the bill, in proposed Section 131.010(d), Education Code (Senate engrossment, page 2, lines 9 and 11), strike "junior college district" each time that phrase occurs and substitute "university".

(6) In SECTION 1 of the bill, in proposed Section 130.011, Education Code (Senate engrossment, page 2, line 20), strike "Sec. 130.011." and substitute "Sec. 111.87.".

(7) In SECTION 1 of the bill, in proposed Section 131.011(a), Education Code (Senate engrossment, page 2, lines 21 through 23), strike "The junior college district in which the Lyndon B. Johnson Space Center of the National Aeronautics and Space Administration is located" and substitute "The university".

(8) In SECTION 1 of the bill, in proposed Section 131.011(a), Education Code (Senate engrossment, page 2, lines 25 and 26), strike "junior college district in which the space center is located" and substitute "university".

(9) In SECTION 1 of the bill, in proposed Section 131.011(d), Education Code (Senate engrossment, page 3, lines 20 and 22), strike "junior college district" each time that phrase occurs and substitute "university".

Floor Amendment No. 2

Amend **SB 1026** as follows:

(1) In SECTION 2 of the bill (Senate engrossment, page 3, line 26, through page 4, line 1), strike the introductory language and substitute the following:

SECTION 2. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.078 to read as follows:

(2) In SECTION 2 of the bill, in proposed Section 109.53, Education Code (Senate Engrossment, page 4, line 2), strike "Sec. 109.53." and substitute "Sec. 61.078.".

(3) In SECTION 2 of the bill, in proposed Section 109.53(a), Education Code (Senate engrossment, page 4, lines 6 and 7), strike "Texas Tech University" and substitute "the board".

(4) In SECTION 2 of the bill, in proposed Section 109.53(c), Education Code (Senate engrossment, page 4, lines 18 and 19), strike "Texas Higher Education Coordinating Board" and substitute "board".

(5) In SECTION 2 of the bill, strike proposed Section 109.53(e), Education Code (Senate engrossment, page 5, lines 6 and 7).

The amendments were read.

Senator Brown moved to concur in the House amendments to **SB 1026**.

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

Absent-excused: Luna.

SENATE BILL 1288 WITH HOUSE AMENDMENTS

Senator Zaffirini called **SB 1288** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 1288** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the establishment and operation of a campus extension of The University of Texas Health Science Center at San Antonio.

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

SECTION 1. Chapter 74, Education Code, is amended by adding Subchapter M to read as follows:

**SUBCHAPTER M. UNIVERSITY OF TEXAS HEALTH
SCIENCE CENTER AT SAN ANTONIO CAMPUS EXTENSION**

Sec. 74.701. AUTHORITY TO ESTABLISH CAMPUS EXTENSION. The board of regents of The University of Texas System shall establish and operate a campus extension of The University of Texas Health Science Center at San Antonio in the city of Laredo if:

(1) a public or private entity offers the board of regents sufficient land in that city to construct a campus extension; and

(2) public or private entities agree to provide funds necessary to construct an administrative building for the campus extension.

Sec. 74.702. MANAGEMENT AND OPERATION OF CAMPUS EXTENSION.

(a) The board of regents may exercise any power granted to the board under Subchapter D in establishing and operating the campus extension.

(b) The board of regents shall assign responsibility for management of the campus extension to The University of Texas Health Science Center at San Antonio.

(c) The operating costs of the campus extension shall be paid from the operating funds of The University of Texas Health Science Center at San Antonio for that purpose and from available funds from any public or private entity.

(d) The campus extension may be used to provide undergraduate and graduate medical and dental education, including residency training programs, and other levels of health education work in collaboration with Texas A&M International University or any component institution of The Texas A&M University System or The University of Texas System.

Sec. 74.703. GIFTS AND GRANTS. The board of regents may accept and administer gifts and grants from any public or private person or entity for the use and benefit of the campus extension, including accepting and administering gifts and grants of land and physical facilities.

Sec. 74.704. FACILITIES. (a) The physical facilities of the campus extension used in teaching and research programs, including libraries, auditoriums, research facilities, and health education buildings, may be provided by a public or private entity. The board of regents is authorized to lease the facilities that are to be used as the physical facilities of the campus extension.

(b) A teaching hospital considered suitable by the board of regents may be provided by a public or private entity. The hospital may not be constructed, maintained, or operated with state funds.

Sec. 74.705. COORDINATING BOARD SUPERVISION. The campus extension is subject to the continuing supervision of the Texas Higher Education Coordinating Board under Chapter 61 and to the rules of the coordinating board adopted under Chapter 61.

SECTION 2. (a) Not later than January 1, 2000, the Texas Higher Education Coordinating Board shall prepare an impact statement examining the initial implementation of this Act and shall deliver a copy of the statement to the board of regents of The University of Texas System and to the chairs of the standing committees of each house of the legislature with primary jurisdiction over higher education.

(b) Not later than December 1, 1999, the board of regents of The University of Texas System shall report to the Texas Higher Education Coordinating Board if the conditions of Section 74.701, Education Code, as added by this Act, relating to the provision of land and an administrative building to the board of regents, have been satisfied.

SECTION 3. The board of regents of The University of Texas System is required to implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the board of regents of The University of Texas System may, but is not required to, implement this Act using other appropriations or private funds available for that purpose.

SECTION 4. This Act takes effect September 1, 1999.

SECTION 5. 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 1288** in SECTION 1 of the bill in added Section 74.702, Education Code, by inserting the following at the beginning of Subsection (d) (page 2, line 6, house committee printing): "The primary purpose of the campus extension is to support educational activities."

Floor Amendment No. 2

Amend **CSSB 1288**, in SECTION 2(a) of the bill (Committee printing page 3, line 4), by striking "January 1, 2000" and by substituting "August 31, 2000"

The amendments were read.

On motion of Senator Zaffirini, the Senate concurred in the House amendments to **SB 1288** by a viva voce vote.

SENATE BILL 724 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 724** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 724** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to continuing education courses and programs for public school educators.

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

SECTION 1. Section 8.053, Education Code, is amended to read as follows:

Sec. 8.053. **ADDITIONAL SERVICES.** In addition to the services provided under Section 8.051 and the initiatives implemented under Section 8.052, a regional education service center may:

(1) offer any service requested and purchased by any school district or campus in the state; and

(2) contract with a public or private entity for services under this subchapter, including the provision of continuing education courses and programs for educators.

SECTION 2. This Act takes effect September 1, 1999.

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.

The amendment was read.

On motion of Senator Zaffirini, the Senate concurred in the House amendment to **SB 724** by a viva voce vote.

SENATE BILL 1724 WITH HOUSE AMENDMENT

Senator Ellis called **SB 1724** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend proposed **SB 1724** as follows:

On page 2 strike lines 13-26 and on page 3 strike line 1 and substituting the following:

(8) include goals and methods for violence prevention and intervention on campus.

The amendment was read.

On motion of Senator Ellis, the Senate concurred in the House amendment to **SB 1724** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1961

Senator Barrientos 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 1961** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1961** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Barrientos, Chair; Bivins, Zaffirini, Sibley, and Nelson.

SENATE BILL 1195 WITH HOUSE AMENDMENT

Senator Shapiro called **SB 1195** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Ratliff in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1195** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to retainage on certain highway contracts.

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

SECTION 1. Section 223.010, Transportation Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) Five percent of the contract price shall be retained until the entire improvement has been completed and accepted except as provided in Subsection (h).

(h) Four percent of the contract price shall be retained until the entire improvement has been completed and accepted on any contract that includes the use of recycled materials.

SECTION 2. This Act takes effect September 1, 1999.

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.

The amendment was read.

On motion of Senator Shapiro, the Senate concurred in the House amendment to **SB 1195** by a viva voce vote.

SENATE BILL 995 WITH HOUSE AMENDMENT

Senator Lindsay called **SB 995** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 995** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to a review of the Harris County Hospital District.

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

SECTION 1. COMMISSION TO REVIEW AND REPORT ON HARRIS COUNTY HOSPITAL DISTRICT. (a) In this section:

- (1) "Commission" means the review commission created by this section.
- (2) "District" means the Harris County Hospital District.
- (b) A commission is created for the district to assist this state in reviewing the district.
- (c) The commission is composed of:
 - (1) two members of the house of representatives and one public member, appointed by the speaker of the house of representatives;
 - (2) two members of the senate and one public member, appointed by the lieutenant governor; and
 - (3) the chairman of the board of hospital managers of the district.
- (d) A member of the commission serves at the will of the appointing person.
- (e) The commission shall elect from among its members a presiding officer and any other necessary officers.
- (f) The commission shall meet at the call of the presiding officer.
- (g) A member of the commission receives no compensation for serving on the commission.
- (h) The commission shall review the enabling legislation for the district, which is Chapter 281, Health and Safety Code.
- (i) Not later than November 1, 2000, the commission shall file a report containing the results of the review under Subsection (h) of this section, including any recommendations for necessary changes to the district's enabling legislation, with the governor, lieutenant governor, and speaker of the house of representatives.

SECTION 2. APPOINTMENTS. Each appointment to the review commission established by Section 1 of this Act shall be made by July 1, 1999.

SECTION 3. ABOLISHMENT; EXPIRATION. On January 1, 2001, the review commission established by Section 1 of this Act is abolished and this Act expires.

SECTION 4. EMERGENCY. 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 Lindsay moved to concur in the House amendment to **SB 995**.

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

Absent-excused: Luna.

SENATE BILL 609 WITH HOUSE AMENDMENT

Senator Lindsay called **SB 609** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 609** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the duties of an attorney ad litem in a suit affecting the parent-child relationship.

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

SECTION 1. Section 107.014(b), Family Code, is amended to read as follows:

(b) An attorney ad litem appointed to represent a child shall within a reasonable time after the appointment:

- (1) interview the child if the child is four years of age or older;
- (2) interview individuals with significant knowledge of the child's history and condition, including the child's foster parents; and
- (3) interview all parties to the suit.

SECTION 2. This Act takes effect September 1, 1999, and applies only to an attorney ad litem appointed on or after that date. An attorney ad litem appointed before the effective date of this Act is governed by the law in effect on the date the attorney ad litem was appointed, and the former law is continued in effect for that purpose.

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.

On motion of Senator Lindsay, the Senate concurred in the House amendment to **SB 609** by a viva voce vote.

SENATE BILL 1238 WITH HOUSE AMENDMENT

Senator Nelson called **SB 1238** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1238** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to accreditation of environmental testing laboratories.

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

SECTION 1. Subtitle E, Title 5, Health and Safety Code, is amended by adding Chapter 421 to read as follows:

CHAPTER 421. ACCREDITATION OF
ENVIRONMENTAL TESTING LABORATORIES

Sec. 421.001. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Board of Health.

(2) "Department" means the Texas Department of Health.

(3) "Environmental testing laboratory" means a scientific laboratory that:

(A) performs analyses to determine the chemical, molecular, or pathogenic components of drinking water, wastewater, hazardous wastes, soil, or air for regulatory compliance purposes; and

(B) is either a commercial laboratory or an environmental laboratory that is required to be accredited under federal law.

Sec. 421.002. ADMINISTRATION BY DEPARTMENT. The department shall administer the voluntary environmental testing laboratory accreditation program established by this chapter.

Sec. 421.003. APPLICATION; FEE. (a) To be accredited under this chapter, an environmental testing laboratory must submit an application to the department on a form prescribed by the department, accompanied by the accreditation fee. The application must contain the information that the department requires.

(b) The board shall establish an accreditation fee in an amount sufficient to defray the cost of administering this chapter.

Sec. 421.004. ISSUANCE OF ACCREDITATION; RECIPROCITY. (a) The department may accredit an environmental testing laboratory that complies with the requirements established under this chapter.

(b) The board by rule may provide for the accreditation of an environmental testing laboratory that is accredited or licensed by another state.

Sec. 421.005. RULES; MINIMUM STANDARDS. The board shall adopt rules to implement this chapter and minimum performance and quality assurance standards for accreditation of an environmental testing laboratory.

Sec. 421.006. DISCIPLINE. After notice and an opportunity for hearing, the department may suspend or revoke the accreditation of an environmental testing laboratory that does not comply with the minimum performance and quality assurance standards established under this chapter.

SECTION 2. The heading of Subtitle E, Title 5, Health and Safety Code, is amended to read as follows:

SUBTITLE E. TEXAS DEPARTMENT OF
HEALTH PROGRAMS [~~WATER USE REGULATION~~]

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 Nelson moved to concur in the House amendment to **SB 1238**.

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

Absent-excused: Luna.

(Senator Brown in Chair)

SENATE BILL 1232 WITH HOUSE AMENDMENT

Senator Nelson called **SB 1232** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1232** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the regulation of birthing centers.

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

SECTION 1. Section 244.006, Health and Safety Code, is amended to read as follows:

Sec. 244.006. INSPECTIONS. (a) The department may inspect a birthing center at reasonable times as necessary to assure compliance with this chapter.

(b) If a birthing center's failure to comply with this chapter creates a serious threat to the health and safety of the public, the department may appoint a monitor for the center to ensure compliance with this chapter. The birthing center shall be liable for the cost of the monitor.

SECTION 2. Subsection (a), Section 244.011, Health and Safety Code, is amended to read as follows:

(a) The department may deny, suspend, or revoke a license for:

(1) a violation of this chapter or a rule adopted under this chapter; or

(2) a history of continuing noncompliance with this chapter or the rules adopted under this chapter.

SECTION 3. Chapter 244, Health and Safety Code, is amended by adding Sections 244.0105 and 244.0115 to read as follows:

Sec. 244.0105. COMPLAINTS. A person may file a complaint with the department against a birthing center licensed under this chapter. A person who files a false complaint may be prosecuted under the Penal Code.

Sec. 244.0115. EMERGENCY SUSPENSION. The department may issue an emergency order to suspend a license issued under this chapter if the department has

reasonable cause to believe that the conduct of a license holder creates an immediate danger to the public health and safety. On written request of the license holder, the department shall conduct a hearing not earlier than the seventh day or later than the 10th day after the date the notice of the emergency suspension is sent to the license holder to determine if the emergency suspension is to take effect, to be modified, or to be rescinded. The hearing and any appeal are governed by the department's rules for a contested case hearing and Chapter 2001, Government Code.

SECTION 4. (a) This Act takes effect September 1, 1999.

(b) The change in law made by this Act relating to emergency suspension applies only to a violation that occurs on or after the effective date of this Act. For the purposes of this section, a violation is committed before the effective date of this Act if any element of the violation occurs before that date. A violation that occurred before the effective date of this Act is covered by the law in effect when the violation occurred, and the former law is continued in effect for that purpose.

SECTION 5. 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.

On motion of Senator Nelson, the Senate concurred in the House amendment to **SB 1232** by a viva voce vote.

SENATE BILL 1249 WITH HOUSE AMENDMENT

Senator Nelson called **SB 1249** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1249** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the licensing of ambulatory surgical centers.

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

SECTION 1. Subsection (b), Section 243.006, Health and Safety Code, is amended to read as follows:

(b) An ambulatory surgical center licensed by the department and certified under Title XVIII of the Social Security Act (42 U.S.C. Section 1395 et seq.) is ~~[not]~~ subject to an on-site [additional] licensing inspection [inspections] under this chapter once every three years while the center maintains the certification.

SECTION 2. Chapter 243, Health and Safety Code, is amended by adding Section 243.0115 to read as follows:

Sec. 243.0115. EMERGENCY SUSPENSION. The department may issue an emergency order to suspend a license issued under this chapter if the department has reasonable cause to believe that the conduct of a license holder creates an immediate danger to the public health and safety. An emergency suspension is effective

immediately without a hearing on notice to the license holder. On written request of the license holder, the department shall conduct a hearing not earlier than the 10th day or later than the 30th day after the date the hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded. The hearing and any appeal are governed by the department's rules for a contested case hearing and Chapter 2001, Government Code.

SECTION 3. (a) This Act takes effect September 1, 1999.

(b) The change in law made by this Act relating to emergency suspension applies only to a violation that occurs on or after the effective date of this Act. For the purposes of this section, a violation is committed before the effective date of this Act if any element of the violation occurs before that date. A violation that occurred before the effective date of this Act is covered by the law in effect when the violation occurred, and the former law is continued in effect for that purpose.

SECTION 4. 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.

On motion of Senator Nelson, the Senate concurred in the House amendment to **SB 1249** by a viva voce vote.

SENATE BILL 1169 WITH HOUSE AMENDMENT

Senator Wentworth called **SB 1169** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1169** by striking Section 521.006(c), Transportation Code, as added by SECTION 1 of the bill (Engrossed version, page 1, lines 13-16), and substituting the following:

(c) The department may not include in the driver's handbook advertising for an alcoholic beverage or a product promoting alcoholic beverages.

The amendment was read.

On motion of Senator Wentworth, the Senate concurred in the House amendment to **SB 1169** by a viva voce vote.

SENATE CONCURRENT RESOLUTION 56 WITH HOUSE AMENDMENT

Senator Lindsay called **SCR 56** from the President's table for consideration of the House amendment to the resolution.

The Presiding Officer laid the resolution and the House amendment before the Senate.

Amendment

Amend **SCR 56** by substituting in lieu thereof the following:

CONCURRENT RESOLUTION

WHEREAS, The protection and maintenance of water quality is an important goal of the State of Texas; and

WHEREAS, The federal Clean Water Act (33 U.S.C. Section 1251 et seq.) establishes a partnership between the state and federal governments in meeting this goal; and

WHEREAS, The United States Army Corps of Engineers has primary authority over the operation of the national permit program for the placement of dredged and fill materials into waters of the United States, including wetlands; and

WHEREAS, States have permissive authority under Section 401 of the federal Clean Water Act (33 U.S.C. Section 1341) to certify whether the issuance of certain federal permits complies with state water quality standards; and

WHEREAS, The United States Army Corps of Engineers operates its Section 404 permit program in compliance with a memorandum of agreement with the United States Environmental Protection Agency designed to fulfill the national goal of no net loss of wetlands; and

WHEREAS, Through the implementation of the wetlands preservation program, the United States Army Corps of Engineers seeks to avoid, minimize, and mitigate damage to wetlands and wetlands habitat; and

WHEREAS, Prior to granting a permit, the United States Army Corps of Engineers receives comments from a variety of state and federal resource agencies, including the United States Fish and Wildlife Service, the Texas Parks and Wildlife Department, the Texas Natural Resource Conservation Commission, and others; and

WHEREAS, It is in the interest of all state and federal taxpayers to eliminate duplication between state and federal agency programs; and

WHEREAS, Current Texas Natural Resource Conservation Commission procedures in providing Section 401 certification for United States Army Corps of Engineers permits duplicates the wetlands analysis required to be conducted by the United States Army Corps of Engineers; now, therefore, be it

RESOLVED by the Legislature of the State of Texas, That it is the intent of the legislature that the Texas Natural Resource Conservation Commission should attempt to eliminate duplication between its Section 401 water quality certification program and the review conducted by the United States Army Corps of Engineers; and, be it further

RESOLVED, That it is the intent of the legislature that the Texas Natural Resource Conservation Commission should amend its rules to provide that, except where necessary to maintain delegation or approval of a federally delegated or approved program, the Texas Natural Resource Conservation Commission shall waive Section 401 certification, in accordance with the authority of the federal Clean Water Act, for those projects for which the United States Army Corps of Engineers has conducted a review under Section 404(b) of the Act (33 U.S.C. Section 1344); and, be it further

RESOLVED, That it is the intent of the legislature that, if some review is required to maintain delegation or approval of a federally delegated or approved program, the Texas Natural Resource Conservation Commission shall develop a review process in compliance with approved water quality standards that is no more stringent than specifically required by federal law that, to the maximum extent practicable, implements acreage thresholds, geographic limitations, expedited review processes, waivers of project types, and similar provisions necessary to eliminate duplication of federal activities and assist compliance by permit applicants; and, be it further

RESOLVED, That it is the intent of the legislature that savings that can be realized from eliminating duplication of United States Army Corps of Engineers Section 404 permit evaluations shall be utilized by the Texas Natural Resource Conservation Commission to meet the demands of the water quality protection program.

The amendment was read.

On motion of Senator Lindsay, the Senate concurred in the House amendment to **SCR 56** by a viva voce vote.

SENATE BILL 1122 WITH HOUSE AMENDMENT

Senator Armbrister called **SB 1122** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Brown in Chair, laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 on Third Reading

Amend **SB 1122**, on third reading, by striking the language in the Gallego Amendment to the amendment (Second reading amendment No. 2) in SECTION 5 of the bill, "on the first day that it may take effect under Section 39, Article III, Texas Constitution" and by substituting "September 1, 1999"

The amendment was read.

Senator Armbrister moved to concur in the House amendment to **SB 1122**.

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

Absent-excused: Luna.

SENATE CONCURRENT RESOLUTION 33 WITH HOUSE AMENDMENTS

Senator Ratliff called **SCR 33** from the President's table for consideration of the House amendments to the resolution.

The Presiding Officer laid the resolution and the House amendments before the Senate.

Amendment

Amend **SCR 33** by substituting in lieu thereof the following:

CONCURRENT RESOLUTION

WHEREAS, Gibson Recycling, Inc., alleges that Gibson Recycling, Inc., entered into an agreement with the Texas Natural Resource Conservation Commission under the waste tire recycling program to recycle waste tires; and

WHEREAS, Gibson Recycling, Inc., alleges that it performed its obligations under the waste tire recycling program; and

WHEREAS, Gibson Recycling, Inc., alleges that the Texas Natural Resource Conservation Commission failed to perform its obligations under the agreement and under the waste tire recycling program; and

WHEREAS, Gibson Recycling, Inc., alleges that the Texas Natural Resource Conservation Commission has caused Gibson Recycling, Inc., to undergo an audit on its operations under the waste tire recycling program; and

WHEREAS, Gibson Recycling, Inc., alleges that the Texas Natural Resource Conservation Commission has failed to pay Gibson Recycling, Inc., \$400,000 to which it is lawfully entitled under the waste tire recycling program; and

WHEREAS, Gibson Recycling, Inc., alleges that it has sustained damages as a result of the actions of the Texas Natural Resource Conservation Commission; now, therefore, be it

RESOLVED by the Legislature of the State of Texas, That Gibson Recycling, Inc., is granted permission to file a claim against the Texas Natural Resource Conservation Commission with the State Office of Administrative Hearings for amounts owed under the agreement to recycle waste tires; and, be it further

RESOLVED, That an administrative law judge of the State Office of Administrative Hearings shall hear the claim as a contested case under Chapter 2001, Government Code, and render a written order containing the administrative law judge's findings of facts and recommendations; and, be it further

RESOLVED, That the Texas Natural Resource Conservation Commission may assert in the contested case authorized by this resolution any counterclaim or offset that the commission claims against Gibson Recycling, Inc., with respect to the agreement; and, be it further

RESOLVED, That the Texas Natural Resource Conservation Commission shall pay, exclusively from money appropriated for this purpose, the claim or any part of the claim if the administrative law judge finds, by a preponderance of the evidence, the claim or part of the claim is valid under the laws of this state; and, be it further

RESOLVED, That the amount awarded by the administrative law judge in a contested case authorized by this resolution may not include any amount attributable to consequential damages resulting from any breach of contract or punitive or exemplary damages; and, be it further

RESOLVED, That the amount of a claim paid in accordance with any order of an administrative law judge may not exceed the balance due and owing on the contract price, including any orders for additional work, less any amount owed for work not performed under the contract or in substantial compliance with the contract and less the amount of any valid counterclaim or offset asserted by the Texas Natural Resource Conservation Commission; and, be it further

RESOLVED, That any act, finding, ruling, or award of an administrative law judge in a contested case authorized under this resolution is not subject to appeal to any court of this state; and, be it further

RESOLVED, That the administrative law judge may establish a fee in an amount that allows the State Office of Administrative Hearings to recover its costs with respect to the contested case authorized by this resolution, and assess the fee against the party that does not prevail in the contested case or apportion the fee against the parties to the contested case in an equitable manner; and, be it further

RESOLVED, That if legislation is enacted by the 76th Legislature under which the State Office of Administrative Hearings may hear contract claims against the state, the hearings held by the State Office of Administrative Hearings in accordance with this resolution shall be held in accordance with that legislation and any rules or procedures adopted under that legislation.

Floor Amendment No. 1

Amend **CSSCR 33** in the first resolving clause, between "waste tires" and the semi-colon, by inserting the following:
provided that, before pursuing the contested case authorized by this resolution, Gibson Recycling, Inc., shall attempt to resolve the claim through third-party mediation and the Texas Natural Resources Conservation Commission is directed to make a good faith effort to resolve the claim through the mediation

The amendments were read.

On motion of Senator Ratliff, the Senate concurred in the House amendments to **SCR 33** by a viva voce vote.

SENATE BILL 669 WITH HOUSE AMENDMENTS

Senator Ratliff called **SB 669** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Brown in Chair, laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 669** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to certain contracting procedures for school districts and institutions of higher education.

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

SECTION 1. Subsections (a), (d), (f), (g), (h), (i), (j), and (l), Section 44.031, Education Code, are amended to read as follows:

(a) Except as provided by this subchapter, all school district contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$25,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for [tø] the district:

- (1) competitive bidding;
- (2) competitive sealed proposals;
- (3) a request for proposals, for services other than construction services;
- (4) a catalogue purchase as provided by Subchapter B, Chapter 2157, Government Code;
- (5) an interlocal contract;
- (6) a design/build contract;
- (7) a contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager; or
- (8) a job order contract for the minor construction, repair, rehabilitation, or alteration of a facility.

(d) The board of trustees of the district may adopt rules and procedures for the acquisition of goods or services.

(f) This section does not apply to contracts [~~fees received~~] for professional services [~~rendered, including architect's fees, attorney's fees, and fees for fiscal agents~~]. In this subsection, "professional services" has the meaning assigned by Section 2254.002.

(g) Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. ~~If[, except that on contracts involving less than \$25,000, the advertising may be limited to two successive issues of any newspaper published in the county in which the district's central administrative office is located, and if]~~ there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately.

(h) If school equipment or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the board of trustees determines that the delay posed by the methods provided for in this section ~~[competitive bidding process]~~ would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment or the part of the school facility may be made by methods other than those ~~[without competitive bidding as otherwise]~~ required by this section.

(i) ~~A [The board of trustees of a]~~ school district may acquire computers and computer-related equipment, including computer software, through the General Services Commission under contracts entered into in accordance with Chapter 2157, Government Code. Before issuing an invitation for bids, the commission shall consult with the agency concerning the computer and computer-related equipment needs of school districts. To the extent possible the resulting contract shall provide for such needs.

(j) Without complying with Subsection (a), ~~[the board of trustees of]~~ a school district may purchase an item that is available from only one source, including:

- (1) an item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly;
- (2) a film, manuscript, or book;
- (3) a utility service, including electricity, gas, or water; and
- (4) a captive replacement part or component for equipment.

(l) Each contract proposed to be made by ~~[the board of trustees of]~~ a school district for the purchase or lease of one or more school buses, including a lease with an option to purchase, must be submitted to competitive bidding when the contract is valued at \$20,000 or more.

SECTION 2. Subchapter B, Chapter 44, Education Code, is amended by adding Sections 44.0311 and 44.0312 to read as follows:

Sec. 44.0311. APPLICABILITY TO JUNIOR COLLEGE DISTRICTS. (a) This subchapter applies to junior college districts.

(b) For purposes of this subchapter, "board of trustees" includes the governing board of a junior college district.

Sec. 44.0312. DELEGATION. (a) The board of trustees of the district may, as appropriate, delegate its authority under this subchapter regarding an action authorized or required by this subchapter to be taken by a school district to a designated person, representative, or committee. In procuring construction services, the district shall provide notice of the delegation and the limits of the delegation in the request for

bids, proposals, or qualifications or in an addendum to the request. If the district fails to provide that notice, a ranking, selection, or evaluation of bids, proposals, or qualifications for construction services other than by the board of trustees in an open public meeting is advisory only.

(b) The board may not delegate the authority to act regarding an action authorized or required by this subchapter to be taken by the board of trustees of a school district.

SECTION 3. Subsection (f), Section 44.032, Education Code, is amended to read as follows:

(f) A court may enjoin performance of a contract made in violation of this subchapter [Section 44.031(a) or (b)]. A county attorney, a district attorney, a criminal district attorney, ~~[or]~~ a citizen of the county in which the school district is located, ~~or any interested party~~ may bring an action for an injunction. A party ~~[citizen]~~ who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court.

SECTION 4. Section 44.035, Education Code, is amended to read as follows:

Sec. 44.035. EVALUATION OF BIDS AND [COMPETITIVE SEALED] PROPOSALS FOR CONSTRUCTION SERVICES. (a) The board of trustees of a school district that is considering a construction contract using a method specified by Section 44.031(a) must, before advertising, determine which method [Except as otherwise provided by this subchapter, a school district using competitive sealed proposals to select a contractor for construction services, to select a construction manager, or to award a job order contract for construction services shall base its selection or award on a combination of price and other factors that the district determines] provides the best value for [to] the district.

(b) The [A school] district shall base its selection among offerors on criteria authorized to be used under Section 44.031(b). The district shall publish in the request for bids, proposals, or qualifications the criteria that will be used to evaluate the offerors and the relative weights, if known at the time of the publication, given to the criteria [using competitive sealed proposals may discuss proposals with offerors after proposals have been opened to allow for clarification and changes. The district shall take adequate precautions to ensure that information from competing proposals is not disclosed to other offerors].

(c) The district shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

SECTION 5. Subdivision (3), Subsection (a), Section 44.036, Education Code, is amended to read as follows:

(3) "Design criteria package" means a set of documents that provides sufficient information to permit a design-build firm to prepare a response to a school district's request for qualifications and any additional information requested, including criteria for selection [proposals]. The design criteria package must specify criteria the district considers necessary to describe the project and may include, as appropriate, the legal description of the site, survey information concerning the site, interior space requirements, special material requirements, material quality standards, conceptual criteria for the project, special equipment requirements, cost or budget estimates, time schedules, quality assurance and quality control requirements, site development requirements, applicable codes and ordinances, provisions for utilities, parking requirements, or any other requirement, as applicable.

SECTION 6. Subsections (e), (f), and (j), Section 44.036, Education Code, are amended to read as follows:

(e) The district shall evaluate statements of qualifications [~~proposals~~] and select a design-build firm in two phases:

(1) In phase one, the district shall prepare a request for qualifications and evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Each offeror must certify to the district that each engineer or architect that is a member of its team was selected based on demonstrated competence and qualifications. The district shall qualify a maximum of five [~~potential~~] offerors to submit additional information and, if the district chooses, to interview for final selection [~~regarding technical proposals, implementation, and costing methodologies in response to a formal request for proposals based on the design criteria package~~].

(2) In phase two, the district shall evaluate the information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of any interview. The district may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, costing methodology, or other factors as appropriate. The district may not require offerors to submit detailed engineering or architectural designs as part of the proposal. The district shall rank each proposal submitted on the basis of the criteria set forth in the request for qualifications. The district shall select the design-build firm that submits the proposal offering the best value for the district on the basis of the published selection criteria and on its ranking evaluations. The district shall first attempt to negotiate with the selected offeror a contract. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(f) Following selection of a design-build firm under Subsection (e), that firm's engineers or architects shall complete the design, submitting all design elements for review and determination of scope compliance to [~~by~~] the district or district's engineer or architect before or concurrently with construction.

(j) A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract under this section that includes design services only. If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the district must each be in an amount equal to the project budget, as specified in the design criteria package. The design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the district to ensure that the design-build firm will furnish the required performance and payment bonds when a guaranteed maximum price is established.

SECTION 7. Subsections (b) and (c), Section 44.037, Education Code, are amended to read as follows:

(b) A construction manager-agent is a sole proprietorship, partnership, corporation, or other legal entity that provides consultation to the school district

regarding construction, rehabilitation, alteration, or repair of the facility. A district using the construction manager-agent method may, under the contract between the district and the construction manager-agent, require the construction manager-agent to provide administrative personnel, equipment necessary to perform duties under this section, and on-site management and other services specified in the contract. A construction manager-agent represents the district in a fiduciary capacity[~~except that it may perform general conditions as provided by the contract~~].

(c) Before or concurrently with selecting a construction manager-agent, the district shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), as applicable. If the engineer or architect is not a full-time employee of the district, the district shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code. The district's engineer or architect may not serve, alone or in combination with another person, as the construction manager-agent unless the engineer or architect is hired to serve as the construction manager-agent under a separate or concurrent procurement conducted in accordance with this subchapter. This subsection does not prohibit the district's engineer or architect from providing customary construction phase services under the engineer's or architect's original professional service agreement in accordance with applicable licensing laws.

SECTION 8. Sections 44.038 and 44.039, Education Code, are amended to read as follows:

Sec. 44.038. **CONTRACTS FOR FACILITIES: CONSTRUCTION MANAGER-AT-RISK.** (a) A school district may use the construction manager-at-risk method for the construction, rehabilitation, alteration, or repair of a facility. In using that method and in entering into a contract for the services of a construction manager-at-risk, a district shall follow the procedures prescribed by this section.

(b) A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the school district regarding construction during and after the design of the facility.

(c) Before or concurrently with selecting a construction manager-at-risk, the district shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), as applicable. If the engineer or architect is not a full-time employee of the district, the district shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code. The district's engineer, architect, or construction manager-agent for a project may not serve, alone or in combination with another, as the construction manager-at-risk.

(d) The district shall provide or contract for, independently of the construction manager-at-risk, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the

facility by the district. The district shall select those services for which it contracts in accordance with Section 2254.004, Government Code.

(e) The district shall select the construction manager-at-risk in either a one-step or two-step process. The district shall prepare a request for ~~[competitive sealed]~~ proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes general information on the project site, project scope, schedule, selection criteria, estimated budget, and the time and place for receipt of proposals or qualifications, as applicable, a statement as to whether the selection process is a one-step or two-step process, and other information that may assist the district in its selection of a construction manager-at-risk. The district shall state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager-at-risk. If a one-step process is used, the district may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the district may not request fees or prices in step one. In step two, the ~~[The]~~ district may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including ~~[proposals provide]~~ the construction manager-at-risk's ~~[manager's]~~ proposed fee and its price for fulfilling the general conditions. ~~[The district shall state the selection criteria in the request for proposals. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager.]~~

(f) At each step, the ~~[The district may provide for prequalifying offerors before proposals are submitted. Prequalification may not be a conclusive determination that an offeror offers the best value to the district, and a prequalified offeror may be rejected on the basis of subsequently discovered information. A failure to prequalify does not bar a subsequent determination that an offeror offers the best value to the district with respect to a given proposal.]~~

~~[(g) The]~~ district shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the district shall also read aloud the fees and prices, if any, stated in [and the monetary proposals, if any, for] each proposal as the proposal is opened. Within 45 days after the date of opening the proposals, the district shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

(g) ~~[(h)]~~ The district shall select the offeror that submits the proposal that offers the best value for ~~[to]~~ the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate with the selected offeror a contract. If the district is unable to negotiate [reach] a satisfactory contract [agreement] with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror [terminate further discussions] and proceed to negotiate with the next offeror in the order of the selection ranking until a contract [agreement] is reached or negotiations with all ranked offerors end [all proposals are rejected].

(h) ~~[(i)]~~ A construction manager-at-risk shall publicly advertise, in accordance with Section 44.031(g), and receive bids or [and solicit either competitive bids or competitive sealed] proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to

perform portions of the work itself if the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if the district determines that the construction manager-at-risk's bid or proposal provides the best value for the district.

(i) ~~[(f)]~~ The construction manager-at-risk and the district or its representative shall ~~review~~ ~~[receive and open]~~ all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, engineer, architect, or district. All bids or proposals shall be made public after the award of the contract or within seven days after the date of final selection of bids or proposals, whichever is later.

(j) ~~[(k)]~~ If the construction manager-at-risk reviews, evaluates, and recommends to the district a bid or proposal from a trade contractor or subcontractor but the district requires another bid or proposal to be accepted, the district shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk may incur because of the district's requirement that another bid or proposal be accepted.

(k) If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction manager-at-risk may, without advertising, itself fulfill the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

(l) If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the district must each be in an amount equal to the project budget, as specified in the request for qualifications. The construction manager shall deliver the bonds not later than the 10th day after the date the construction manager executes the contract unless the construction manager furnishes a bid bond or other financial security acceptable to the district to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Sec. 44.039. SELECTING CONTRACTOR FOR CONSTRUCTION SERVICES THROUGH COMPETITIVE SEALED PROPOSALS. (a) In selecting a contractor for construction, rehabilitation, alteration, or repair services for a facility through competitive sealed proposals, a school district shall follow the procedures prescribed by this section.

(b) The district shall select or designate an engineer or architect to prepare construction documents for the project. The selected or designated engineer or architect has full responsibility for complying with The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), as applicable. If the engineer or architect is not a full-time employee of the district, the district shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

(c) The district shall provide or contract for, independently of the contractor, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the district. The district shall select those services for which it contracts in accordance with Section 2254.004, Government Code, and shall identify them in the request for proposals.

(d) The district shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria, estimated budget, project scope, schedule, and other information that contractors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror ~~[in the request for proposals]. [The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the contractor.]~~

(e) ~~[The district may provide for prequalifying offerors before proposals are submitted. Prequalification may not be a conclusive determination that an offeror offers the best value to the district, and a prequalified offeror may be rejected on the basis of subsequently discovered information. A failure to prequalify does not bar a subsequent determination that an offeror offers the best value to the district with respect to a given proposal.]~~

~~[(f)]~~ The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices ~~[the monetary proposals, if any,]~~ stated in each proposal. Within 45 days after the date of opening the proposals, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

~~[(f)]~~ ~~[(g)]~~ The district shall select the offeror that offers the best value ~~for~~ for ~~[to]~~ the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate with the selected offeror a contract. The district and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification ~~[cost reduction]~~. If the district is unable to negotiate ~~[reach]~~ a contract ~~[agreement]~~ with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror ~~[terminate further discussions]~~ and proceed to the next offeror in the order of the selection ranking until a contract ~~[agreement]~~ is reached or all proposals are rejected.

~~[(g)]~~ ~~[(h)]~~ In determining best value for the district, the district is not restricted to considering price alone, but may consider any other factor stated in the selection criteria.

SECTION 9. Subsection (b), Section 44.040, Education Code, is amended to read as follows:

(b) Except as otherwise specifically provided by this subsection, Subchapter B, Chapter 271 [Sections 271.021, 271.022, 271.026, 271.027(a), and 271.0275-271.030], Local Government Code, does not apply to a competitive bidding process under this subchapter [section]. Sections 271.026, 271.027(a), and 271.0275, Local Government Code, apply to a competitive bidding process under this subchapter.

SECTION 10. Section 44.041, Education Code, is amended to read as follows:

Sec. 44.041. JOB ORDER CONTRACTS FOR FACILITIES CONSTRUCTION OR REPAIR. (a) A school district may award job order contracts for the minor construction, repair, rehabilitation, or alteration of a facility if the work is of a recurring nature but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of prescribed and prepriced tasks.

(b) The school district may establish contractual unit prices for a job order contract by:

(1) specifying one or more published construction unit price books and the applicable divisions or line items; or

(2) providing a list of work items and requiring the offerors to bid or propose one or more coefficients or multipliers to be applied to the price book or work items as the price proposal.

~~(c) The school district shall advertise for, receive, and publicly open [competitive] sealed proposals for job order contracts [based on time and material rates for various types and classifications of work. The rates under a job order contract shall be in effect for at least six months and for not longer than two years].~~

~~(d) [(e)] The district may require offerors to submit additional information besides rates, including experience, past performance, and proposed personnel and methodology.~~

~~(e) [(d)] The district may award job order contracts to one or more job order contractors in connection with each solicitation of bids or [based on price] proposals [experience, past performance, proposed personnel and methodology, safety record, and other appropriate factors].~~

~~(f) [(e)] An order for a job or project under the job order contract must be signed by the district's representative and the contractor. The order may be a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities [a statement of work negotiated between the district or its representative and the contractor,] or [the order] may be a unit price order based on the [estimated] quantities and line items delivered.~~

~~(g) The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order.~~

~~(h) The base term of a job order contract is for the period and with any renewal option that the district sets forth in the request for proposals. If the district fails to advertise that term, the base term may not exceed two years and is not renewable without further advertisement and solicitation of proposals.~~

~~(i) If a job order contract or an order issued under the contract requires engineering or architectural services that constitute the practice of engineering within the meaning of The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or the practice of architecture within the meaning of Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), those services shall be provided in accordance with applicable law.~~

SECTION 11. Section 51.776(8), Education Code, is amended to read as follows:

(8) "Institution" means an institution of higher education as defined by Section 61.003, other than a public junior college.

SECTION 12. Section 51.779, Education Code, is amended to read as follows:

Sec. 51.779. EVALUATION OF BIDS AND ~~[COMPETITIVE SEALED]~~ PROPOSALS FOR CONSTRUCTION SERVICES. (a) An institution that is considering a construction contract using a method authorized by this subchapter must, before advertising, determine which method ~~[Except as otherwise provided by this subchapter, the board of an institution using competitive sealed proposals to select a contractor for construction services, to select a construction manager, or to award a job order contract for construction services shall base its selection or award on a combination of price and other factors that the board determines] provides the best value for [to] the institution.~~

(b) The [An] institution shall base its selection among the offerors on criteria established by the institution. The institution shall publish in the request for bids,

proposals, or qualifications the criteria that will be used to evaluate the offerors and the relative weights, if known at the time of the publication, given to the criteria [using competitive sealed proposals may discuss proposals with offerors after proposals have been opened to allow for clarification and changes. The institution shall take adequate precautions to ensure that information from competing proposals is not disclosed to other offerors].

(c) The institution shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

SECTION 13. Subdivision (3), Subsection (a), Section 51.780, Education Code, is amended to read as follows:

(3) "Design criteria package" means a set of documents that provides sufficient information to permit a design-build firm to prepare a response to an institution's request for qualifications and any additional information requested, including criteria for selection [proposals]. The design criteria package must specify criteria the institution considers necessary to describe the project and may include, as appropriate, the legal description of the site, survey information concerning the site, interior space requirements, special material requirements, material quality standards, conceptual criteria for the project, special equipment requirements, cost or budget estimates, time schedules, quality assurance and quality control requirements, site development requirements, applicable codes and ordinances, provisions for utilities, parking requirements, or any other requirement, as applicable.

SECTION 14. Subsections (f) and (k), Section 51.780, Education Code, are amended to read as follows:

(f) The board or its representative shall evaluate statements of qualifications [proposals] and select a design-build firm in two phases:

(1) In phase one, the board or its representative shall prepare a request for qualifications and evaluate each offeror's experience, technical competence, and capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Each offeror must certify to the board that each engineer or architect that is a member of its team was selected based on demonstrated competence and qualifications. The board or its representative shall qualify a maximum of five [potential] offerors to submit additional information and, if the board or its representative chooses, to interview for final selection [regarding technical proposals, implementation, and costing methodologies in response to a formal request for proposals based on the design criteria package].

(2) In phase two, the board or its representative shall evaluate the information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of any interview. The board or its representative may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, costing methodology, or other factors as appropriate. The board or its representative [institution] may not require offerors to submit detailed engineering or architectural designs [design] as part of the proposal. The board or its representative shall rank each proposal submitted on the basis of the criteria specified in the request for qualifications. The board or its representative shall select the design-build firm that submits the proposal offering the best value for the institution on

the basis of the published selection criteria and on its ranking evaluations. The board or its representative shall first attempt to negotiate with the selected offeror a contract. If the board or its representative is unable to negotiate a satisfactory contract with the selected offeror, the institution shall, formally and in writing, end all negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

(k) A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract under this section that includes design services only. If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to the institution shall each be in an amount equal to the project budget, as specified in the design criteria package. The design-build firm shall deliver the bonds not later than the 10th day after the date the design-build firm executes the contract unless the design-build firm furnishes a bid bond or other financial security acceptable to the institution to ensure that the design-build firm will furnish the required performance and payment bonds when a guaranteed maximum price is established.

SECTION 15. Subsections (b) and (c), Section 51.781, Education Code, are amended to read as follows:

(b) A construction manager-agent is a sole proprietorship, partnership, corporation, or other legal entity that provides consultation to the institution regarding construction, rehabilitation, alteration, or repair of the facility. An institution using the construction manager-agent method may, under the contract between the institution and the construction manager-agent, require the construction manager-agent to provide administrative personnel, equipment necessary to perform duties under this section, and on-site management and other services specified in the contract. A construction manager-agent represents the institution in a fiduciary capacity[~~, except that it may perform general conditions as provided by the contract~~].

(c) Before or concurrently with selecting a construction manager-agent, the board shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), as applicable. If the engineer or architect is not a full-time employee of the institution, the board shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code. The institution's engineer or architect may not serve, alone or in combination with another person, as the construction manager-agent unless the engineer or architect is hired to serve as the construction manager-agent under a separate or concurrent procurement conducted in accordance with this subchapter. This subsection does not prohibit the institution's engineer or architect from providing customary construction phase services under the engineer's or architect's original professional service agreement in accordance with applicable licensing laws.

SECTION 16. Sections 51.782, 51.783, and 51.784, Education Code, are amended to read as follows:

Sec. 51.782. CONTRACTS FOR FACILITIES: CONSTRUCTION MANAGER-AT-RISK. (a) An institution may use the construction manager-at-risk method for the construction, rehabilitation, alteration, or repair of a facility. In using

that method and in entering into a contract for the services of a construction manager-at-risk, a board shall follow the procedures prescribed by this section.

(b) A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the institution regarding construction during and after the design of the facility.

(c) Before or concurrently with selecting a construction manager-at-risk, the board shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), as applicable. If the engineer or architect is not a full-time employee of the institution, the board shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code. The institution's engineer, architect, or construction manager-agent for a project may not serve, alone or in combination with another, as the construction manager-at-risk.

(d) The board shall provide or contract for, independently of the construction manager-at-risk, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the institution. The board shall select those services for which it contracts in accordance with Section 2254.004, Government Code.

(e) The board shall select the construction manager-at-risk in either a one-step or two-step process. The board shall prepare a request for [competitive sealed] proposals, in the case of a one-step process, or a request for qualifications, in the case of a two-step process, that includes general information on the project site, project scope, schedule, selection criteria, estimated budget, and the time and place for receipt of proposals or qualifications, as applicable, a statement as to whether the selection process is a one-step or two-step process, and other information that may assist the board in its selection of a construction manager-at-risk. The board shall state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager-at-risk. If a one-step process is used, the board may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the board may not request fees or prices in step one. In step two, the [The] board may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including [proposals provide] the construction manager-at-risk's [manager's] proposed fee and its price for fulfilling the general conditions. [The board shall state the selection criteria in the request for proposals. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager.]

(f) The board shall publish the request for qualifications [proposals] in a manner prescribed by the board.

(g) ~~At each step, the [The board may provide for prequalifying offerors before proposals are submitted. Prequalification may not be a conclusive determination that~~

an offeror offers the best value to the institution, and a prequalified offeror may be rejected on the basis of subsequently discovered information. A failure to prequalify does not bar a subsequent determination that an offeror offers the best value to the institution with respect to a given proposal.

~~[(h) The]~~ board shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the board shall also read aloud the fees and prices, if any, stated in [and the monetary proposals, if any, for] each proposal as the proposal is opened. Within 45 days after the date of opening the proposals, the board or its representative shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

~~(h) [(†)]~~ The board or its representative shall select the offeror that submits the proposal that offers the best value for [to] the institution based on the published selection criteria and on its ranking evaluation. The board or its representative shall first attempt to negotiate with the selected offeror a contract. If the board or its representative is unable to negotiate [reach] a satisfactory contract [agreement] with the selected offeror, the board or its representative shall, formally and in writing, end negotiations with that offeror [terminate further discussions] and proceed to negotiate with the next offeror in the order of the selection ranking until a contract [agreement] is reached or negotiations with all ranked offerors end [all proposals are rejected].

~~(i) [(†)]~~ A construction manager-at-risk shall publicly advertise, in the manner prescribed by the institution, and receive bids or [and solicit either competitive bids or competitive sealed] proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if the board determines that the construction manager-at-risk's bid or proposal provides the best value for the institution.

~~(j) [(†)]~~ The construction manager-at-risk and the board or its representative shall review [receive and open] all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, engineer, architect, or institution. All bids or proposals shall be made public after the award of the contract or within seven days after the date of final selection of bids and proposals, whichever is later.

~~(k) [(†)]~~ If the construction manager-at-risk reviews, evaluates, and recommends to the board a bid or proposal from a trade contractor or subcontractor but the board requires another bid or proposal to be accepted, the institution shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk may incur because of the board's requirement that another bid or proposal be accepted.

~~(l)~~ If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction manager-at-risk may, without advertising, itself fulfill the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

~~(m)~~ If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the institution must each be in an amount equal to the

project budget, as set forth in the request for qualifications. The construction manager shall deliver the bonds not later than the 10th day after the date the construction manager executes the contract unless the construction manager furnishes a bid bond or other financial security acceptable to the institution to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established.

Sec. 51.783. SELECTING CONTRACTOR FOR CONSTRUCTION SERVICES THROUGH COMPETITIVE SEALED PROPOSALS. (a) In selecting a contractor for construction, rehabilitation, alteration, or repair services for a facility through competitive sealed proposals, a board shall follow the procedures prescribed by this section.

(b) The board shall select or designate an engineer or architect to prepare construction documents for the project. The selected or designated engineer or architect has full responsibility for complying with The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), as applicable. If the engineer or architect is not a full-time employee of the institution, the board shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Section 2254.004, Government Code.

(c) The board shall provide or contract for, independently of the contractor, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the institution. The board shall select those services for which it contracts in accordance with Section 2254.004, Government Code, and shall identify them in the request for proposals.

(d) The board shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria, estimated budget, project scope, schedule, and other information that contractors may require to respond to the request. The board shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror [in the request for proposals]. ~~[The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the contractor.]~~

(e) The board shall publish notice of the request for proposals in a manner prescribed by the board.

(f) ~~[The board may provide for prequalifying offerors before proposals are submitted. Prequalification may not be a conclusive determination that an offeror offers the best value to the institution, and a prequalified offeror may be rejected on the basis of subsequently discovered information. A failure to prequalify does not bar a subsequent determination that an offeror offers the best value to the institution with respect to a given proposal.]~~

~~[(g)]~~ The board shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices ~~[the monetary proposals, if any,]~~ stated in each proposal. Within 45 days after the date of opening the proposals the board shall evaluate and rank each proposal submitted in relation to the published selection criteria.

~~[(g)]~~ ~~[(h)]~~ The board shall select the offeror that offers the best value for ~~[to]~~ the institution based on the published selection criteria and on its ranking evaluation. The board shall first attempt to negotiate with the selected offeror a contract. The board and

its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification [cost reduction]. If the board is unable to reach a contract [agreement] with the selected offeror, the board shall, formally and in writing, end negotiations with that offeror [terminate further discussions] and proceed to the next offeror in the order of the selection ranking until a contract [agreement] is reached or all proposals are rejected.

(h) ~~(+)~~ In determining best value for the institution, the board is not restricted to considering price alone but may consider any other factor stated in the selection criteria.

Sec. 51.784. JOB ORDER CONTRACTS FOR FACILITIES CONSTRUCTION OR REPAIR. (a) An institution may award job order contracts for the minor construction, repair, rehabilitation, or alteration of a facility if the work is of a recurring nature but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of prescribed and prepriced tasks.

(b) The institution may establish contractual unit prices for a job order contract by:

(1) specifying one or more published construction unit price books and the applicable divisions or line items; or

(2) providing a list of work items and requiring the offerors to bid or propose one or more coefficients or multipliers to be applied to the price book or work items as the price proposal.

(c) The board shall advertise for, receive, and publicly open ~~[competitive]~~ sealed proposals for job order contracts ~~[based on time and material rates for various types and classifications of work. The rates under a job order contract shall be in effect for at least six months and for not longer than two years].~~

(d) ~~(+)~~ The board may require offerors to submit additional information besides rates, including experience, past performance, and proposed personnel and methodology.

(e) ~~(+)~~ The board may award job order contracts to one or more job order contractors in connection with each solicitation of bids or ~~[based on price]~~ proposals ~~[-, experience, past performance, proposed personnel and methodology, safety record, and other appropriate factors].~~

(f) ~~(+)~~ An order for a job or project under the job order contract must be signed by the board's representative and the contractor. The order may be a fixed price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities [a statement of work negotiated between the board or its representative and the contractor;] or ~~[the order]~~ may be a unit price order based on the [estimated] quantities and line items delivered.

(g) The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order.

(h) The base term of a job order contract is for the period and with any renewal options that the institution sets forth in the request for proposals. If the institution fails to advertise that term, the base term may not exceed two years and is not renewable without further advertisement and solicitation of proposals.

(i) If a job order contract or an order issued under the contract requires engineering or architectural services that constitute the practice of engineering within the meaning of The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or the practice of architecture within the meaning of Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), those services shall be provided in accordance with applicable law.

SECTION 17. Section 51.9335(f), Education Code, is amended to read as follows:

(f) This section does not apply to professional services as defined by Section 2254.002, Government Code [expires September 1, 1999].

SECTION 18. This Act takes effect September 1, 1999. The changes in law made by this Act apply only to a contract for which requests for bids, proposals, or qualifications are published or distributed on or after that date.

SECTION 19. 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 669**, in SECTION 1 of the bill, by striking amended Subsection (f), Section 44.031, Education Code (House Committee Report, page 2, lines 3 through 7), and substituting the following:

(f) This section does not apply to a contract [fees] received for professional services rendered, including services of an architect, attorney, or fiscal agent. A school district may, at its option, contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Section 2254.003, Government Code, in lieu of the methods provided by this section [architect's fees, attorney's fees, and fees for fiscal agents].

Floor Amendment No. 2

Amend **CSSB 669** in SECTION 12 of the bill, in the second sentence of amended Section 51.779(b), Education Code (House Committee Report, page 21, lines 4 and 5), by striking "and the relative weights, if known at the time of publication, given to the criteria".

The amendments were read.

On motion of Senator Ratliff, the Senate concurred in the House amendments to **SB 669** by a viva voce vote.

SENATE BILL 1840 WITH HOUSE AMENDMENT

Senator Ratliff called **SB 1840** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1840** in SECTION 8 of the bill, in added Subsection (c), Section 21, Chapter 43, Acts of the 57th Legislature, 1st Called Session, 1961 (senate engrossment, page 9, line 5), by striking "at least 500 of the registered voters of the territory of" and substituting "a number of registered voters of the district equal to at least 15 percent of the registered voters residing in".

The amendment was read.

On motion of Senator Ratliff, the Senate concurred in the House amendment to **SB 1840** by a viva voce vote.

SENATE BILL 496 WITH HOUSE AMENDMENT

Senator Harris called **SB 496** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 496** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill appropriately:

SECTION ____ Subchapter A, Chapter 41, Property Code, is amended by adding Section 41.008 to read as follows:

Sec. 41.008. CONFLICT WITH FEDERAL LAW. To the extent of any conflict between this subchapter and any federal law that imposes an upper limit on the amount, including the monetary amount or acreage amount, of homestead property a person may exempt from seizure, this subchapter prevails to the extent allowed under federal law.

The amendment was read.

On motion of Senator Harris, the Senate concurred in the House amendment to **SB 496** by a viva voce vote.

SENATE BILL 469 WITH HOUSE AMENDMENTS

Senator Harris called **SB 469** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 469** as follows:

- (1) On page 1, line 20, strike "one year" and substitute "three years".
- (2) On page 2, line 2, strike "One year" and substitute "Six years".

Floor Amendment No. 2

Amend **SB 469** as follows:

- (1) On page 2, line 22, strike "The clerk shall, not later than the 25th anniversary of" and substitute "Twenty-five years after".
- (2) On page 2, line 24, between the comma and "destroy", insert "the clerk shall".

The amendments were read.

On motion of Senator Harris, the Senate concurred in the House amendments to **SB 469** by a viva voce vote.

**SENATE CONCURRENT RESOLUTION 6
WITH HOUSE AMENDMENT**

Senator Harris called **SCR 6** from the President's table for consideration of the House amendment to the resolution.

The Presiding Officer laid the resolution and the House amendment before the Senate.

Committee Amendment No. 1

Amend **SCR 6**, on page 2, between lines 19 and 20, to read as follows:

"RESOLVED, that the Blue Ribbon Task Force is directed to perform targeted studies of the unique problems faced by Texans lacking health coverage that also suffer from asthma, cardiovascular disease, smoking related illnesses or diabetes; review demographic trends of data, as specific as possible, relating to the uninsured population; examine other states' programs, laws and systems to address the lack of affordable health coverage; evaluate existing programs in Texas that address the uninsured and indigent health care needs, including government, public, and private initiatives; and develop a market-based improvement plan, including financing tools and models, to ensure that Texans have access to affordable health care coverage; and be it further"

The amendment was read.

On motion of Senator Harris, the Senate concurred in the House amendment to **SCR 6** by a viva voce vote.

SENATE BILL 624 WITH HOUSE AMENDMENT

Senator Harris called **SB 624** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Brown in Chair, laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 624** as follows:

On page 2, line 14, between "storefront" and "jail", insert "municipal court".

The amendment was read.

On motion of Senator Harris, the Senate concurred in the House amendment to **SB 624** by a viva voce vote.

SENATE BILL 1468 WITH HOUSE AMENDMENTS

Senator Harris called **SB 1468** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 1468** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the regulation of physician joint negotiation.

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

SECTION 1. The Insurance Code is amended by adding Chapter 29 to read as follows:

CHAPTER 29. JOINT NEGOTIATIONS BY PHYSICIANS
WITH HEALTH BENEFIT PLANS

Art. 29.01. FINDINGS AND PURPOSES. The legislature finds that joint negotiation by competing physicians of certain terms and conditions of contracts with health plans will result in procompetitive effects in the absence of any express or implied threat of retaliatory joint action, such as a boycott or strike, by physicians. Although the legislature finds that joint negotiations over fee-related terms may in some circumstances yield anticompetitive effects, it also recognizes that there are instances in which health plans dominate the market to such a degree that fair negotiations between physicians and the plan are unobtainable absent any joint action on behalf of physicians. In these instances, health plans have the ability to virtually dictate the terms of the contracts they offer physicians. Consequently, the legislature finds it appropriate and necessary to authorize joint negotiations on fee-related and other issues where it determines that such imbalances exist.

Art. 29.02. DEFINITIONS. In this chapter:

(1) "Health benefit plan" means a plan described by Article 29.03 of this code.

(2) "Person" means an individual, association, corporation, or any other legal entity.

(3) "Physicians' representative" means a third party, including a member of the physicians who will engage in joint negotiations, who is authorized by physicians to negotiate on their behalf with health benefit plans over contractual terms and conditions affecting those physicians.

Art. 29.03. SCOPE OF CHAPTER. (a) This chapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

(1) an insurance company;

(2) a group hospital service corporation operating under Chapter 20 of this code;

(3) a fraternal benefit society operating under Chapter 10 of this code;

(4) a stipulated premium insurance company operating under Chapter 22 of this code;

(5) a reciprocal exchange operating under Chapter 19 of this code;

(6) a health maintenance organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code); or

(7) a multiple employer welfare agreement that holds a certificate of authority under Article 3.95-2 of this code.

(b) This chapter does not apply to:

(1) a plan that provides coverage:

(A) only for a specified disease or other limited benefit;

(B) only for accidental death or dismemberment;

(C) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;

(D) as a supplement to liability insurance;

(E) for credit insurance;

- (F) only for dental or vision care;
 - (G) only for hospital expenses; or
 - (H) only for indemnity for hospital confinement;
- (2) a small employer health benefit plan written under Chapter 26 of this code;
- (3) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss), as amended;
- (4) workers' compensation insurance coverage;
- (5) medical payment insurance coverage issued as part of a motor vehicle insurance policy; or
- (6) a long-term care policy, including a nursing home indemnity policy, unless the attorney general determines that the policy provides benefit coverage so comprehensive that the policy is a health benefit plan as described by Subsection (a) of this article.

Art. 29.04. JOINT NEGOTIATION AUTHORIZED. Competing physicians within the service area of a health benefit plan may meet and communicate for the purpose of jointly negotiating the following terms and conditions of contracts with the health benefit plan:

- (1) practices and procedures to assess and improve the delivery of effective, cost-efficient preventive health care services, including childhood immunizations, prenatal care, and mammograms and other cancer screening tests or procedures;
- (2) practices and procedures to encourage early detection and effective, cost-efficient management of diseases and illnesses in children;
- (3) practices and procedures to assess and improve the delivery of women's medical and health care, including menopause and osteoporosis;
- (4) clinical criteria for effective, cost-efficient disease management programs, including diabetes, asthma, and cardiovascular disease;
- (5) practices and procedures to encourage and promote patient education and treatment compliance, including parental involvement with their children's health care;
- (6) practices and procedures to identify, correct, and prevent potentially fraudulent activities;
- (7) practices and procedures for the effective, cost-efficient use of outpatient surgery;
- (8) clinical practice guidelines and coverage criteria;
- (9) administrative procedures, including methods and timing of physician payment for services;
- (10) dispute resolution procedures relating to disputes between health benefit plans and physicians;
- (11) patient referral procedures;
- (12) formulation and application of physician reimbursement methodology;
- (13) quality assurance programs;
- (14) health service utilization review procedures;
- (15) health benefit plan physician selection and termination criteria; and
- (16) the inclusion or alteration of terms and conditions to the extent they are the subject of government regulation prohibiting or requiring the particular term or condition in question; provided, however, that such restriction does not limit physician rights to jointly petition government for a change in such regulation.

Art. 29.05. LIMITATIONS ON JOINT NEGOTIATION. Except as provided in Article 29.06 of this code, competing physicians shall not meet and communicate for the purposes of jointly negotiating the following terms and conditions of contracts with health benefit plans:

(1) the fees or prices for services, including those arrived at by applying any reimbursement methodology procedures;

(2) the conversion factors in a resource-based relative value scale reimbursement methodology or similar methodologies;

(3) the amount of any discount on the price of services to be rendered by physicians; and

(4) the dollar amount of capitation or fixed payment for health services rendered by physicians to health benefit plan enrollees.

Art. 29.06. EXCEPTION TO LIMITATIONS ON JOINT NEGOTIATION. (a) Competing physicians within the service area of a health benefit plan may jointly negotiate the terms and conditions specified in Article 29.05 of this code where the health benefit plan has substantial market power and those terms and conditions have already affected or threaten to adversely affect the quality and availability of patient care. The attorney general shall make the determination of what constitutes substantial market power.

(b) The department shall have the authority to collect and investigate information necessary to determine, on an annual basis:

(1) the average number of covered lives per month per county by every health care entity in the state; and

(2) the annual impact, if any, of this article on average physician fees in this state.

(c) Section (a) of this article does not apply to:

(1) a Medicaid Managed Care plan under the Medicaid managed care delivery system established under Chapters 532 and 533, Government Code; or

(2) a child health plan;

(A) for certain low-income children issued under the Health and Safety Code; or

(B) designed under Section 2101, Social Security Act (42 U.S.C. Section 1397aa).

Art. 29.07. JOINT NEGOTIATION REQUIREMENTS. Competing health care physicians' exercise of joint negotiation rights granted by Articles 29.04 and 29.06 of this code shall conform to the following criteria:

(1) physicians may communicate with each other with respect to the contractual terms and conditions to be negotiated with a health benefit plan;

(2) physicians may communicate with the third party who is authorized to negotiate on their behalf with health benefit plans over these contractual terms and conditions;

(3) the third party is the sole party authorized to negotiate with health benefit plans on behalf of the physicians as a group;

(4) at the option of each physician, the physicians may agree to be bound by the terms and conditions negotiated by the third party authorized to represent their interests;

(5) health benefit plans communicating or negotiating with the physicians' representative shall remain free to contract with or offer different contract terms and conditions to individual competing physicians; and

(6) the physicians' representative shall comply with the provisions of Article 29.08 of this code.

Art. 29.08. REQUIREMENTS FOR PHYSICIANS' REPRESENTATIVE. Any person or organization proposing to act or acting as a representative of physicians for the purpose of exercising authority granted under this chapter shall comply with the following requirements:

(1) before engaging in any joint negotiations with health benefit plans on behalf of physicians, the representative shall furnish, for the attorney general's approval, a report identifying:

(A) the representative's name and business address;

(B) the names and addresses of the physicians who will be represented by the identified representative;

(C) the relationship of the physicians requesting joint representation to the total population of physicians in a geographic service area;

(D) the health benefit plans with which the representative intends to negotiate on behalf of the identified physicians;

(E) the proposed subject matter of the negotiations or discussions with the identified health benefit plans;

(F) the representative's plan of operation and procedures to ensure compliance with this section;

(G) the expected impact of the negotiations on the quality of patient care; and

(H) the benefits of a contract between the identified health benefit plan and physicians;

(2) after the parties identified in the initial filing have reached an agreement, the representative shall furnish, for the attorney general's approval, a copy of the proposed contract and plan of action; and

(3) within 14 days of a health benefit plan decision declining negotiation, terminating negotiation, or failing to respond to a request for negotiation, the representative shall report to the attorney general the end of negotiations. If negotiations resume within 60 days of such notification to the attorney general, the applicant shall be permitted to renew the previously filed report without submitting a new report for approval.

Art. 29.09. APPROVAL PROCESS BY ATTORNEY GENERAL. (a) The attorney general shall either approve or disapprove an initial filing, supplemental filing, or a proposed contract within 30 days of each filing. If disapproved, the attorney general shall furnish a written explanation of any deficiencies along with a statement of specific remedial measures as to how such deficiencies could be corrected. A representative who fails to obtain the attorney general's approval is deemed to act outside the authority granted under this article.

(b) The attorney general shall approve a request to enter into joint negotiations or a proposed contract if the attorney general determines that the applicants have demonstrated that the likely benefits resulting from the joint negotiation or proposed contract outweigh the disadvantages attributable to a reduction in competition that may result from the joint negotiation or proposed contract. The joint negotiation shall represent no more than 10 percent of the physicians in a health benefit plan's defined geographic service area except in cases where in conformance with the other provisions of this subsection conditions support the approval of a greater or lesser percentage.

(c) An approval of the initial filing by the attorney general shall be effective for all subsequent negotiations between the parties specified in the initial filing.

(d) If the attorney general does not issue a written approval or rejection of an initial filing, supplemental filing, or proposed contract within the specified time period, the applicant shall have the right to petition a district court for a mandamus order requiring the attorney general to approve or disapprove the contents of the filing forthwith. The petition shall be filed in a district court in Travis County.

Art. 29.10. CERTAIN JOINT ACTION PROHIBITED. Nothing contained in this chapter shall be construed to enable physicians to jointly coordinate any cessation, reduction, or limitation of health care services. Physicians shall not meet and communicate solely for the purpose of jointly negotiating a requirement that a physician or group of physicians, as a condition of the physicians' or group of physicians' participation in a health benefit plan, must participate in all the products within the same health benefit plan. The representative of the physicians shall advise physicians of the provisions of this article and shall warn physicians of the potential for legal action against physicians who violate state or federal antitrust laws when acting outside the authority of this chapter.

Art. 29.11. RULEMAKING AUTHORITY. The attorney general and the commissioner shall have the authority to promulgate rules necessary to implement the provisions of this chapter.

Art. 29.12. CONSTRUCTION. This chapter shall not be construed to prohibit physicians from negotiating the terms and conditions of contracts as permitted by other state or federal law.

Art. 29.13. FEES. Each person who acts as the representative of negotiating parties under this chapter shall pay to the department a fee to act as a representative. The attorney general, by rule, shall set fees in amounts reasonable and necessary to cover the costs incurred by the state in administering this chapter. A fee collected under this article shall be deposited in the state treasury to the credit of the operating fund from which the expense was incurred.

Art. 29.14. EXPIRATION. This chapter expires September 1, 2003.

SECTION 2. This Act takes effect September 1, 1999.

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.

Floor Amendment No. 1

Amend **CSSB 1468** as follows:

(1) In SECTION 1 of the bill, in added Article 29.05, Insurance Code, after the period ending the heading of that article (page 5, line 20, house committee printing), insert "(a)".

(2) In SECTION 1 of the bill, in added Article 29.05, Insurance Code, (page 6, between lines 7 and 8, house committee printing), insert a new Subsection (b) to read as follows:

(b) Except for considerations of quality or cost, physicians may not negotiate:

(1) to eliminate or limit access to services provided by other health care providers;

(2) to eliminate or limit plan participation by other health care providers; or

(3) with the primary purpose of requiring or not requiring physician supervision of a provider who is acting within the scope of that provider's practice as determined by law.

Amendment No. 2

Amend **CSSB 1468**, on page 9, line 27, by inserting the following after the period and before "The": The attorney general shall consider physician distribution by specialty and its effect on competition.

Floor Amendment No. 6

Amend **CSSB 1468** in SECTION 1 of the bill, in added Article 29.10, Insurance Code, by striking the second sentence of that article (page 10, lines 18-23, house committee report printing), and substituting the following:

Physicians may not meet and communicate for the purpose of jointly negotiating a requirement that a physician or group of physicians, as a condition of the physicians' or group of physicians' participation in a health benefit plan, must participate in all the products within the same health benefit plan.

Floor Amendment No. 8

Amend **CSSB 1468**, SECTION 1, by amending Article 29.11, Insurance Code, on page 11, lines 1 through 3 to read as follows:

Art. 29.11. RULEMAKING AUTHORITY. The attorney general and the commissioner shall have the authority to promulgate rules necessary to implement the provisions of this chapter. The attorney general and the commissioner may by rule authorize podiatric physicians to participate in the joint negotiations permitted by this Act.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 1468**, on third reading, by amending Floor Amendment No. 1, adopted on second reading, by striking the text of the amendment and substituting the following:

(1) In SECTION 1 of the bill, in added Article 29.10, Insurance Code, after the second sentence of that article (page 10, line 23, house committee report), insert the following:

Physicians may not negotiate with the plan to exclude, limit, or otherwise restrict non-physician health care providers from participation in a health benefit plan based substantially on the fact the health care provider is not a licensed physician unless that restriction, exclusion, or limitation is otherwise permitted by law.

The amendments were read.

On motion of Senator Harris, the Senate concurred in the House amendments to **SB 1468** by a viva voce vote.

HOUSE CONCURRENT RESOLUTION 310

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

HCR 310, Instructing the enrolling clerk of the house to make technical corrections in **HB 2045**.

HARRIS

The resolution was read.

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

SENATE BILL 1441 WITH HOUSE AMENDMENT

Senator Barrientos called **SB 1441** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1441** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to expanding the specialized telecommunications devices assistance program and contracts for special features of the telecommunications relay access service.

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

SECTION 1. Section 56.021, Utilities Code, is amended to read as follows:

Sec. 56.021. UNIVERSAL SERVICE FUND ESTABLISHED. The commission shall adopt and enforce rules requiring local exchange companies to establish a universal service fund to:

- (1) assist local exchange companies in providing basic local telecommunications service at reasonable rates in high cost rural areas;
- (2) reimburse local exchange companies for revenue lost by providing tel-assistance service under Subchapter C;
- (3) reimburse the telecommunications carrier that provides the statewide telecommunications relay access service under Subchapter D;
- (4) finance the specialized telecommunications [device] assistance program established under Subchapter E; and
- (5) reimburse the department, the Texas Commission for the Deaf and Hard of Hearing, and the commission for costs incurred in implementing this chapter and Chapter 57.

SECTION 2. Subchapter D, Chapter 56, Utilities Code, is amended by adding Section 56.1085 to read as follows:

Sec. 56.1085. SPECIAL FEATURES FOR RELAY ACCESS SERVICE. (a) The commission may contract for a special feature for the state's telecommunications relay access service if the commission determines:

- (1) the feature will benefit the communication of persons with an impairment of hearing or speech;
- (2) installation of the feature will be of benefit to the state; and
- (3) the feature will make the relay access service available to a greater number of users.

(b) If the carrier selected to provide the telecommunications relay access service under Section 56.108 is unable to provide the special feature at the best value to the

state, the commission may make a written award of a contract for a carrier to provide the special feature to the telecommunications carrier whose proposal is most advantageous to the state, considering:

(1) the factors provided by Section 56.108(b); and
(2) the past performance, demonstrated capability, and experience of the carrier.

(c) The commission shall consider each proposal in a manner that does not disclose the contents of the proposal to a telecommunications carrier making a competing proposal.

(d) The commission's evaluation of a telecommunications carrier's proposal shall include the considerations provided by Section 56.108(d).

SECTION 3. Section 56.109(a), Utilities Code, is amended to read as follows:

(a) The telecommunications carrier selected to provide the telecommunications relay access service under Section 56.108 or the carrier selected to provide a special feature for [that provides] the telecommunications relay access service under Section 56.1085 shall be compensated at rates and on terms provided by the carrier's contract with the commission.

SECTION 4. Subsection (a), Section 56.110, Utilities Code, is amended to read as follows:

(a) An advisory committee to assist the commission in administering this subchapter is composed of the following persons appointed by the commission:

(1) two persons with disabilities that impair the ability to effectively access the telephone network other than disabilities described by Subdivisions (2)-(7);

(2) one deaf person recommended by the Texas Deaf Caucus;

(3) [(2)] one deaf person recommended by the Texas Association of the Deaf;

(4) [(3)] one person with a hearing impairment recommended by Self-Help for the Hard of Hearing;

(5) [(4)] one person with a hearing impairment recommended by the American Association of Retired Persons;

(6) [(5)] one deaf and blind person recommended by the Texas Deaf/Blind Association;

(7) [(6)] one person with a speech impairment and one person with a speech and hearing impairment recommended by the Coalition of Texans with Disabilities;

(8) [(7)] two representatives of telecommunications utilities, one representing a nonlocal exchange utility and one representing a local exchange company, chosen from a list of candidates provided by the Texas Telephone Association;

(9) [(8)] two persons, at least one of whom is deaf, with experience in providing relay services recommended by the Texas Commission for the Deaf and Hard of Hearing; and

(10) [(9)] two public members recommended by organizations representing consumers of telecommunications services.

SECTION 5. Section 56.111, Utilities Code, is amended to read as follows:

Sec. 56.111. ADVISORY COMMITTEE DUTIES. The advisory committee shall:

(1) monitor the establishment, administration, and promotion of the statewide telecommunications relay access service;

(2) advise the commission in pursuing a service that meets the needs of persons with an impairment of hearing or speech in communicating with other telecommunications services users; and

(3) advise the commission and the Texas Commission for the Deaf and Hard of Hearing, at the request of either commission, regarding any issue related to the specialized telecommunications ~~[device]~~ assistance program established under Subchapter E, including:

(A) devices or services suitable to meet the needs of persons with disabilities ~~[the hearing-impaired and speech-impaired]~~ in communicating with other users of telecommunications services; and

(B) oversight and administration of the program.

SECTION 6. The heading to Subchapter E, Chapter 56, Utilities Code, is amended to read as follows:

SUBCHAPTER E. SPECIALIZED TELECOMMUNICATIONS
~~[DEVICE]~~ ASSISTANCE PROGRAM

SECTION 7. Sections 56.151 through 56.154, Utilities Code, are amended to read as follows:

Sec. 56.151. SPECIALIZED TELECOMMUNICATIONS ~~[DEVICE]~~ ASSISTANCE PROGRAM. The commission and the Texas Commission for the Deaf and Hard of Hearing by rule shall establish a specialized telecommunications assistance program to provide financial assistance to ~~[certain]~~ individuals with disabilities that impair the individuals' ability to effectively access the telephone network ~~[who are deaf or have an impairment of hearing or speech]~~ to enable the individuals to purchase specialized equipment or services to provide telephone network access that is functionally equivalent to that enjoyed by individuals without disabilities ~~[an impairment of hearing or speech]~~. The agencies may adopt joint rules that identify devices and services eligible for vouchers under the program.

Sec. 56.152. ELIGIBILITY. The Texas Commission for the Deaf and Hard of Hearing by rule shall prescribe eligibility standards for individuals, including deaf individuals and individuals who have an impairment of hearing or speech, to receive an assistance voucher under the program. To be eligible, an individual must be a resident of this state who has access to a telephone line in the individual's home or place of business.

Sec. 56.153. VOUCHERS. (a) The Texas Commission for the Deaf and Hard of Hearing shall determine a reasonable price for a basic specialized telecommunications device or basic specialized services to provide telephone network access from a home or business ~~[for the deaf (TDD or TTY)]~~ and distribute to each eligible applicant a voucher that guarantees payment of that amount to a distributor of new specialized telecommunications devices described by Section 56.151 or to a provider of services described by that section. The Texas Commission for the Deaf and Hard of Hearing may issue a voucher for a service only if the service is less expensive than a device eligible for a voucher under the program to meet the same need.

(b) A voucher must have the value printed on its face. The individual exchanging a voucher for the purchase of a specialized telecommunications device or service is responsible for payment of the difference between the voucher's value and the price of the device or service.

(c) The commission and the Texas Commission for the Deaf and Hard of Hearing by rule shall provide that a distributor of devices or a provider of services will receive not more than the full price of the device or service ~~[a specialized telecommunications device]~~ if the recipient of a voucher exchanges the voucher for a device or service that the distributor or provider sells for less than the voucher's value.

(d) An individual who has exchanged a voucher for a specialized telecommunications device is not eligible to receive another voucher before the seventh anniversary of the date the individual exchanged the previously issued voucher unless, before that date, the recipient develops a need for a different type of telecommunications device or service under the program because the recipient's disability changes or the recipient acquires another disability.

(e) An individual is not eligible for a voucher if the Texas Commission for the Deaf and Hard of Hearing has issued a voucher to another individual in the individual's household for a device or service to serve the same telephone line.

(f) ~~(e)~~ The Texas Commission for the Deaf and Hard of Hearing shall:

(1) process each application for a voucher to determine eligibility of the applicant; and

(2) give each eligible applicant a voucher on payment of a \$35 fee.

(g) ~~(f)~~ The Texas Commission for the Deaf and Hard of Hearing shall maintain a record regarding each individual who receives a voucher under the program.

(h) ~~(g)~~ The Texas Commission for the Deaf and Hard of Hearing shall deposit money collected under the program to the credit of the universal service fund.

Sec. 56.154. COMMISSION DUTIES. (a) Not later than the 45th day after the date the commission receives a voucher a telecommunications device distributor presents for payment or a voucher a telecommunications service provider presents for payment, the commission shall pay to the distributor or service provider the lesser of the value of a voucher properly exchanged for a specialized telecommunications device or service or the full price of the device or service for which a voucher recipient exchanges the voucher. The payments must be made from the universal service fund.

(b) The commission may investigate whether the presentation of a voucher for payment represents a valid transaction for a telecommunications device or service under the program. The Texas Commission for the Deaf and Hard of Hearing shall cooperate with and assist the commission in an investigation under this subsection.

(c) Notwithstanding Section 56.153(a), the commission may:

(1) delay payment of a voucher to a distributor of devices or a service provider if there is a dispute regarding the amount or propriety of the payment or whether the device or service is appropriate or adequate to meet the needs of the person to whom the Texas Commission for the Deaf and Hard of Hearing issued the voucher until the dispute is resolved;

(2) provide that payment of the voucher is conditioned on the return of the payment if the device is returned to the distributor or if the service is not used by the person to whom the voucher was issued; and

(3) provide an alternative dispute resolution process for resolving a dispute regarding a subject described by Subdivision (1) or (2).

SECTION 8. Subsection (a), Section 56.155, Utilities Code, is amended to read as follows:

(a) The commission shall allow a telecommunications utility to recover the universal service fund assessment related to the specialized telecommunications ~~[device]~~ assistance program through a surcharge added to the utility's customers' bills.

SECTION 9. (a) In accordance with Subsection (c), Section 311.031, Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 56.021, Subsection (a), Section 56.110, Sections 56.111, 56.151, 56.152, 56.153, and 56.154, and Subsection (a), Section 56.155, Utilities Code, as set out in Sections 1, 4, 5, 6, 7,

and 8 of this Act, gives effect to changes made by Chapter 149, Acts of the 75th Legislature, Regular Session, 1997.

(b) To the extent of any conflict, this Act prevails over another Act of the 76th Legislature, Regular Session, 1999, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 10. This Act takes effect September 1, 1999.

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.

The amendment was read.

On motion of Senator Barrientos, the Senate concurred in the House amendment to **SB 1441** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 3041

Senator Sibley 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 3041** and moved that the request be granted.

The motion prevailed.

The Presiding Officer, Senator Brown in Chair, asked if there were any motions to instruct the conference committee on **HB 3041** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sibley, Chair; Duncan, Armbrister, Madla, and Cain.

CONFERENCE COMMITTEE ON HOUSE BILL 1453

Senator Madla 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 1453** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1453** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Madla, Chair; Sibley, Carona, Harris, and Armbrister.

CONFERENCE COMMITTEE ON HOUSE BILL 1997

Senator Madla 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 1997** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1997** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Madla, Chair; Ellis, Sibley, Lucio, and Duncan.

SENATE BILL 1127 WITH HOUSE AMENDMENTS

Senator Armbrister called **SB 1127** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1

Amend **SB 1127** by adding an appropriately numbered section to read as follows:

SECTION ____ (a) The state auditor shall contract with The University of Texas System to conduct a review of the processes and procedures of the General Services Commission for the purpose of making recommendations to improve the efficiency and effectiveness of the commission in carrying out its statutory duties and to assist the commission in implementing those recommendations. The auditor shall provide any necessary support and assistance to the system in conducting the review and may contract with other entities to assist in the review. The contract shall require the system and any other contractor to present a report to the auditor not later than December 1, 2000. The report may include recommendations for legislation. The auditor shall transmit all of the recommendations, together with any additional recommendations of the auditor, to the General Services Commission and the legislature.

(b) The General Services Commission shall cooperate with the auditor, the system, and any other contractors in carrying out the review.

(c) The lieutenant governor shall appoint two senators, and the speaker of the house shall appoint two members of the house, to an interim legislative oversight committee to oversee the review conducted under this section and to advise the auditor and the legislative audit committee in regard to the review. The chair of the legislative audit committee shall designate one member of the oversight committee to serve as chair of the oversight committee. The committee shall evaluate the effectiveness of the review conducted under this section and make recommendations to the legislative audit committee concerning this review and the possibility of future similar reviews. Those recommendations shall be included in the auditor's report to the legislature under Subsection (a).

Floor Amendment No. 2

Amend **SB 1127** at the end of SECTION 6 of the bill by adding the following new Subsection (d) to Section 2155.445, Government Code:

(d) The commission and state agencies may not purchase a product to which this subsection applies if the original manufacturer of the product places a restriction on the remanufacturing or recycling of the product. This subsection applies to a product unless the commission or other state agency considering a

purchase of the product determines that purchasing a different product would result in a negative fiscal impact to the state.

Amendment No. 1 on Third Reading

Amend **SB 1127** on third reading by striking the text of the Solomons amendment n\o. 2 adopted on second reading.

The amendments were read.

Senator Armbrister moved to concur in the House amendments to **SB 1127**.

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

Absent-excused: Luna.

SENATE BILL 576 WITH HOUSE AMENDMENT

Senator Armbrister called **SB 576** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 576** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the reporting of public school class size.

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

SECTION 1. Subsections (b) and (c), Section 39.052, Education Code, are amended to read as follows:

(b) The report card shall include the following information where applicable:

(1) the academic excellence indicators adopted under Sections 39.051(b)(1) through (8);

(2) average class size by grade level and subject [~~student/teacher ratios~~]; and

(3) administrative and instructional costs per student.

(c) The commissioner shall adopt rules for requiring dissemination of appropriate class size and student performance portions of campus report cards annually to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, the school district shall provide a copy of a campus report card to any other party.

SECTION 2. This Act applies beginning with the 1999-2000 school year.

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 Armbrister moved to concur in the House amendment to **SB 576**.

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

Absent-excused: Luna.

SENATE BILL 1906 WITH HOUSE AMENDMENT

Senator Sibley called **SB 1906** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1906** (House Committee Report) as follows:

On page 5, line 1, add a new subsection (f) that reads:

"(f) This privilege does not apply to a grand jury subpoena."

On page 8, line 11, add a new subsection (c) to Section 2 that reads:

"(c) To the extent of any conflict, this act controls over **SB 964**, Acts of the 76th Legislature, Regular Session, 1999."

The amendment was read.

On motion of Senator Sibley, the Senate concurred in the House amendment to **SB 1906** by a viva voce vote.

SENATE BILL 751 WITH HOUSE AMENDMENT

Senator Sibley called **SB 751** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 751** by striking SECTION 4 of the bill and adding the following appropriately numbered SECTIONS:

SECTION _____. (a) Except as provided by Subsection (b), this Act takes effect September 1, 1999.

(b) Not later than August 31, 1999, the Texas Higher Education Coordinating Board shall review and determine whether to approve the creation of the University of North Texas System as provided by this Act. If the coordinating board does not approve the creation of that system on or before August 31, 1999, the University of North Texas System is not created and this Act has no effect.

SECTION _____. 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 according to its terms, and it is so enacted.

The amendment was read.

Senator Sibley moved to concur in the House amendment to **SB 751**.

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

Absent-excused: Luna.

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer, Senator Brown 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 24, SB 56, SB 71, SB 74, SB 77, SB 81, SB 92, SB 100, SB 105, SB 132, SB 154, SB 191, SB 210, SB 214, SB 229, SB 272, SB 313, SB 321, SB 329, SB 335, SB 337, SB 340, SB 382, SB 396, SB 399, SB 408, SB 416, SB 420, SB 421, SB 432, SB 476, SB 481, SB 484, SB 530, SB 570, SB 571, SB 611, SB 657, SB 658, SB 686, SB 688, SB 762, SB 781, SB 788, SB 801, SB 867, SB 870, SB 901, SB 917, SB 930, SB 993, SB 997, SB 1001, SB 1007, SB 1013, SB 1073, SB 1084, SB 1089, SB 1091, SB 1097, SB 1099, SB 1175, SB 1180, SB 1184, SB 1294, SB 1301, SB 1304, SB 1354, SB 1363, SB 1428, SB 1429, SB 1434, SB 1447, SB 1472, SB 1511, SB 1613, SB 1676, SB 1819, SB 1832, SB 1833, SB 1846, SB 1884, SB 1901, SCR 12, SCR 14, SCR 21, SCR 52, SCR 72, SCR 75, SJR 10, HB 27, HB 51, HB 91, HB 236, HB 426, HB 450, HB 496, HB 509, HB 512, HB 524, HB 635, HB 641, HB 947, HB 955, HB 998, HB 1001, HB 1227, HB 1265, HB 1321, HB 1606, HB 1618, HB 1627, HB 1666, HB 1733, HB 1802, HB 1896, HB 1906, HB 1919, HB 1925, HB 1999, HB 2057, HB 2101, HB 2202, HB 2219, HB 2231, HB 2247, HB 2541, HB 2559, HB 2585, HB 2603, HB 2667, HB 2858, HB 2870, HB 2914, HB 2922, HB 2930, HB 2937, HB 2969, HB 3001, HB 3002, HB 3020, HB 3034, HB 3072, HB 3091, HB 3093, HB 3114, HB 3126, HB 3176, HB 3480, HB 3551, HB 3606, HB 3630, HB 3658, HB 3660, HB 3684, HB 3685, HB 3736, HB 3739, HB 3773, HB 3775, HB 3776, HB 3794, HB 3803, HB 3807, HB 3814, HB 3817, HB 3821, HCR 66, HCR 111, HCR 117, HCR 124, HCR 141, HCR 181, HCR 181, HCR 267, HCR 297, HB 1, HB 508, HB 550, HB 836, HB 962, HB 1064, HB 1168, HB 1571, HB 1743, HB 1754, HB 1798, HB 1805, HB 1847, HB 1874, HB 1976, HB 2009, HB 2019, HB 2035, HB 2049, HB 2207, HB 2220, HB 2394, HB 2408, HB 2539, HB 2655, HB 2706, HB 2729, HB 2754, HB 2758, HB 2759, HB 2764, HB 2769, HB 2781, HB 2785, HB 2806, HB 2822, HB 2853, HB 2869, HB 2873, HB 2892, HB 2898, HB 2920, HB 3178, HB 3185, HB 3262, HB 3285, HB 3458, HB 3604, HB 3616, HB 3696, HB 3780, HB 3786, HB 3804, HB 3822, HB 3825, HB 3849, HCR 277, HB 23, HB 747, HB 964, HB 1111, HB 1322, HB 1328, HB 1379, HB 1420, HB 1542, HB 1654, HB 1655, HB 1697, HB 1764, HB 1876, HB 1921, HB 1956, HB 2017, HB 2032, HB 2034, HB 2172, HB 2252, HB 2253, HB 2260, HB 2265, HB 2269, HB 2272, HB 2275, HB 2300, HB 2397, HB 2415, HB 2429, HB 2455, HB 2469, HB 2522, HB 2536, HB 2563, HB 2572, HB 2574, HB 2711, HB 2795, HB 2819, HB 2842, HB 2856, HB 2879, HB 2890, HB 3125, HB 3257, HB 3265, HB 3277, HB 3343, HB 3355, HB 3401, HB 3447, HB 3448, HB 3450, HB 3451, HB 3452, HB 3463, HB 3641, HB 3656, HB 3823, HB 3826, HB 3827, HB 3838, HB 3845, HB 3854, HCR 96, HCR 178, HCR 306.

SENATE RESOLUTION 1164

Senator Madla offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 76th Legislature, Regular Session, 1999, That Senate Rule 12.03 is suspended, as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences between the house and senate versions of **SB 1520**, relating to the authority of certain cities,

counties, districts, authorities, agencies, and nonprofit corporations to enter into lease-leaseback transactions, to consider and take action on the following matters:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add a new section to the bill to read as follows:

SECTION 1. Chapter 272, Local Government Code, is amended by adding Section 272.004 to read as follows:

Sec. 272.004. TRANSFERS OF PROPERTY BY CERTAIN POLITICAL SUBDIVISIONS. (a) In this section, "political subdivision" has the same meaning as the term "issuer" under Section 1(1), Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(b) A political subdivision may sell, lease as a lessee or lessor, or otherwise transfer property in the same manner as the subregional board of a regional transportation authority under Sections 452.108(d) and (e), Transportation Code.

(c) A sale, lease, or other transfer of property under this section is exempt from the requirements of Section 272.001 and any other notice or competitive bidding requirements that may otherwise apply to the political subdivision.

(d) A sale, lease, or other transfer of property under this section must be approved by a majority of the voters voting at an election held within the boundaries of the political subdivision if the agreement:

(1) involves the levy by the political subdivision of a tax in an amount sufficient to make payments due under the agreement; and

(2) is executed on or after September 1, 1999.

Explanation: This change is necessary to permit certain political subdivisions to transfer property in the same manner as a regional transportation authority under Sections 452.108(d) and (e), Transportation Code.

(2) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add a new section to the bill to read as follows:

SECTION 2. Section 452.108(d), Transportation Code, is amended to read as follows:

(d) To provide tax benefits to another party that are available with respect to property under the laws of a foreign country or to encourage private investment with a transportation authority in the United States, and notwithstanding any other provision of this chapter, an authority consisting of one subregion governed by a subregional board created under Subchapter O may enter into and execute, as it considers appropriate, contracts, agreements, notes, security agreements, conveyances, bills of sale, deeds, leases as lessee or lessor, and currency hedges, swap transactions, or agreements relating to foreign and domestic currency. The agreements or instruments may have the terms, maturities, duration, provisions as to governing law, indemnities, and other provisions that are approved by the subregional board. In connection with any transaction authorized by this subsection, the authority may ~~shall~~ deposit in trust, escrow, or similar arrangement cash or lawful investments securities, or may ~~shall~~ enter into one or more payment agreements, financial guarantees, or insurance contracts with counterparties having either a corporate credit or debt rating in any form, a claims-paying ability, or a rating for financial strength of "AA" or better by Moody's Investors Service, Inc. or by Standard & Poor's Corporation or of "A (Class XII)" or better by Best's rating system, that by their terms, including interest to be earned on the cash or securities, or payment obligations, are sufficient in amount to pay when due all amounts required to be paid by the authority as rent over the full term of the transaction plus any optional purchase price or other obligation due

under the transaction. ~~[A certification in advance by an independent financial expert, banker, or certified public accountant, who is not an employee of the authority, certifying compliance with this requirement constitutes conclusive evidence of compliance.]~~

Explanation: This change is necessary to permit certain political subdivisions to enter into agreements that guarantee payment of obligations due under certain transfers of property.

(3) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add a new section to the bill to read as follows:

SECTION 3. The change in law made by this Act applies only to the sale, lease, or other transfer of property on or after the effective date of this Act. The sale, lease, or other transfer of property before the effective date of this Act is governed by the law in effect immediately before the effective date, and that law is continued in effect for that purpose.

Explanation: This change is necessary to implement the new authority of certain political subdivisions to transfer property in the same manner as a regional transportation authority under Sections 452.108(d) and (e), Transportation Code.

(4) Senate Rule 12.04(2) is suspended to permit the committee to omit the following section of the bill:

SECTION 1. Section 1, Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), is amended by amending Subdivision (6) and adding Subdivision (8) to read as follows:

(6) "Credit agreement" means lease-leaseback agreements, loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitments to purchase obligations, purchase or sale agreements, interest rate swap agreement, or commitments or other contracts or agreements authorized and approved by the governing body of an issuer either in connection with the authorization, issuance, security, exchange, payment, purchase, or redemption of obligations and/or interest thereon, or as otherwise authorized by this Act.

(8) "Lease-leaseback agreements" means contracts, agreements, notes, security agreements, conveyances, bills of sale, deeds, leases as lessee or lessor, and currency hedges, swap transactions, or agreements relating to foreign and domestic currency entered into by issuers to provide tax benefits to another party that are available with respect to property under the laws of a foreign country or to encourage private investment with an issuer in the United States. Lease-leaseback agreements may have the terms, maturities, duration, indemnities, and other provisions that are approved by the governing body of the issuer. In connection with a lease-leaseback agreement, the issuer shall deposit, in trust, escrow, or similar arrangement, cash or lawful investment securities or shall enter into one or more payment agreements, financial guarantees, or insurance contracts, with counterparties having either a corporate credit or debt rating in any form, a claims-paying ability, or a rating for financial strength of "AA" or better by Moody's Investors Service, Inc. or Standard and Poor's Ratings Group or of "A" (Class XII) or better by the A.M. Best Company's rating system, or the equivalent of such ratings in the future, that by their terms, including interest projected to be earned on the cash or investment securities or payment obligations, are sufficient in amount to pay when due all amounts required to be paid by the issuer as rent over the full term of the agreement plus any optional purchase price due under the agreement. Property sold, acquired, or otherwise

transferred under lease-leaseback agreements is considered for all purposes to be property owned and held by the issuer and used for public purposes and is exempt from ad valorem taxes imposed in this state. A leasehold interest in the property is exempt from Section 25.07(a), Tax Code. A sale, lease, sublease, or other transfer of personal property by or to the issuer under a lease-leaseback agreement is exempt from all sales, use, and motor vehicle taxes imposed by this state or a political subdivision of this state.

Explanation: This change is necessary to omit text that is not needed because of other changes made to the bill.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

SENATE BILL 666 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 666** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Brown in Chair, laid the bill and the House amendment before the Senate.

Floor Amendment No. 2

Amend **SB 666** by striking SECTION 4 of the bill (Senate engrossment, page 2, line 26, through page 3, line 8) and substituting the following:

SECTION 4. Notwithstanding Section 31.012(c), Human Resources Code, as amended by this Act:

(1) a person receiving financial assistance under Chapter 31, Human Resources Code, on December 31, 1999, remains subject to the exemptions from participation in work or employment activity requirements under Section 31.012(c), Human Resources Code, as it existed immediately before the effective date of this Act, until the person's first recertification date for the receipt of that assistance that occurs on or after January 1, 2000;

(2) a person receiving financial assistance under Chapter 31, Human Resources Code, on August 31, 2000, remains subject to the exemptions from participation in work or employment activity requirements under Section 31.012(c), Human Resources Code, as it exists on January 1, 2000, until the person's first recertification date for the receipt of that assistance that occurs on or after September 1, 2000; and

(3) a person receiving financial assistance under Chapter 31, Human Resources Code, on August 31, 2001, remains subject to the exemptions from participation in work or employment activity requirements under Section 31.012(c), Human Resources Code, as it exists on September 1, 2000, until the person's first recertification date for the receipt of that assistance that occurs on or after September 1, 2001.

The amendment was read.

On motion of Senator Zaffirini, the Senate concurred in the House amendment to **SB 666** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 2031

Senator Armbrister 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 2031** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2031** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Harris, Shapiro, Shapleigh, and Zaffirini.

SENATE BILL 403 WITH HOUSE AMENDMENTS

Senator Armbrister called **SB 403** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 403** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the liability of a criminal defendant and the defendant's sureties on a personal bond or a bail bond.

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

SECTION 1. Article 17.08, Code of Criminal Procedure, is amended to read as follows:

Art. 17.08. REQUISITES OF A BAIL BOND. A bail bond must ~~[shall be sufficient if it]~~ contain the following requisites:

1. That it be made payable to "The State of Texas";
2. That the defendant and his sureties, if any, bind themselves that the defendant will appear before the proper court or magistrate to answer the accusation against him;
3. If the defendant is charged with a felony, that it state that he is charged with a felony. If the defendant is charged with a misdemeanor, that it state that he is charged with a misdemeanor;
4. That the bond be signed by name or mark by the principal and sureties, if any, each of whom shall write thereon his mailing address;
5. That the bond state the time and place, when and where the accused binds himself to appear, and the court or magistrate before whom he is to appear. The bond shall also bind the defendant to appear before any court or magistrate before whom the cause may thereafter be pending at any time when, and place where, his presence may be required under this Code or by any court or magistrate, but in no event shall the sureties be bound after such time as the defendant receives an order of deferred adjudication or is acquitted, sentenced, placed on community supervision, or dismissed from the charge;

6. The bond shall also be conditioned that the principal and sureties, if any, will pay all necessary and reasonable expenses incurred by any and all sheriffs or other peace officers in rearresting the principal in the event he fails to appear before the court or magistrate named in the bond at the time stated therein. The amount of such expense shall be in addition to the principal amount specified in the bond. The failure of any bail bond to contain the conditions specified in this paragraph shall in no manner affect the legality of any such bond, but it is intended that the sheriff or other peace officer shall look to the defendant and his sureties, if any, for expenses incurred by him, and not to the State for any fees earned by him in connection with the rearresting of an accused who has violated the conditions of his bond.

SECTION 2. Section 2, Article 17.11, Code of Criminal Procedure, is amended to read as follows:

Sec. 2. Provided, however, any person who has signed as a surety on a bail bond and is in default thereon shall thereafter be disqualified to sign as a surety so long as he is in default on said bond. It shall be the duty of the clerk of the court wherein such surety is in default on a bail bond, to notify in writing the sheriff, chief of police, or other peace officer, of such default. A surety shall be deemed in default from the time execution may be issued on a final judgment in a bond forfeiture proceeding under the Texas Rules of Civil Procedure, unless the final judgment is superseded by the posting of a supersedeas bond ~~[the trial court enters its final judgment on the scire facias until such judgment is satisfied or set aside]~~.

SECTION 3. Article 22.10, Code of Criminal Procedure, is amended to read as follows:

Art. 22.10. SCIRE FACIAS DOCKET. When a forfeiture has been declared upon a bond, the court or clerk shall docket the case upon the scire facias or upon the civil docket, in the name of the State of Texas, as plaintiff, and the principal and his sureties, if any, as defendants; and, except as otherwise provided by this chapter, the proceedings had therein shall be governed by the same rules governing other civil suits.

SECTION 4. Article 22.125, Code of Criminal Procedure, is amended to read as follows:

Art. 22.125. POWERS OF THE COURT. After a judicial declaration of forfeiture is entered, the court may proceed with the trial required by Article 22.14 of this code. The court may exonerate the defendant and his sureties, if any, from liability on the forfeiture, remit the amount of the forfeiture, or set aside the forfeiture only as expressly provided by this chapter. The court may approve any proposed settlement of the liability on the forfeiture that is agreed to by the state and by the defendant or the defendant's sureties, if any.

SECTION 5. Chapter 22, Code of Criminal Procedure, is amended by adding Article 22.18 to read as follows:

Art. 22.18. LIMITATION. An action by the state to forfeit a bail bond under this chapter must be brought not later than the fourth anniversary of the date the principal fails to appear in court.

SECTION 6. Article 23.05, Code of Criminal Procedure, is amended to read as follows:

Art. 23.05. CAPIAS AFTER FORFEITURE. (a) Where a forfeiture of bail is declared, a capias shall be immediately issued for the arrest of the defendant, and when arrested, in its discretion, the court may require the defendant, in order to be released from custody, to deposit with the custodian of funds of the court in which the

prosecution is pending current money of the United States in the amount of the new bond as set by the court, in lieu of a surety bond, unless the forfeiture taken has been set aside under the third subdivision of Article 22.13 of this code, in which case the defendant and his sureties shall remain bound under the same bail.

(b) A capias issued under this article may be executed by a peace officer, by a surety on the forfeited bond, or by a private investigator licensed under the Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Texas Civil Statutes).

SECTION 7. Subchapter C, Private Investigators and Private Security Agencies Act (Article 4413 (29bb), Vernon's Texas Civil Statutes), is amended by adding Section 43A to read as follows:

Sec. 43A. EXECUTION OF CAPIAS OR ARREST WARRANT ON BEHALF OF SURETY ON BAIL BOND; OFFENSE. (a) A private investigator executing a capias or an arrest warrant on behalf of a surety on a bail bond may not:

(1) enter a residence without the consent of the occupants;

(2) execute the capias or warrant without written authorization from the surety;

(3) wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies that the private investigator is an employee, officer, or agent of the federal government, the state, or a political subdivision of the state; or

(4) notwithstanding Section 9.51, Penal Code, use deadly force.

(b) Notwithstanding Subsection (a)(3) of this section, a private investigator may display identification that indicates that the person is acting on behalf of a surety on a bail bond.

(c) A private investigator executing a capias or an arrest warrant on behalf of a surety on a bail bond shall immediately take the person arrested to:

(1) if the arrest is made in the county in which the capias or warrant was issued:

(A) the county jail for that county if:

(i) the offense is a Class A or Class B misdemeanor or a felony; or

(ii) the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of that county; or

(B) the municipal jail for the appropriate municipality if the offense is a Class C misdemeanor and the capias or warrant was issued by a magistrate of the municipality; or

(2) if the arrest is made in a county other than the county in which the capias or warrant was issued, the county jail for the county in which the arrest is made.

(d) A person commits an offense if the person violates this section. An offense under this section is a state jail felony.

SECTION 8. (a) This Act takes effect September 1, 1999.

(b) The changes in law made by SECTIONS 1-5 of this Act apply only to a bail bond executed on or after September 1, 1999. A bail bond executed before September 1, 1999, is covered by the law in effect when the bail bond was executed, and the former law is continued in effect for that purpose.

(c) The change in law made by SECTIONS 6 and 7 of this Act applies only to a capias or an arrest warrant issued on or after September 1, 1999.

SECTION 9. 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 403** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION __. Article 17.19(a), Code of Criminal Procedure, is amended to read as follows:

(a) Any surety, desiring to surrender his principal and after notifying the principal or the principal's attorney in a manner provided by Rule 21a, Texas Rules of Civil Procedure, of the surety's intention to surrender the principal, may file an affidavit of such intention before the court or magistrate before which the prosecution is pending. The affidavit must state ~~[the]~~:

- (1) the court and cause number of the case;
- (2) the name of the defendant;
- (3) the offense with which the defendant is charged;
- (4) the date of the bond; ~~[and]~~
- (5) the cause for the surrender; and

(6) that notice of the surety's intention to surrender the principal has been given as required by this subsection.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 403** on third reading by amending second reading Floor Amendment No. 1 (Puente Amendment) on line 8, after the words "after notifying" by striking the words "the principal or" and by adding the following after the words "principal's attorney": ", if the principal is represented by an attorney,".

Floor Amendment No. 2 on Third Reading

Amend **CSSB 403** on third reading in SECTION 6, page 4, line 20, after the words "peace officer" by striking ", by a surety on the forfeited bond,".

The amendments were read.

On motion of Senator Armbrister, the Senate concurred in the House amendments to **SB 403** by a viva voce vote.

**SENATE CONCURRENT RESOLUTION 68
WITH HOUSE AMENDMENT**

Senator Armbrister called **SCR 68** from the President's table for consideration of the House amendment to the resolution.

The Presiding Officer, Senator Brown in Chair, laid the resolution and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SCR 68** as follows:

On page 2, line 7, strike the word "and" and insert ", and the Texas Department of Transportation" after the word "Office"

On page 2, line 14, after the word "the" insert "Texas Department of Transportation,"

On page 2, line 17, strike "Texas Natural Resource Conservation Commission" and substitute "Division of Emergency Management"

The amendment was read.

On motion of Senator Armbrister, the Senate concurred in the House amendment to **SCR 68** by a viva voce vote.

SENATE BILL 1438 WITH HOUSE AMENDMENTS

Senator Duncan called **SB 1438** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 1438** as follows:

(1) In SECTION 2 of the bill, in proposed Section 2, Article 8930, Revised Statutes, strike Subdivisions (2)-(5) of the section (House Committee Printing, page 3, lines 16-19) and substitute the following:

(2) the Texas Board of Professional Engineers; and

(3) the Texas Board of Architectural Examiners.

(2) In SECTION 2 of the bill, in proposed Section 8, Article 8930, Revised Statutes (committee printing page 4, line 26), after the section heading, insert "(a)".

(3) In SECTION 2 of the bill, in proposed Section 8, Article 8930, Revised Statutes (committee printing page 5, between lines 12 and 13), at the end of that proposed section, add the following:

(b) In addition to the reporting requirements of Subsection (a) of this section, each project agency shall report annually, not later than September 1, to the governor, to the committee of each house of the legislature that has jurisdiction over appropriations, and to the Legislative Budget Board the following:

(1) the salary for all project agency personnel and the total amount of per diem expenses and travel expenses paid for all agency employees;

(2) the total amount of per diem expenses and travel expenses paid for each member of the governing body of each project agency;

(3) each project agency's operating plan and budget covering a two-year period; and

(4) a detailed report of all revenue received and all expenses incurred by the project agency in the previous 12 months.

(4) In SECTION 2 of the bill, at the end of proposed Section 13, Article 8930, Revised Statutes (house committee printing page 7, line 8), insert "The attorney general may assess and collect from the project agency reasonable attorney's fees associated with any litigation under this section."

(5) In SECTION 2 of the bill, strike added Section 12, Article 8930, Revised Statutes (House Committee Printing, page 6, line 12, through page 7, line 6), and substitute:

Sec. 12. PROPERTY. A project agency may acquire by lease, and maintain, use, and operate, any real, personal, or mixed property necessary to the exercise of the powers, rights, privileges, and functions of the agency.

(6) In SECTION 2 of the bill, in added Section 4(c), Article 8930, Revised Statutes (House Committee Printing, page 4, line 3), strike "2005" and substitute "2003"

(7) In SECTION 2 of the bill, in proposed Section 15, Article 8930, Revised Statutes (committee printing page 7, line 13), after the heading for the proposed section, insert "(a)".

(8) In SECTION 2 of the bill, after proposed Section 15, Article 8930, Revised Statutes (committee printing page 7, between lines 17 and 18), add the following:

(b) If a state agency no longer has status under this Act as a self-directed, semi-independent project agency either because of the expiration of this Act or for any other reason, the agency shall be liable for any expenses or debts incurred by the agency during the time the agency participated in the pilot project. The agency's liability under this section includes liability for any lease entered into by the agency. The state is not liable for any expense or debt covered by this subsection and money from the general revenue fund may not be used to repay the expense or debt.

(c) If a state agency no longer has status under this Act as a self-directed, semi-independent project agency either because of the expiration of this Act or for any other reason, ownership of any property or other asset acquired by the agency during the time the agency participated in the pilot project shall be transferred to the state.

(9) Strike SECTION 7 of the bill (House Committee Printing, page 10, lines 11 through 18).

(10) Strike SECTION 8 of the bill (House Committee Printing, page 10, lines 19 through 26).

(11) Strike SECTION 13 of the bill (House Committee Printing, page 13, lines 18 through 25).

(12) Strike SECTIONS 15 through 19 of the bill (House Committee Printing, page 15, lines 10 through page 18, line 3).

(13) Renumber the SECTIONS of the bill appropriately.

Floor Amendment No. 1 on Third Reading

Amend **SB 1438** on third reading in SECTION 2, in Section 8(b), Article 8930, as amended on 2nd Reading, by striking September 1 and Substituting November 1.

Floor Amendment No. 2 on Third Reading

Amend **SB 1438** on third reading as follows:

(1) In SECTION 2 of the bill, on page 5, line 13, between the words "FUNDS." and "If" strike "(a)".

(2) In SECTION 2 of the bill, page 5, strike lines 19-22.

(3) In SECTION 3 of the bill, page 8, strike lines 3-26.

(4) In SECTION 3 of the bill, page 9, strike lines 1-13.

(3) In SECTION 9 of the bill, page 11, strike lines 1-17.

(4) In SECTION 11 and 12 of the bill, page 12, strike lines 6-26 through page 13, lines 1-17.

(5) In SECTION 14 of the bill, page 13, strike line 26 though page 15, lines 1-9.

(6) In SECTION 16 of the bill, page 15, strike lines 18-26 through page 16, lines 1-16.

(7) In SECTION 18 of the bill, page 17, strike lines 10-18.

The amendments were read.

Senator Duncan 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1438** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Duncan, Chair; Shapiro, Cain, Ratliff, and Moncrief.

CONFERENCE COMMITTEE ON HOUSE BILL 1603

Senator Armbrister, on behalf of Senator Harris, 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 1603** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1603** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chair; Armbrister, Madla, Nelson, and Ellis.

SENATE BILL 773 WITH HOUSE AMENDMENT

Senator Nelson called **SB 773** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 773** as follows:

In Section 1 of the bill as engrossed, page 4, line 4, strike "(d) a manager or a member of a management team appointed under this section is immune from liability arising from the good faith performance of a function described by this section."

The amendment was read.

On motion of Senator Nelson, the Senate concurred in the House amendment to **SB 773** by a viva voce vote.

SENATE BILL 463 WITH HOUSE AMENDMENT

Senator Ogden called **SB 463** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 463** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill appropriately:

SECTION 2. (a) Not later than January 31, 2000, the Texas Department of Criminal Justice shall transfer to Mitchell County the real property described by Subsection (e) of this section.

(b) Mitchell County may use the property transferred under this Act only for a purpose that benefits the public interest of the state. If Mitchell County no longer uses the property for a purpose that benefits the public interest of the state, Mitchell County shall sell the property for fair market value under the procedures provided by Section 272.001, Local Government Code, and forward the proceeds of the sale to the Texas Department of Criminal Justice. The Texas Department of Criminal Justice shall deposit proceeds received from the sale of the property as provided by this subsection in the Texas capital trust fund.

(c) The Texas Department of Criminal Justice shall transfer the property by an appropriate instrument of transfer. The instrument of transfer must include a provision that:

(1) requires Mitchell County to use the property only for a purpose that benefits the public interest of the state; and

(2) requires Mitchell County to sell the property and forward the proceeds of the sale to the Texas Department of Criminal Justice as provided by Subsection (b) of this section if Mitchell County no longer uses the property for a purpose that benefits the public interest of the state.

(d) The Texas Department of Criminal Justice shall retain custody of the instrument of transfer after the instrument of transfer is filed in the real property records of Mitchell County.

(e) The real property referred to in this section is a tract or parcel not to exceed 63.68 ACRES OF LAND OUT OF SECTION 32, BLOCK 26, T & P RWY. SURVEYS, COLORADO CITY, MITCHELL COUNTY, TEXAS. DESCRIBED FURTHER BY METES AND BOUNDS AS FOLLOWS:

BEGINNING: AT AN IRON PIN IN THE EAST R/W OF ROGERS ROAD THAT IS N 77° 00' 00" E—46.7' FROM THE S.W. CORNER OF BLOCK 1 OF THE J.L. HART ADDITION TO THE TOWN OF COLORADO CITY AND S 12° 55' 35" E—28.8' FROM A CONCRETE R/W MONUMENT IN THE EAST R/W OF INTERSTATE 20

THENCE: N 12° 55' 35" W—162.4' ALONG THE EAST R/W OF ROGERS ROAD TO A POINT IN THE EAST R/W OF INTERSTATE 20

THENCE: N 08° 51' 11" W—607.9' ALONG SAID EAST R/W TO A POINT IN THE SOUTH R/W OF INTERSTATE 20

THENCE: N 42° 32' 16" E—383.4' ALONG SAID SOUTH R/W

THENCE: ALONG SAID SOUTH R/W ON A CURVE TO THE RIGHT SUCH THAT

Delta = 19° 28' 42" Radius = 3672.4'

Arc = 1248.5' Tangent = 630.3'

AND THE CHORD BEARS N 66° 30' 22" E—1242.5'

THENCE: N 76° 17' 35" E—909.9' ALONG SAID SOUTH R/W TO A FOUND IRON PIN

THENCE: S 12° 59' 26" E—1177.1' TO AN IRON PIN IN THE NORTH R/W OF MORALES STREET

THENCE: S 73° 13' 25" W—379.1' ALONG SAID NORTH R/W

THENCE: S 75° 05' 41" W—692.4' ALONG SAID NORTH R/W

THENCE: S 77° 04' 42" W—1421.3' ALONG SAID NORTH R/W TO THE PLACE OF BEGINNING AND CONTAINING 63.68 ACRES OF LAND MORE OR LESS.

SAVE AND EXCEPT

ALL OF BLOCK 9, THE EAST 1/2 OF BLOCK 11, LOTS 1, 2, 3, 4 AND 5, IN BLOCK 8, LOTS 23 AND 24 IN BLOCK 7, LOTS 1, 2, 4, 13, 14, 20, 22, 23 AND 24 IN BLOCK 10, ALL IN THE AUSTIN HEIGHTS ADDITION #2 (A SUBDIVISION OF BLOCKS 4, 5, 6 AND 7 OF THE J.L. HART ADDITION TO COLORADO CITY), AND ALL OF THE STREETS AND ALLEYS IN SAID AUSTIN HEIGHTS ADDITION #2.

The amendment was read.

Senator Ogden moved to concur in the House amendment to **SB 463**.

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

Absent-excused: Luna.

SENATE BILL 1784 WITH HOUSE AMENDMENT

Senator Gallegos called **SB 1784** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1784** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to school district use of community-based dropout recovery education programs to provide alternative education programs for certain students.

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

SECTION 1. Section 29.081(e), Education Code, is amended to read as follows:

(e) A school district may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The programs must:

(1) provide not less than four hours of instructional time per day;

(2) employ as faculty and administrators persons with baccalaureate or advanced degrees;

(3) provide at least one instructor for each 28 students;

(4) perform satisfactorily according to performance indicators and accountability standards adopted for alternative education programs by the commissioner; and

(5) comply with this title and rules adopted under this title except as otherwise provided by this subsection [program must grade students' work, offer course credit, modify instructional time requirements, and establish methods of evaluating subject mastery].

SECTION 2. This Act applies beginning with the 1999-2000 school year.

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.

On motion of Senator Gallegos, the Senate concurred in the House amendment to **SB 1784** by a viva voce vote.

SENATE BILL 1171 WITH HOUSE AMENDMENT

Senator Wentworth called **SB 1171** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1171** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the power and authority of the Upper Guadalupe River Authority to borrow money for corporate purposes.

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

SECTION 1. Subsections (c) and (d), Section 10(c), Chapter 5, page 1062, Special Laws, Acts of the 46th Legislature, Regular Session, 1939 (Article 8280-124, Vernon's Texas Civil Statutes), are amended to read as follows:

(c) A note issued under this section may not exceed \$55 [~~\$4~~] million in the aggregate.

(d) The notes may mature over a term of not more than 40 [~~20~~] years and bear interest at a rate of not more than 10 percent.

SECTION 2. (a) It is the intent of the legislature to provide a mechanism for the Upper Guadalupe River Authority to use revenues from the provision of wholesale water and wastewater services instead of ad valorem taxation in Kerr County to finance the construction and simultaneous operation of regional wholesale water and wastewater services in Kerr County. The mechanism allows the anticipated growth in Kerr County to pay for itself and ensures the continued prudent fiscal management of the Upper Guadalupe River Authority.

(b) The legislature anticipates that this Act will:

(1) produce a revenue stream for the Upper Guadalupe River Authority sufficient to finance other operations of the authority, including water quality monitoring programs, maintenance of the county's on-site sewage facility, flood programs, and programs of the Headwaters Underground Water Conservation District that are administratively supported by the authority; and

(2) allow the Upper Guadalupe River Authority to terminate the assessment and collection of ad valorem taxes in Kerr County on and after December 31, 2009, without sacrificing any of the authority's essential water quality programs or services in Kerr County.

SECTION 3. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

The amendment was read.

On motion of Senator Wentworth, the Senate concurred in the House amendment to **SB 1171** by a viva voce vote.

SENATE BILL 777 WITH HOUSE AMENDMENT

Senator Bernsen called **SB 777** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Brown in Chair, laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 777** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the regulation of driver training courses.

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

SECTION 1. Section 6, Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. DUTIES OF COMMISSIONER. (a) The commissioner shall carry out the policies of this Act, adopt rules necessary to implement this Act, enforce rules adopted by the commissioner ~~[board]~~, and certify those schools and course providers meeting the requirements for a driver education school license, driving safety school license, or both, or for a course provider license. A reference in another provision of this Act to a rule adopted by the board means a rule adopted by the commissioner.

(b) The commissioner by rule shall establish the curriculum and designate the textbooks that must be used in a driver education course.

(c) The commissioner by rule shall require that information relating to litter prevention be included in the curriculum of each driver education and driving safety course. The commissioner shall consult the Department of Public Safety in developing rules under this subsection. ~~[In addition, the commissioner may adopt and enforce temporary rules under this Act, but the temporary rules are valid only until the next meeting of the board.]~~

SECTION 2. (a) Except as provided by Subsection (b) of this section, the commissioner of education shall adopt rules under the Texas Driver and Traffic Safety

Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), as amended by this Act, not later than January 1, 2001. A rule adopted by the State Board of Education under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes) before the effective date of this Act remains in effect until superseded by a rule adopted by the commissioner of education.

(b) Not later than January 1, 2000, the commissioner of education shall adopt rules under Section 6(c), Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), as added by this Act.

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 Bernsen moved to concur in the House amendment to **SB 777**.

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

Absent-excused: Luna.

SENATE BILL 510 WITH HOUSE AMENDMENT

Senator Shapleigh called **SB 510** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 510** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to notification to students of the law that grants automatic college admission to certain students.

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

SECTION 1. Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.026 to read as follows:

Sec. 28.026. NOTICE OF AUTOMATIC COLLEGE ADMISSION. The board of trustees of a school district shall require each high school in the district to post appropriate signs in each counselor's office, in each principal's office, and in each administrative building indicating the substance of Section 51.803 regarding automatic college admission. To assist in the dissemination of this information, the school district shall:

(1) require that each high school counselor and class advisor be provided a detailed explanation of the substance of Section 51.803;

(2) require that each high school counselor and senior class advisor explain to eligible students the substance of Section 51.803; and

(3) provide each eligible senior student under Section 51.803, at the commencement of a class's senior year, with a written notification of the student's eligibility with a detailed explanation of the substance of Section 51.803.

SECTION 2. This Act applies beginning with the 1999-2000 school year.

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 Shapleigh moved to concur in the House amendment to **SB 510**.

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

Absent-excused: Luna.

SENATE BILL 1100 WITH HOUSE AMENDMENT

Senator Cain called **SB 1100** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **SB 1100** (senate engrossment) by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION ___. (a) Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.48 to read as follows:

Sec. 12.48. PENALTY IF CONTROLLED SUBSTANCE USED TO COMMIT OFFENSE. If the court makes an affirmative finding under Article 42.015, Code of Criminal Procedure, in the punishment phase of the trial of an offense under Chapter 29, Chapter 31, or Title 5, other than a first degree felony or a Class A misdemeanor, the punishment for the offense is increased to the punishment prescribed for the next highest category of offense. If the offense is a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days.

(b) Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.015 to read as follows:

Art. 42.015. FINDING THAT CONTROLLED SUBSTANCE USED TO COMMIT OFFENSE. In the punishment phase of the trial of an offense under Chapter 29, Chapter 31, or Title 5, Penal Code, if the court determines beyond a reasonable doubt that the defendant administered or provided a controlled substance to the victim of the offense with the intent of facilitating the commission of the offense, the court shall make an affirmative finding of that fact and enter the affirmative finding in the judgment of that case.

(c) The change in the law made by this section applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

The amendment was read.

On motion of Senator Cain, the Senate concurred in the House amendment to **SB 1100** by a viva voce vote.

(Senator Moncrief in Chair)

SENATE BILL 1911 WITH HOUSE AMENDMENTS

Senator Brown called **SB 1911** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment

Amend **SB 1911** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the creation, administration, powers, duties, operation, and financing of certain groundwater conservation districts.

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

SECTION 1. CREATION. (a) The following groundwater conservation districts are created:

- (1) Bergesland Groundwater Conservation District;
- (2) Blanco-Pedernales Groundwater Conservation District;
- (3) Brazos Valley Groundwater Conservation District;
- (4) Crossroads Groundwater Conservation District;
- (5) Hays Trinity Groundwater Conservation District;
- (6) Lavaca Groundwater Conservation District;
- (7) Lone Wolf Groundwater Conservation District;
- (8) Lost Pines Groundwater Conservation District;
- (9) McMullen Groundwater Conservation District;
- (10) Middle Pecos Groundwater Conservation District;
- (11) Red Sands Groundwater Conservation District;
- (12) Refugio Groundwater Conservation District;
- (13) Southeast Trinity Groundwater Conservation District;
- (14) Texana Groundwater Conservation District;
- (15) Trans-Pecos Groundwater Conservation District;
- (16) Tri-County Groundwater Conservation District; and
- (17) Trinity Glen Rose Groundwater Conservation District.

(b) A district created under this section is a governmental agency and a body politic and corporate.

(c) Each district created under this section is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 2. BOUNDARIES. (a) The boundaries of the following groundwater conservation districts are coextensive with county boundaries as follows:

- (1) the boundaries of the Bergesland Groundwater Conservation District are coextensive with the boundaries of Kendall County;
- (2) the boundaries of the Blanco-Pedernales Groundwater Conservation District are coextensive with the boundaries of Blanco County;
- (3) the boundaries of the Brazos Valley Groundwater Conservation District are coextensive with the boundaries of Robertson and Brazos Counties;
- (4) the boundaries of the Crossroads Groundwater Conservation District are coextensive with the boundaries of Victoria County;

(5) the boundaries of the Lavaca Groundwater Conservation District are coextensive with the boundaries of Lavaca County;

(6) the boundaries of the Lone Wolf Groundwater Conservation District are coextensive with the boundaries of Mitchell County;

(7) the boundaries of the Lost Pines Groundwater Conservation District are coextensive with the boundaries of Bastrop and Lee Counties, but if the voters of only one county confirm the creation of the district under Section 10 of this Act, the boundaries of the district are coextensive with the boundaries of that county;

(8) the boundaries of the McMullen Groundwater Conservation District are coextensive with the boundaries of McMullen County;

(9) the boundaries of the Middle Pecos Groundwater Conservation District are coextensive with the boundaries of Pecos County;

(10) the boundaries of the Refugio Groundwater Conservation District are coextensive with the boundaries of Refugio County;

(11) the boundaries of the Texana Groundwater Conservation District are coextensive with the boundaries of Jackson County;

(12) the boundaries of the Trans-Pecos Groundwater Conservation District are coextensive with the boundaries of Loving and Reeves Counties; and

(13) the boundaries of the Tri-County Groundwater Conservation District are coextensive with the boundaries of Foard, Hardeman, and Wilbarger Counties.

(b) The boundaries of the Hays Trinity Groundwater Conservation District are coextensive with the boundaries of Hays County, excluding the part of the county within the boundaries of the Barton Springs-Edwards Aquifer Conservation District or the Edwards Aquifer Authority.

(c) The Red Sands Groundwater Conservation District includes all of the territory contained in the following described area:

A 19,232 acre tract more or less out of San Salvador Del Tule Grant as recorded in Volume 10, Page 58 of the Hidalgo County, Texas map records and out of the Santa Anita Grant as recorded in Volume 7, Page 38 of the Hidalgo County, Texas map records.

Commencing at the Southeast Corner of this here in described boundary tract, said point being the intersection of the centerline of U.S. Highway 281 and the centerline of Farm to Market Road number 490 (F.M. 490) (West Hargill Road) as shown in the map of San Salvador Del Tule Grant as recorded in Volume 10, Page 58 of the Hidalgo County map records. Said point is also the point of beginning.

Thence, Westerly along the center line of the F.M. 490, an approximate distance of 18,400 feet to a point on the West line of San Salvador Del Tule Grant, said point also being the intersection of the centerline of F.M. 490 and the West line of the San Salvador Del Tule Grant,

Thence, Northerly along the West line of the San Salvador Del Tule Grant and the East line of the Santa Anita Grant at an approximate distance of 21,300 feet to a point, said point being an inside corner of this herein described tract, and also being the Southeast corner of Redland Vineyards Subdivision as recorded in Volume 4, Page 51 of the Hidalgo County map records,

Thence, Westerly along the South line of the Redland Vineyards Subdivision, an approximate distance of 4,238 feet to a point, said point being an outside corner of this herein described tract, said point also being the Southwest corner of the Redland Vineyard Subdivision,

Thence, Northerly with the West line of Redland Vineyards Subdivision, at approximately 4,590.50 feet past a point, said point being the Northwest corner of Redland Vineyard Subdivision, and the Southwest corner of Delbridge Subdivision as

recorded in Volume 5, Page 11, Hidalgo County map records, and continuing Northerly along the West line of Delbridge Subdivision for an approximate total distance of 6,646 feet to a point, said point being an inside corner of this herein described tract, and also being the Northwest corner of Delbridge Subdivision, Thence, Westerly along the South line of a 196.37 acres tract, known as the A.B. De Kock Tract, an approximate distance of 3,500 feet past the Southeast corner of share 4, out of the 8,374.70 acre tract partition out of the Santa Anita Grant as recorded in Volume 7, Page 38, in the Hidalgo County map records and continuing Westerly for an approximate total distance of 6,500 feet to a point, said point being an outside corner of this herein described tract and also being the Southwest corner of share 4, Thence, Northerly along the West line of share 4, an approximate total distance of 19,143 feet to a point, said point being the Northwest corner of this herein described tracts and, the intersection of the West line of share 4 and the centerline of Farm to Market Road number 1017, (F.M. 1017) Thence, in a Southeasterly direction, with the Right-of-Way centerline of Farm to Market Road number 1017 (F.M. 1017) an approximate total distance of 27,800 feet to a point, said point being the Northeast corner of this herein described tract, and also being the intersection of the centerline of F.M. 1017 Right-of-Way and the center line of the U.S. Highway 281 Right-Of-Way, Thence, in a Southerly direction, with the centerline of U.S. Highway 281 Right-Of-Way, an approximate distance of 7,500 feet past Floral Road, and at approximate 21,700 feet past Red Gate Road and at approximate 29,700 feet past Laguna Seca Road and for an approximate total distance of 39,300 feet to the point of beginning of this here in described tract, said tract contains 19,232 Acres, More or Less.

(d) The boundaries of the Southeast Trinity Groundwater Conservation District are coextensive with that part of Comal County located within the Hill Country Priority Groundwater Management Area designated by the Texas Natural Resource Conservation Commission by rule effective July 16, 1990.

(e)(1) The Trinity Glen Rose Groundwater Conservation District includes the territory contained within that part of Bexar County circumscribed by the southern line of the district boundary, as described by Subdivision (2) of this subsection, and the boundary of Bexar County that lies north of the points where the southern line meets the boundary of Bexar County.

(2) The southern line of the district boundary is described:

Beginning at the north line of said Wm. Byerly Survey 172, across the Medina-Bexar County line, to the northeast corner of said Survey in Bexar County, Texas.

THENCE northeast in Bexar County, Texas across the G. W. Garnett Survey to the northeast corner of said Survey;

THENCE northeast across the J. B. McMichael Survey 1, to the south corner of the V. Zepeda Survey;

THENCE northeast along the southeast line of said Survey to the northeast corner of the J. B. McMichael Survey 1;

THENCE east across the Mrs. M. A. Sharp Survey to the southwest corner of the T. C. Ry. Co. Survey 7;

THENCE northeast along the west line of said Survey to its northwest corner;

THENCE southeast along the north line of said Survey to its northeast corner;

THENCE southwest along the east line of said Survey to the north corner of the Manuel Gomez Survey 7;

THENCE southeast along the north line of said Manual Gomez Survey 7 to its northeast corner, which is in the west line of the J. A. Torris Survey;
THENCE south along the west line of said J. A. Torris Survey to its southwest corner;
THENCE east along the south line of said Survey to the northwest corner of the A. Guerrero Survey;
THENCE south along the west line of said Survey to its southwest corner;
THENCE east along the south line of said Survey to its southeast corner;
THENCE north along the east line of said Survey to the south line of the John M. Ross Survey 224;
THENCE east along the south line of said John M. Ross Survey 224 to its southeast corner, which is in the west line of the J. H. Blume Survey 356;
THENCE, north along the west line of said J. H. Blume Survey 356 to its northwest corner;
THENCE east along the north line of said Survey to its northeast corner;
THENCE south along the east line of said Survey to the most southerly southwest corner of the H. E. & W. T. Ry. Co. Survey 1;
THENCE east along the south line of said H. E. & W. T. Ry. Co. Survey 1 to its most southerly southeast corner, which is in the west corner of the C. Oadna Survey 422;
THENCE northeast along the northwest lines of said C. Oadna Survey 422 and the J. Martinez Survey 423 to the north corner of said J. Martinez Survey 423;
THENCE southeast along the northeast line of said Survey to its east corner, which is in the northwest line of the Henreich Leifeste Survey;
THENCE northeast along the northwest line of said Henreich Leifeste Survey to an interior northwest corner of said Survey;
THENCE southeast across said Survey to the northwest corner of the R. Ortega Survey 435;
THENCE east along the north line of said R. Ortega Survey 435 to its northeast corner, which is in the west line of the C. Brannen Survey 433 1/2;
THENCE south along the west line of said C. Brannen Survey 433 1/2 to its southwest corner;
THENCE east along the south line of said Survey to its southeast corner;
THENCE north along the east line of said Survey to the northwest corner of the C. C. I. Co. Survey 437;
THENCE east along the north line of said C. C. I. Co. Survey 437 to the northeast corner of said Survey;
THENCE northeast across the T. C. Ry. Co. Survey 599 to the northwest corner of the Chas. W. Beckmann Survey;
THENCE east along the north line of said Chas. W. Beckmann Survey to its northeast corner, which is in the west line of the Collin C. McRae Survey 391;
THENCE north along the west lines of said Collin C. McRae Survey 391 and the W. P. G. Survey to the northwest corner of said W. P. G. Survey;
THENCE east along the north line of said Survey to its northeast corner, which is in the southwest line of the M. James Survey 3;
THENCE southeast along the southwest line of said M. James Survey 3 to its south corner, which is the west corner of the M. James Survey 2;
THENCE northeast along the northwest line of said Survey to its north corner;
THENCE southeast along the northeast line of said Survey to the most southerly southwest corner of the Rafael Herrera Survey 382;
THENCE east along the south line of said Rafael Herrera Survey 382 to its southeast corner;

THENCE north along the east line of said Survey to the northwest corner of the C. C. Survey 8;

THENCE east along the north line of said C. C. Survey 8 to its northeast corner, which is in the west line of the C. C. I. Co. Survey 7;

THENCE north along the west line of said C. C. I. Co. Survey 7 to the northwest corner of said Survey;

THENCE east along the north line of said Survey to its northeast corner, which is in the west line of A. B. & M. Survey 5;

THENCE north along the west line of said A. B. & M. Survey 5 to its northwest corner;

THENCE east along the north lines of said Survey and the Bertha Staffel Survey 4 to the southwest corner of the B. S. & F. Survey 417-3/8;

THENCE northeast across said Survey to the southwest corner of the Ed Penshorn Survey 367;

THENCE east along the south line of said Ed Penshorn Survey 368 to its southeast corner;

THENCE east across the H. J. Uppertz Survey 417-4/8 to the northwest corner of the W. W. Allen Survey 353;

THENCE east along the north line of said Survey to its northeast corner;

THENCE south along the east line of said Survey to the most northerly northwest corner of the Hrs. Wm. Brishin Survey 89 1/2;

THENCE east along the north line of said Hrs. Wm. Brishin Survey 89 1/2 to its northeast corner;

THENCE southeast across the Rompel Vogel & Koch Survey 553 to the northwest corner of the E. Gonzales Survey;

THENCE south along the west line of said Survey to its southwest corner, which is in the northwest corner of the E. Martin Survey 89;

THENCE southeast across said E. Martin Survey 89 to the southwest corner of the Fr. Vaidez Survey 478 1/2;

THENCE east along the south line of said Survey to its southeast corner;

THENCE north along the east line of said Survey to its northeast corner, which is in the south line of the W. N. Hughes Survey;

THENCE east along the south line of said W. N. Hughes Survey, across Cibolo Creek and the Bexar County-Comal County line.

SECTION 3. DEFINITION. In this Act, "district" means a groundwater conservation district created under Section 1 of this Act.

SECTION 4. FINDING OF BENEFIT. All of the land and other property included within the boundaries of a district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

SECTION 5. AUTHORITY OF TEMPORARY DIRECTORS. (a) Except as provided by Subsections (c) and (d) of this section or otherwise by this Act, the temporary directors of a district have the same permitting and general management powers as those granted to initial and permanent directors under Chapter 36, Water Code.

(b) The temporary directors or their designees have the authority to enter any public or private property located within the district to inspect a water well as provided by Section 49.221, Water Code.

(c) The temporary directors do not have the authority granted by the following provisions of Chapter 36, Water Code:

- (1) Sections 36.017, 36.019, 36.020, and 36.059, relating to elections;
 - (2) Sections 36.105, 36.1071, 36.1072, 36.1073, and 36.108, relating to eminent domain and management plans;
 - (3) Sections 36.171-36.181, relating to bonds and notes;
 - (4) Sections 36.201-36.204, relating to taxes; and
 - (5) Sections 36.321-36.359, relating to annexation and consolidation.
- (d) The temporary directors may regulate the transfer of groundwater out of the district as provided by Section 36.122, Water Code, but may not prohibit the transfer of groundwater out of the district.

SECTION 6. MORATORIUM ON ADOPTION OF LONG-TERM MANAGEMENT PLANS. To ensure consistency of district long-term management plans with the regional planning process authorized by Senate Bill No. 1 (Chapter 1010), Acts of the 75th Legislature, Regular Session, 1997, a district may not adopt the comprehensive management plan required by Section 36.1071, Water Code, before September 1, 2001.

SECTION 7. INITIAL BOARD OF DIRECTORS. The initial directors may not be elected until after September 1, 2001.

SECTION 8. TEMPORARY DIRECTORS. (a) Except as provided by Subsections (b) and (c) of this section, the commissioners court of a county containing territory included within the district shall appoint temporary directors in accordance with the provisions of Section 36.016, Water Code, relating to the appointment of temporary directors by county commissioners courts.

(b) For districts composed of more than one county, the county commissioners court of each county with territory in the district shall appoint an equal number of temporary directors, the total number of temporary directors appointed to be determined by the county commissioners courts except that the total number of directors may not be fewer than five or more than 11.

(c) The 90-day limit for the appointment of temporary directors under Section 36.016, Water Code, does not apply to the appointment of temporary directors under this Act.

SECTION 9. ORGANIZATIONAL MEETING. (a) As soon as practicable after the temporary directors are appointed as provided by this Act, the temporary directors shall hold the organizational meeting of the district and take office at that time.

(b) The temporary directors shall hold the meeting at a location within the district to which a majority of the temporary directors agree.

SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) Not earlier than September 1, 2001, the temporary board of directors shall call and hold an election to confirm the district and to elect the initial directors.

(b) At the confirmation and initial directors' election, the temporary board of directors shall have placed on the ballot the names of the candidates for each of the positions on the board. To qualify as a candidate for a position, a person must be a resident of the district.

(c) If the district is confirmed at the election, the temporary board of directors, at the time the vote is canvassed, shall:

- (1) declare the qualified person who receives the most votes for each position to be elected as the initial director for that position; and

- (2) include the results of the initial directors' election in the district's election report to the Texas Natural Resource Conservation Commission.

(d) The initial directors shall draw lots to determine their terms so that:

- (1) one-half or a simple majority of the directors serve four-year terms that expire on the fourth anniversary of the date the initial directors were elected; and

(2) the remaining directors serve two-year terms that expire on the second anniversary of the date the initial directors were elected.

(e) Subsection (a), Section 41.001, Election Code, applies to a confirmation and initial directors' election held as provided by this section.

(f) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Subsections (b)-(h), Section 36.017, Water Code, and the Election Code.

(g) If the establishment of the district has not been confirmed at an election held under this section before the fourth anniversary of the effective date of this Act, the district is dissolved on that date, except that any debts incurred shall be paid and the organization of the district shall be maintained until all debts are paid.

SECTION 11. ELECTION OF PERMANENT DIRECTORS. Beginning in the second year after the year in which the district has held a confirmation election, an election shall be held in the district on the first Saturday in the month in which the initial directors were elected under Section 10 of this Act and every two years after that date to elect the appropriate number of directors to the board.

SECTION 12. ELECTIONS. Prior to September 1, 2001, the temporary directors of a district shall not hold an election for the imposition of a tax.

SECTION 13. MODIFICATION OF DISTRICT. A district created under this Act may be modified by subsequent acts of the Texas Legislature. The modification may be in response to the recommendations of an interim study or committee, including the possibility of adding additional area to the district or merging the district with other districts for the purposes of the efficient and effective management of a common groundwater resource.

SECTION 14. STATUTORY INTERPRETATION. Except as otherwise provided by this Act, if there is a conflict between this Act and Chapter 36, Water Code, this Act controls.

SECTION 15. RATIFICATION OF DISTRICT CREATION. (a) Notwithstanding the provisions of Section 10 of this Act, an election for the confirmation of the creation of a groundwater conservation district under this Act and for the selection of initial directors for such district shall not be held unless action is taken by the 77th Legislature in its Regular Session to ratify the creation of the district.

(b) Except as provided by Subsection (c) of this section, a groundwater conservation district created by this Act whose creation is not ratified by the 77th Legislature as provided by Subsection (a) of this section is dissolved effective September 1, 2001.

(c) If a groundwater conservation district is dissolved under this section, the district has no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all debts are paid.

SECTION 16. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

(d) The procedural requirements of this section relating to the provision of notice have been met by the provision of notice of the introduction of the proposed Acts of the 76th Legislature relating to the creation of the groundwater conservation districts now created by this Act.

SECTION 17. EFFECTIVE DATE. This Act takes effect September 1, 1999.

SECTION 18. EMERGENCY. 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 1911** (House committee printing) as follows:

(1) In SECTION 1(a) of the bill, strike Subdivision (15) (page 1, line 24) and renumber Subdivisions (16) and (17) as Subdivisions (15) and (16) (page 2, lines 1 and 2).

(2) In SECTION 2(a) of the bill, Subdivision (11) (page 3, line 20), after the semicolon insert "and".

(3) In SECTION 2(a) of the bill, strike Subdivision (12) (page 3, lines 21 through 23).

(4) In SECTION 2(a) of the bill, renumber Subdivision (13) (page 3, line 24) as Subsection (12).

Floor Amendment No. 2

Amend **CSSB 1911** (House committee report) as follows:

(1) In SECTION 1(a) of the bill, Subdivision (15) (page 1, line 24), after the semicolon, add "and".

(2) In SECTION 1(a) of the bill, Subdivision (16) (page 2, line 1), strike "; and" and substitute a period.

(3) In SECTION 1(a) of the bill, strike Subdivision (17) (page 2, lines 2 and 3).

(4) In SECTION 2 of the bill, strike Subdivision (e) (page 6, line 20, through page 11, line 13).

Amendment No. 3

Amend **CSSB 1911** as follows:

On page 1, line 8, and on page 2, line 12, strike "Bergesland" and replace with "Cow Creek".

Amendment No. 4

Amend **CSSB 1911** as follows:

On page 1, lines 9 and 10, delete "(2) Blanco-Pedernales Groundwater Conservation District;" and renumber the remaining subsections accordingly.

On page 2, lines 15-17, delete subsection (2) and renumber the remaining subsections accordingly.

Floor Amendment No. 5

Amend **CSSB 1911** (House committee report) as follows:

(1) In SECTION 1(a) of the bill, strike Subdivision (6) (page 1, line 14) and renumber Subdivisions (7) through (17) as Subdivisions (6) through (16).

(2) In SECTION 2(a) of the bill, strike Subdivision (5) (page 2, lines 24 through 26) and renumber Subdivisions (6) through (13) as Subdivisions (5) through (12).

The amendments were read.

On motion of Senator Brown, the Senate concurred in the House amendments to **SB 1911** by a viva voce vote.

SENATE BILL 434 WITH HOUSE AMENDMENTS

Senator Brown called **SB 434** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Moncrief in Chair, laid the bill and the House amendments before the Senate.

Floor Amendment No. 2

Amend **SB 434**, in SECTION 1 of the bill, by striking Section 207.002, Property Code (House committee report, page 2, lines 6-8), as added by the bill, and substitute a new Section 207.002 as follows:

Sec. 207.002. APPLICABILITY. (a) This chapter applies to a subdivision with a property owners' association that is entitled to levy regular or special assessments.

(b) This chapter does not apply to a subdivision with a property owners' association that is managed by a non-compensated board that does not use a professional management company to supervise or conduct daily operations of the subdivision on a regular basis.

Floor Amendment No. 1 on Third Reading

Amend **SB 434** on third reading, in SECTION 1 of the bill, by striking Section 207.002, Property Code, as added by the bill and amended on second reading by the Hamric Amendment, and substitute the following:

Sec. 207.002. APPLICABILITY. (a) This chapter applies to a subdivision with a property owners' association that is entitled to levy regular or special assessments.

The amendments were read.

On motion of Senator Brown, the Senate concurred in the House amendments to **SB 434** by a viva voce vote.

CONFERENCE COMMITTEE ON HOUSE BILL 1140

Senator Armbrister 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 1140** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1140** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chair; Whitmire, Nelson, Bivins, and Moncrief.

CONFERENCE COMMITTEE ON HOUSE BILL 1123

Senator Cain 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 1123** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1123** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Cain, Chair; Wentworth, Harris, Ellis, and Duncan.

SENATE BILL 623 WITH HOUSE AMENDMENTS

Senator Lucio called **SB 623** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend **SB 623** (senate engrossment) in SECTION 1 of the bill as follows:

(1) In proposed Section 2306.514(a)(1)(B), Government Code (page 1, line 16), strike "30" and substitute "34".

(2) In proposed Section 2306.514(a)(2)(A), Government Code (page 1, line 19), strike "a standard 30-inch" and substitute "at least a 32-inch".

Floor Amendment No. 2

Amend Committee Amendment No. 1 to **SB 623** on page 1 by striking lines 4 and 5 and substituting the following:

(1) In proposed Section 2306.514(a)(1) Government Code page 1, line 16) strike (B) in its entirety and substitute the following:

(B) has at least a standard 36 inch door.

Amend Committee Amendment No. 1, page 1, line 7 by striking "a standard 30-inch" and substituting "at least a standard 32 inch door".

Floor Amendment No. 3

Amend **SB 623**, House Committee Report page 1, line 8 by inserting "single family" following the word "construct".

On page 2, line 10 by inserting "single family" after the word "builds".

On page 2, line 16 by inserting "single family" after the word "to".

The amendments were read.

Senator Lucio moved to concur in the House amendments to **SB 623**.

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

Absent-excused: Luna.

CONFERENCE COMMITTEE ON HOUSE BILL 1983

Senator Madla 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 1983** and moved that the request be granted.

The motion prevailed.

The Presiding Officer, Senator Moncrief in Chair, asked if there were any motions to instruct the conference committee on **HB 1983** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Madla, Chair; Sibley, Lucio, Haywood, and Duncan.

CONFERENCE COMMITTEE ON HOUSE BILL 2409

Senator Bernsen 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 2409** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2409** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Bernsen, Chair; Shapleigh, Cain, Jackson, and Armbrister.

CONFERENCE COMMITTEE ON HOUSE BILL 2611

Senator Shapiro, on behalf of Senator Moncrief, 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 2611** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2611** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Moncrief, Chair; Shapiro, Shapleigh, Wentworth, and Carona.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3778**

Senator Gallegos submitted the following Conference Committee Report:

Austin, Texas
May 27, 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 3778** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

GALLEGOS

CARONA

OGDEN

WHITMIRE

WENTWORTH

On the part of the Senate

LUNA

OLIVO

MCCALL

NORIEGA

GALLEGO

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 869**

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 26, 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 869** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS

ELLIS

MONCRIEF

NELSON

On the part of the Senate

GOODMAN

P. KING

G. LEWIS

SMITH

TRUITT

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2611**

Senator Moncrief submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 2611** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

MONCRIEF	GREENBERG
SHAPIRO	GALLEGO
WENTWORTH	UHER
CARONA	MADDEN
SHAPLEIGH	DANBURG
On the part of the Senate	On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 713**

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas
May 27, 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 713** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELLIS	CUELLAR
WEST	RANGEL
WENTWORTH	F. BROWN
ZAFFIRINI	JUNELL
On the part of the Senate	On the part of the House

The Conference Committee Report was again filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 819**

Senator Moncrief submitted the following Conference Committee Report:

Austin, Texas
May 27, 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 819** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

MONCRIEF

ELLIS

HARRIS

NELSON

WENTWORTH

On the part of the Senate

NAISHTAT

E. REYNA

A. REYNA

MORRISON

GOODMAN

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3693**

Senator Fraser submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 3693** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

FRASER

CARONA

GALLEGOS

JACKSON

SHAPIRO

On the part of the Senate

HUNTER

NAISHTAT

J. DAVIS

CHAVEZ

VAN DE PUTTE

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3757**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas
May 27, 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 3757** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA
BERNSEN
NIXON
SHAPIRO
SHAPLEIGH

On the part of the Senate

GIDDINGS
BURNAM
J. JONES
G. LEWIS
OLIVO

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2175**

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 27, 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 2175** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER
NIXON
NELSON
MADLA
WHITMIRE

On the part of the Senate

UHER
PITTS
WALKER
GLAZE
CUELLAR

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2224**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas
May, 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 2224** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO

BROWN

HARRIS

NIXON

MADLA

On the part of the Senate

SOLOMONS

BRIMER

RITTER

GEORGE

DUKES

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2130**

Senator Nixon submitted the following Conference Committee Report:

Austin, Texas
May 27, 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 2130** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

NIXON

ELLIS

HARRIS

WEST

On the part of the Senate

CARTER

CLARK

HINOJOSA

P. KING

RAMSAY

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 597**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas
May 27, 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 597** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

LUCIO
ARMBRISTER
BROWN
HAYWOOD
SHAPLEIGH

FLORES
HINOJOSA
MCREYNOLDS
COOK

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1799**

Senator Ratliff submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 1799** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

RATLIFF
MADLA
ARMBRISTER

EILAND
WILSON
PITTS
COLEMAN
P. KING

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3182**

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 26, 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 3182** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS
LINDSAY
MADLA

GRUSENDORF
BRIMER
GEORGE
RITTER
WOOLLEY

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2147**

Senator Shapleigh submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 2147** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPLEIGH
BERNSEN
DUNCAN
OGDEN
ZAFFIRINI

CARTER
BAILEY
HODGE

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1444**

Senator Moncrief submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 1444** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

MONCRIEF

LINDSAY

NELSON

SHAPLEIGH

WEST

On the part of the Senate

DELISI

GRAY

COLEMAN

HILDERBRAN

MAXEY

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3470**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 3470** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI

BARRIENTOS

CARONA

GALLEGOS

BERNSEN

On the part of the Senate

OLIVO

RANGEL

NAISHTAT

CHRISTIAN

CUELLAR

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 2815**

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 2815** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROWN	JUNELL
ARMBRISTER	COUNTS
HAYWOOD	T. KING
LUCIO	COOK
BIVINS	SWINFORD
On the part of the Senate	On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3079**

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 27, 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 3079** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROWN	KUEMPEL
BARRIENTOS	ELKINS
RATLIFF	MERRITT
LUCIO	HOMER
ARMBRISTER	HOPE
On the part of the Senate	On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 371**

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 371** 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.

BROWN
WHITMIRE
NELSON
DUNCAN

On the part of the Senate

GRAY
MCCALL
BOSSE
STAPLES

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the continuation and functions of the Correctional Managed Health Care Advisory Committee.

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

SECTION 1. Chapter 501, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. MANAGED HEALTH CARE

Sec. 501.131. DEFINITION. In this subchapter, "committee" means the Correctional Managed Health Care Committee.

Sec. 501.132. APPLICATION OF SUNSET ACT. The Correctional Managed Health Care Committee is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the committee is abolished and this subchapter expires September 1, 2005.

Sec. 501.133. COMMITTEE MEMBERSHIP. (a) The committee consists of nine members appointed as follows:

(1) two members employed full-time by the department, at least one of whom is a physician, appointed by the executive director;

(2) two members employed full-time by The University of Texas Medical Branch at Galveston, at least one of whom is a physician, appointed by the president of the medical branch;

(3) two members employed full-time by the Texas Tech University Health Sciences Center, at least one of whom is a physician, appointed by the president of the university; and

(4) three public members appointed by the governor who are not affiliated with the department or with any entity with which the committee has contracted to provide health care services under this chapter, at least two of whom are licensed to practice medicine in this state.

(b) An appointment to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 501.134. PUBLIC MEMBER ELIGIBILITY. A person may not be a public member of the committee 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 department or the committee;

(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 department or the committee; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the department or the committee other than compensation or reimbursement authorized by law for committee membership, attendance, or expenses.

Sec. 501.135. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (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 committee and may not be a committee 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 health care or health care services; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care or health care services.

(c) A person may not be a member of the committee or act as the general counsel to the committee 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 committee.

Sec. 501.136. TERMS OF OFFICE. Committee members appointed by the governor serve staggered six-year terms, with the term of one of those members expiring on February 1 of each odd-numbered year. Other committee members serve at the will of the appointing official or until termination of the member's employment with the entity the member represents.

Sec. 501.137. PRESIDING OFFICER. The governor shall designate a physician member of the committee as presiding officer. The presiding officer serves in that capacity at the will of the governor.

Sec. 501.138. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the committee that a member:

(1) does not have at the time of taking office the qualifications required by Section 501.133;

(2) does not maintain during service on the committee the qualifications required by Section 501.133;

(3) is ineligible for membership under Section 501.134 or 501.135;

(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 committee meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee.

(b) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(c) If the managed health care administrator has knowledge that a potential ground for removal exists, the administrator shall notify the presiding officer of the committee 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 managed health care administrator shall notify the next highest ranking officer of the committee, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 501.139. MEETINGS. (a) The committee shall meet at least once in each quarter of the calendar year and at any other time at the call of the presiding officer.

(b) The committee may hold a meeting by telephone conference call or other video or broadcast technology.

Sec. 501.140. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the committee may not vote, deliberate, or be counted as a member in attendance at a meeting of the committee 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 committee;

(2) the programs operated by the committee;

(3) the role and functions of the committee;

(4) the rules of the committee with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the committee;

(6) the results of the most recent formal audit of the committee;

(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 committee or the Texas Ethics Commission.

(c) A person appointed to the committee 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. 501.141. COMPENSATION; REIMBURSEMENT. A committee member serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in the performance of the duties of the committee.

Sec. 501.142. ADMINISTRATION; PERSONNEL. The committee may hire a managed health care administrator, who may employ personnel necessary for the administration of the committee's duties. The committee shall pay necessary costs for its operation, including costs of hiring the managed health care administrator and other personnel, from funds appropriated by the legislature to the department for correctional health care.

Sec. 501.143. DIVISION OF RESPONSIBILITIES. The committee shall develop and implement policies that clearly separate the policy-making responsibilities of the committee and the management responsibilities of the managed health care administrator and staff of the committee.

Sec. 501.144. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The managed health care administrator or the administrator's designee shall provide to members of the committee and to committee 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. 501.145. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The managed health care administrator or the administrator'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 committee 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 committee'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. 501.146. MANAGED HEALTH CARE PLAN. (a) The committee shall develop a managed health care plan for all persons confined by the department that includes:

(1) the establishment of a managed health care provider network of physicians and hospitals that will serve the department as the exclusive health care provider for persons confined in institutions operated by the department;

(2) cost containment studies;

(3) care case management and utilization management studies performed for the department; and

(4) concerning the establishment of criteria for hospitals, home health, or hospice providers, a provision requiring the managed health care plan to accept certification by the Medicare program under Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.), and its subsequent amendments as an alternative to accreditation by the Joint Commission on Accreditation of Healthcare Organizations.

(b) To implement the managed health care plan, The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center, for employees who are entitled to retain salary and benefits applicable to employees of the Texas Department of Criminal Justice under Section 9.01, Chapter 238, Acts of the 73rd Legislature, Regular Session, 1993, may administer, offer, and report through their payroll systems participation by those employees in the Texas employees uniform group insurance benefits program and the Employees Retirement System of Texas.

Sec. 501.147. COMMITTEE AUTHORITY TO CONTRACT. (a) The committee may enter into a contract on behalf of the department to fully implement the managed health care plan under this subchapter.

(b) The committee may, in addition to providing services to the department, contract with other governmental entities for similar health care services and integrate those services into the managed health care provider network.

(c) In contracting for implementation of the managed health care plan, the committee, to the extent possible, shall integrate the managed health care provider network with the public medical schools of this state and the component and affiliated hospitals of those medical schools.

(d) For services that the public medical schools and their components and affiliates cannot provide, the committee shall initiate a competitive bidding process for contracts with other providers for medical care to persons confined by the department.

Sec. 501.148. GENERAL POWERS AND DUTIES OF COMMITTEE. (a) The committee shall:

(1) develop the contracts for health care services in consultation with the department and the health care providers;

(2) determine a capitation rate reflecting the true cost of correctional health care, including necessary catastrophic reserves;

(3) monitor and develop reports on general quality of care issues;

(4) act as an independent third party in the allocation of money to inmate health care providers;

(5) act as an independent third party for the purpose of dispute resolution in the event of a disagreement between the department and the health care providers; and

(6) enforce compliance with contract provisions, including requiring corrective action if care does not meet expectations as determined by quality of care monitoring activities.

(b) The committee shall evaluate and recommend to the board sites for new medical facilities that appropriately support the managed health care provider network.

(c) The committee may contract with an individual for financial consulting services and may make use of financial monitoring of the managed health care plan to assist the committee in determining an accurate capitation rate.

(d) The committee may contract with an individual for actuarial consulting services to assist the committee in determining trends in the health of the inmate population and the impact of those trends on future financial needs.

Sec. 501.149. REVIEW OF RURAL HOSPITAL CONTRACTS; REPORT. (a) The committee, in conjunction with The University of Texas Medical Branch at Galveston, the Texas Tech Health Sciences Center, and the department, shall review the use of rural hospital contracts for medical care to persons confined by the

department. The review shall include an analysis of inmate transportation costs, including transportation-related security costs, and health care costs. The review may include recommendations for improving the use of contracts with rural hospitals to implement the managed health care plan.

(b) The committee shall report to the 77th Legislature regarding its findings and any recommendations.

(c) This section expires September 1, 2001.

Sec. 501.150. QUALITY OF CARE MONITORING BY THE DEPARTMENT AND HEALTH CARE PROVIDERS. (a) The committee shall establish a procedure for monitoring the quality of care delivered by the health care providers. Under the procedure, the department's monitoring activities must be limited to investigating medical grievances, ensuring access to medical care, and conducting periodic operational reviews of medical care provided at its units.

(b) The department and the medical care providers shall cooperate in monitoring quality of care. The clinical and professional resources of the health care providers shall be used to the greatest extent feasible for clinical oversight of quality of care issues.

(c) The department and the medical care providers shall communicate the results of their monitoring activities to the committee.

Sec. 501.151. COMPLAINTS. (a) The committee shall maintain a file on each written complaint filed with the committee. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the committee;

(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 committee closed the file without taking action other than to investigate the complaint.

(b) The committee shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the committee's policies and procedures relating to complaint investigation and resolution.

(c) The committee, 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.

Sec. 501.152. PUBLIC PARTICIPATION. The committee shall develop and implement policies that provide the public with a reasonable opportunity to appear before the committee and to speak on any issue under the jurisdiction of the committee.

SECTION 2. Section 501.059, Government Code, is repealed.

SECTION 3. The name of the Correctional Managed Health Care Advisory Committee is changed to the Correctional Managed Health Care Committee. The change in the name of the Correctional Managed Health Care Advisory Committee does not affect the validity of any action taken by the committee before, on, or after the effective date of this Act. A reference in law to the Correctional Managed Health Care Advisory Committee means the Correctional Managed Health Care Committee.

SECTION 4. The governor shall make initial gubernatorial appointments to the Correctional Managed Health Care Committee to accomplish the membership

required by Section 501.133, Government Code, as added by this Act, not later than January 1, 2000, and shall designate one member for a term expiring January 31, 2001, one member for a term expiring January 31, 2003, and one member for a term expiring January 31, 2005.

SECTION 5. The Correctional Managed Health Care Committee, in conjunction with The University of Texas Medical Branch at Galveston, the Texas Tech Health Sciences Center, and the Texas Department of Criminal Justice, shall begin the review required by Section 501.149, Government Code, as added by this Act, not later than January 1, 2000.

SECTION 6. This Act takes effect September 1, 1999.

SECTION 7. 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 Conference Committee Report was again filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 1423

Senator West submitted the following Conference Committee Report:

Austin, Texas
May 27, 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 1423** 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.

WEST
BERNSEN
NELSON
LINDSAY
HARRIS

On the part of the Senate

NORIEGA
NAISHTAT
MAXEY
CHRISTIAN
TRUITT

On the part of the House

A BILL TO BE ENTITLED AN ACT

relating to providing supplemental financial assistance and services to certain grandparents.

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

SECTION 1. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.0041 to read as follows:

Sec. 31.0041. SUPPLEMENTAL FINANCIAL ASSISTANCE FOR CERTAIN PERSONS. (a) To the extent funds are appropriated for this purpose, the department

may provide supplemental financial assistance in addition to the amount of financial assistance granted for the support of a dependent child under Section 31.003 to a person who:

- (1) is 50 years of age or older;
- (2) is the grandparent of the dependent child, as defined by Section 31.002, who lives at the person's residence;
- (3) is the primary caretaker of the dependent child;
- (4) has a family income that is at or below 100 percent of the federal poverty level; and
- (5) does not have resources that exceed the amount allowed for financial assistance under this chapter.

(b) Supplemental financial assistance provided to a person under this section may include one or more cash payments, not to exceed a total of \$1,000, after determination of eligibility for supplemental financial assistance under this section.

(c) The department shall inform an applicant for financial assistance under this chapter who meets the eligibility requirements under Subsection (a) of the availability of supplemental financial assistance.

(d) The department shall maintain complete records and compile statistics regarding the number of households that receive supplemental financial assistance under this section.

(e) After a person receives supplemental financial assistance under Subsection (b) on behalf of a dependent child, no other person is eligible under Subsection (a) to receive supplemental financial assistance on behalf of that child.

SECTION 2. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.070 to read as follows:

Sec. 40.070. SUPPORT SERVICES FOR CERTAIN FAMILIES. (a) If the department places a child who is in the conservatorship of the state in the home of a grandparent of the child, the department shall:

- (1) refer the grandparent to support services offered by the department; and
- (2) inform the grandparent of the availability of financial assistance under Chapter 31, including supplemental financial assistance, if the eligibility requirements of that chapter are satisfied.

(b) The department shall maintain complete records and compile statistics regarding the number of children who are placed by the department in the home of a grandparent of the child.

SECTION 3. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 4. This Act takes effect September 1, 1999.

SECTION 5. 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 Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 3029**

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 3029** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

BROWN
SIBLEY
FRASER
BIVINS

OLIVEIRA
HINOJOSA
LUNA
SEAMAN
JIM SOLIS

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 211**

Senator Sibley submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 211** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SIBLEY
NELSON
CAIN
WEST

HOCHBERG
GREENBERG
DUNNAM
LENGEFELD

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 365**

Senator Brown submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 365** 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.

BROWN
ARMBRISTER
NELSON
WHITMIRE

On the part of the Senate

MCCALL
BOSSE
ELLIS
GRAY

On the part of the House

**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, the administration of the Texas Council on Offenders with Mental Impairments, and the civil commitment of sexually violent predators.

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)]~~ 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.

~~[(f)] [(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) [(c)]~~ 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. 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.

SECTION 1.13. 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.

SECTION 1.14. 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 1.15. 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 1.16. 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 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;]

(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 1.17. 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 1.18. 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) [~~(c)~~] 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 1.19. 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.~~

[~~(c)~~] 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 1.20. 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 1.21. 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 1.22. 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 1.23. 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 1.24. 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 1.25. (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 1.26. 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 1.27. 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 1.28. 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 1.29. 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 1.30. 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 1.31. 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 1.32. 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 1.33. 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.

SECTION 1.34. 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 1.35. 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 1.36. 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. (a) 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.

(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.

SECTION 1.37. (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 1.38. (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.

SECTION 1.39. 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 1.40. 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 1.41. 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 1.42. 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 1.43. 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 1.44. 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 1.45. 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 1.46. 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 1.47. 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 1.48. 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 1.49. 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 1.50. Section 497.090, Government Code, is repealed.

SECTION 1.51. 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 (d) and (e) to read as follows:

(d) 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.

(e) 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(d) 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. The Health and Safety Code is amended by adding Title 11 to read as follows:

TITLE 11. CIVIL COMMITMENT OF
SEXUALLY VIOLENT PREDATORS
CHAPTER 841. CIVIL COMMITMENT
OF SEXUALLY VIOLENT PREDATORS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 841.001. LEGISLATIVE FINDINGS. The legislature finds that a small but extremely dangerous group of sexually violent predators exists and that those predators have a behavioral abnormality that is not amenable to traditional mental illness treatment modalities and that makes the predators likely to engage in repeated predatory acts of sexual violence. The legislature finds that the existing involuntary commitment provisions of Subtitle C, Title 7, are inadequate to address the risk of repeated predatory behavior that sexually violent predators pose to society. The legislature further finds that treatment modalities for sexually violent predators are different from the traditional treatment modalities for persons appropriate for involuntary commitment under Subtitle C, Title 7. Thus, the legislature finds that a civil commitment procedure for the long-term supervision and treatment of sexually violent predators is necessary and in the interest of the state.

Sec. 841.002. DEFINITIONS. In this chapter:

(1) "Attorney representing the state" means an attorney employed by the prison prosecution unit to initiate and pursue a civil commitment proceeding under this chapter.

(2) "Behavioral abnormality" means a congenital or acquired condition that, by affecting a person's emotional or volitional capacity, predisposes the person to commit a sexually violent offense, to the extent that the person becomes a menace to the health and safety of another person.

(3) "Case manager" means a person employed by or under contract with the council to perform duties related to outpatient treatment and supervision of a person committed under this chapter.

(4) "Council" means the Interagency Council on Sex Offender Treatment.

(5) "Predatory act" means an act that is committed for the purpose of victimization and that is directed toward:

(A) a stranger;

(B) a person of casual acquaintance with whom no substantial relationship exists; or

(C) a person with whom a relationship has been established or promoted for the purpose of victimization.

(6) "Repeat sexually violent offender" has the meaning assigned by Section 841.003.

(7) "Secure correctional facility" means a county jail or a confinement facility operated by or under contract with any division of the Texas Department of Criminal Justice.

(8) "Sexually violent offense" means:

(A) an offense under Section 21.11(a)(1), 22.011, or 22.021, Penal Code;

(B) an offense under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually;

(C) an offense under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with the intent to commit an offense listed in Paragraph (A) or (B);

(D) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense listed in Paragraph (A), (B), or (C);

(E) an offense under prior state law that contains elements substantially similar to the elements of an offense listed in Paragraph (A), (B), (C), or (D); or

(F) an offense under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense listed in Paragraph (A), (B), (C), or (D).

(9) "Sexually violent predator" has the meaning assigned by Section 841.003.

(10) "Tracking service" means an electronic monitoring service, global positioning satellite service, or other appropriate technological service that is designed to track a person's location.

Sec. 841.003. SEXUALLY VIOLENT PREDATOR. (a) A person is a sexually violent predator for the purposes of this chapter if the person:

(1) is a repeat sexually violent offender; and

(2) suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence.

(b) A person is a repeat sexually violent offender for the purposes of this chapter if the person is convicted of more than one sexually violent offense and a sentence is imposed for at least one of the offenses or if:

(1) the person:

(A) is convicted of a sexually violent offense, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from community supervision;

(B) enters a plea of guilty or nolo contendere for a sexually violent offense in return for a grant of deferred adjudication;

(C) is adjudged not guilty by reason of insanity of a sexually violent offense; or

(D) is adjudicated by a juvenile court as having engaged in delinquent conduct constituting a sexually violent offense and is committed to the Texas Youth Commission under Section 54.04(d)(3) or (m), Family Code; and

(2) after the date on which under Subdivision (1) the person is convicted, receives a grant of deferred adjudication, is adjudged not guilty by reason of insanity, or is adjudicated by a juvenile court as having engaged in delinquent conduct, the person commits a sexually violent offense for which the person:

(A) is convicted, but only if the sentence for the offense is imposed; or

(B) is adjudged not guilty by reason of insanity.

Sec. 841.004. PRISON PROSECUTION UNIT. A special division of the prison prosecution unit, separate from that part of the unit responsible for prosecuting criminal cases, is responsible for initiating and pursuing a civil commitment proceeding under this chapter.

Sec. 841.005. OFFICE OF STATE COUNSEL FOR OFFENDERS. The Office of State Counsel for Offenders shall represent a person subject to a civil commitment proceeding under this chapter.

Sec. 841.006. APPLICATION OF CHAPTER. This chapter does not:

(1) prohibit a person committed under this chapter from filing at any time a petition for release under this chapter; or

(2) create for the committed person a cause of action against another person for failure to give notice within a period required by Subchapter B.

Sec. 841.007. DUTIES OF INTERAGENCY COUNCIL ON SEX OFFENDER TREATMENT. The Interagency Council on Sex Offender Treatment is responsible for providing appropriate and necessary treatment and supervision through the case management system.

[Sections 841.008-841.020 reserved for expansion]

SUBCHAPTER B. NOTICE OF POTENTIAL PREDATOR;
INITIAL DETERMINATIONS

Sec. 841.021. NOTICE OF POTENTIAL PREDATOR. (a) Before the person's anticipated release date, the Texas Department of Criminal Justice shall give to the multidisciplinary team established under Section 841.022 written notice of the anticipated release of a person who:

(1) is serving a sentence for a sexually violent offense; and

(2) may be a repeat sexually violent offender.

(b) Before the person's anticipated discharge date, the Texas Department of Mental Health and Mental Retardation shall give to the multidisciplinary team established under Section 841.022 written notice of the anticipated discharge of a person who:

(1) is committed to the department after having been adjudged not guilty by reason of insanity of a sexually violent offense; and

(2) may be a repeat sexually violent offender.

(c) The Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation, as appropriate, shall give the notice described by Subsection (a) or (b) not later than the first day of the 16th month before the person's anticipated release or discharge date, but under exigent circumstances may give the notice at any time before the anticipated release or discharge date. The notice must contain the following information:

(1) the person's name, identifying factors, anticipated residence after release or discharge, and criminal history;

(2) documentation of the person's institutional adjustment and actual treatment; and

(3) an assessment of the likelihood that the person will commit a sexually violent offense after release or discharge.

Sec. 841.022. MULTIDISCIPLINARY TEAM. (a) The executive director of the Texas Department of Criminal Justice and the commissioner of the Texas Department of Mental Health and Mental Retardation jointly shall establish a multidisciplinary team to review available records of a person referred to the team under Section 841.021. The team must include:

(1) two persons from the Texas Department of Mental Health and Mental Retardation;

(2) three persons from the Texas Department of Criminal Justice, one of whom must be from the victim services office of that department;

(3) one person from the Texas Department of Public Safety; and

(4) one person from the council.

(b) The multidisciplinary team may request the assistance of other persons in making a determination under this section.

(c) Not later than the 30th day after the date the multidisciplinary team receives notice under Section 841.021(a) or (b), the team shall:

(1) determine whether the person is a repeat sexually violent offender and whether the person is likely to commit a sexually violent offense after release or discharge;

(2) give notice of that determination to the Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation, as appropriate; and

(3) recommend the assessment of the person for a behavioral abnormality, as appropriate.

Sec. 841.023. ASSESSMENT FOR BEHAVIORAL ABNORMALITY. (a) Not later than the 30th day after the date of a recommendation under Section 841.022(c), the Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation, as appropriate, shall determine whether the person suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence. To aid in the determination, the department required to make the determination shall use an expert to examine the person. That department may contract for the expert services required by this subsection. The expert shall make a clinical assessment based on testing for psychopathy, a clinical interview, and other appropriate assessments and techniques to aid in the determination.

(b) If the Texas Department of Criminal Justice or the Texas Department of Mental Health and Mental Retardation determines that the person suffers from a behavioral abnormality, the department making the determination shall give notice of that determination and provide corresponding documentation to the attorney representing the state not later than the 30th day after the date of a recommendation under Section 841.022(c).

[Sections 841.024-841.040 reserved for expansion]

SUBCHAPTER C. PETITION ALLEGING PREDATOR STATUS

Sec. 841.041. PETITION ALLEGING PREDATOR STATUS. (a) If a person is referred to the attorney representing the state under Section 841.023, the attorney may file, in a Montgomery County district court other than a family district court, a petition alleging that the person is a sexually violent predator and stating facts sufficient to support the allegation.

(b) A petition described by Subsection (a) must be filed not later than the 60th day after the date the person is referred to the attorney representing the state.

[Sections 841.042-841.060 reserved for expansion]

SUBCHAPTER D. TRIAL

Sec. 841.061. TRIAL. (a) Not later than the 60th day after the date a petition is filed under Section 841.041, the judge shall conduct a trial to determine whether the person is a sexually violent predator.

(b) The person or the state is entitled to a jury trial on demand. A demand for a jury trial must be filed in writing not later than the 10th day before the date the trial is scheduled to begin.

(c) The person and the state are entitled to an immediate examination of the person by an expert.

(d) Additional rights of the person at the trial include the following:

- (1) the right to appear at the trial;
- (2) the right to present evidence on the person's behalf;
- (3) the right to cross-examine a witness who testifies against the person; and
- (4) the right to view and copy all petitions and reports in the court file.

(e) The attorney representing the state may rely on the petition filed under Section 841.041 and supplement the petition with documentary evidence or live testimony.

Sec. 841.062. DETERMINATION OF PREDATOR STATUS. (a) The judge or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. Either the state or the person is entitled to appeal the determination.

(b) A jury determination that the person is a sexually violent predator must be by unanimous verdict.

Sec. 841.063. CONTINUANCE. The judge may continue a trial conducted under Section 841.061 if the person is not substantially prejudiced by the continuance and:

- (1) on the request of either party and a showing of good cause; or
- (2) on the judge's own motion in the due administration of justice.

Sec. 841.064. MISTRIAL. A trial following a mistrial must begin not later than the 90th day after the date a mistrial was declared in the previous trial, unless the later trial is continued as provided by Section 841.063.

[Sections 841.065-841.080 reserved for expansion]

SUBCHAPTER E. CIVIL COMMITMENT

Sec. 841.081. CIVIL COMMITMENT OF PREDATOR. If at a trial conducted under Subchapter D the judge or jury determines that the person is a sexually violent predator, the judge shall commit the person for outpatient treatment and supervision to be coordinated by the case manager. The outpatient treatment and supervision must begin on the person's release from a secure correctional facility or discharge from a state hospital and must continue until the person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

Sec. 841.082. COMMITMENT REQUIREMENTS. (a) Before entering an order directing a person's outpatient civil commitment, the judge shall impose on the person requirements necessary to ensure the person's compliance with treatment and supervision and to protect the community. The requirements shall include:

- (1) requiring the person to reside in a particular location;
- (2) prohibiting the person's contact with a victim or potential victim of the person;
- (3) prohibiting the person's use of alcohol or a controlled substance;
- (4) requiring the person's participation in a specific course of treatment;
- (5) requiring the person to submit to tracking under a particular type of tracking service and to any other appropriate supervision;
- (6) prohibiting the person from changing the person's residence without prior authorization from the judge and from leaving the state without that authorization;
- (7) if determined appropriate by the judge, establishing a child safety zone in the same manner as a child safety zone is established by a judge under Section 13B, Article 42.12, Code of Criminal Procedure, and requiring the person to comply with requirements related to the safety zone;

(8) requiring the person to notify the case manager within 48 hours of any change in the person's status that affects proper treatment and supervision, including a change in the person's physical health or job status and including any incarceration of the person; and

(9) any other requirements determined necessary by the judge.

(b) The judge shall provide a copy of the requirements imposed under Subsection (a) to the person and to the council. The council shall provide a copy of those requirements to the case manager and to the service providers.

(c) Immediately after the person's commitment, the judge shall transfer jurisdiction of the case to a district court, other than a family district court, having jurisdiction in the county in which the defendant is residing.

Sec. 841.083. TREATMENT; SUPERVISION. (a) The council shall approve and contract for the provision of a treatment plan for the committed person to be developed by the treatment provider. A treatment plan may include the monitoring of the person with a polygraph or plethysmograph. The treatment provider may receive annual compensation in an amount not to exceed \$6,000 for providing the required treatment.

(b) The case manager shall provide supervision to the person. The provision of supervision shall include tracking services and, if required by court order, supervised housing.

(c) The council shall enter into an interagency agreement with the Department of Public Safety for the provision of tracking services. The Department of Public Safety shall contract with the General Services Commission for the equipment necessary to implement those services.

(d) The council shall contract for any necessary supervised housing. The committed person may not be housed for any period of time in a mental health facility, state school, or community center. In this subsection:

(1) "Community center" means a center established under Subchapter A, Chapter 534.

(2) "Mental health facility" has the meaning assigned by Section 571.003.

(3) "State school" has the meaning assigned by Section 531.002.

(e) The case manager shall:

(1) coordinate the outpatient treatment and supervision required by this chapter, including performing a periodic assessment of the success of that treatment and supervision;

(2) make timely recommendations to the judge on whether to allow the committed person to change residence or to leave the state and on any other appropriate matters; and

(3) provide a report to the council, semiannually or more frequently as necessary, which must include:

(A) any known change in the person's status that affects proper treatment and supervision; and

(B) any recommendations made to the judge.

Sec. 841.084. PROVIDER STATUS REPORTS. A treatment provider or a supervision provider other than the case manager shall submit, monthly or more frequently if required by the case manager, a report to the case manager stating whether the person is complying with treatment or supervision requirements, as applicable.

Sec. 841.085. CRIMINAL PENALTY. A person commits an offense if the person violates a requirement imposed under Section 841.082. An offense under this section is a felony of the third degree.

[Sections 841.086-841.100 reserved for expansion]

SUBCHAPTER F. COMMITMENT REVIEW

Sec. 841.101. BIENNIAL EXAMINATION. (a) A person committed under Section 841.081 shall receive a biennial examination. The council shall contract for an expert to perform the examination.

(b) In preparation for a judicial review conducted under Section 841.102, the case manager shall provide a report of the biennial examination to the judge. The report must include consideration of whether to modify a requirement imposed on the person under this chapter and whether to release the person from all requirements imposed on the person under this chapter. The case manager shall provide a copy of the report to the council.

Sec. 841.102. BIENNIAL REVIEW. (a) The judge shall conduct a biennial review of the status of the committed person.

(b) The person is entitled to be represented by counsel at the biennial review, but the person is not entitled to be present at that review.

(c) The judge shall set a hearing if the judge determines at the biennial review that:

(1) a requirement imposed on the person under this chapter should be modified; or

(2) probable cause exists to believe that the person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

Sec. 841.103. HEARING. (a) At a hearing set by the judge under Section 841.102, the person and the state are entitled to an immediate examination of the person by an expert.

(b) If the hearing is set under Section 841.102(c)(1), hearsay evidence is admissible if it is considered otherwise reliable by the judge.

(c) If the hearing is set under Section 841.102(c)(2), the committed person is entitled to be present and to have the benefit of all constitutional protections provided to the person at the initial civil commitment proceeding. On the request of the person or the attorney representing the state, the court shall conduct the hearing before a jury. The burden of proof at that hearing is on the state to prove beyond a reasonable doubt that the person's behavioral abnormality has not changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

[Sections 841.104-841.120 reserved for expansion]

SUBCHAPTER G. PETITION FOR RELEASE

Sec. 841.121. AUTHORIZED PETITION FOR RELEASE. (a) If the case manager determines that the committed person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence, the case manager shall authorize the person to petition the court for release.

(b) The petitioner shall serve a petition under this section on the court and the attorney representing the state.

(c) The judge shall set a hearing on a petition under this section not later than the 30th day after the date the judge receives the petition. The petitioner and the state are entitled to an immediate examination of the petitioner by an expert.

(d) On request of the petitioner or the attorney representing the state, the court shall conduct the hearing before a jury.

(e) The burden of proof at the hearing is on the state to prove beyond a reasonable doubt that the petitioner's behavioral abnormality has not changed to the extent that the petitioner is no longer likely to engage in a predatory act of sexual violence.

Sec. 841.122. RIGHT TO FILE UNAUTHORIZED PETITION FOR RELEASE. On a person's commitment and annually after that commitment, the case manager shall provide the person with written notice of the person's right to file with the court and without the case manager's authorization a petition for release.

Sec. 841.123. REVIEW OF UNAUTHORIZED PETITION FOR RELEASE. (a) If the committed person files a petition for release without the case manager's authorization, the person shall serve the petition on the court and the attorney representing the state.

(b) On receipt of a petition for release filed by the committed person without the case manager's authorization, the judge shall attempt as soon as practicable to review the petition.

(c) Except as provided by Subsection (d), the judge shall deny without a hearing a petition for release filed without the case manager's authorization if the petition is frivolous or if:

(1) the petitioner previously filed without the case manager's authorization another petition for release; and

(2) the judge determined on review of the previous petition or following a hearing that:

(A) the petition was frivolous; or

(B) the petitioner's behavioral abnormality had not changed to the extent that the petitioner was no longer likely to engage in a predatory act of sexual violence.

(d) The judge is not required to deny a petition under Subsection (c) if probable cause exists to believe that the petitioner's behavioral abnormality has changed to the extent that the petitioner is no longer likely to engage in a predatory act of sexual violence.

Sec. 841.124. HEARING ON UNAUTHORIZED PETITION FOR RELEASE. (a) If as authorized by Section 841.123 the judge does not deny a petition for release filed by the committed person without the case manager's authorization, the judge shall conduct as soon as practicable a hearing on the petition.

(b) The petitioner and the state are entitled to an immediate examination of the person by an expert.

(c) On request of the petitioner or the attorney representing the state, the court shall conduct the hearing before a jury.

(d) The burden of proof at the hearing is on the state to prove beyond a reasonable doubt that the petitioner's behavioral abnormality has not changed to the extent that the petitioner is no longer likely to engage in a predatory act of sexual violence.

[Sections 841.125-841.140 reserved for expansion]

SUBCHAPTER H. MISCELLANEOUS PROVISIONS

Sec. 841.141. RULEMAKING AUTHORITY. (a) The council by rule shall administer this chapter. Rules adopted by the council under this section must be consistent with the purposes of this chapter.

(b) The council by rule shall develop standards of care and case management for persons committed under this chapter.

Sec. 841.142. RELEASE OR EXCHANGE OF INFORMATION. (a) To protect the public and to enable a determination relating to whether a person is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to an entity charged with making a determination under this chapter.

(b) To protect the public and to enable the provision of supervision and treatment to a person who is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to the case manager.

(c) On the written request of any attorney for another state or a political subdivision in another state, the Texas Department of Criminal Justice, the council, a service provider contracting with one of those agencies, the multidisciplinary team, and the attorney representing the state shall release to the attorney any available information relating to a person that is sought in connection with an attempt to civilly commit the person as a sexually violent predator in another state.

(d) To protect the public and to enable a determination relating to whether a person is a sexually violent predator or to enable the provision of supervision and treatment to a person who is a sexually violent predator, the Texas Department of Criminal Justice, the council, a service provider contracting with one of those agencies, the multidisciplinary team, and the attorney representing the state may exchange any available information relating to the person.

(e) Information subject to release or exchange under this section includes information relating to the supervision, treatment, criminal history, or physical or mental health of the person, as appropriate, regardless of whether the information is otherwise confidential and regardless of when the information was created or collected. The person's consent is not required for release or exchange of information under this section.

Sec. 841.143. REPORT, RECORD, OR STATEMENT SUBMITTED TO COURT. (a) A psychological report, drug and alcohol report, treatment record, diagnostic report, medical record, or victim impact statement submitted to the court under this chapter is part of the record of the court.

(b) Notwithstanding Subsection (a), the report, record, or statement must be sealed and may be opened only:

(1) on order of the judge;

(2) as provided by this chapter; or

(3) in connection with a criminal proceeding as otherwise provided by law.

Sec. 841.144. COUNSEL. (a) At all stages of the civil commitment proceedings under this chapter, a person subject to a proceeding is entitled to the assistance of counsel.

(b) If the person is indigent, the court shall appoint counsel through the Office of State Counsel for Offenders to assist the person.

Sec. 841.145. EXPERT. (a) A person who is examined under this chapter may retain an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf.

(b) On the request of an indigent person examined under this chapter, the judge shall determine whether expert services for the person are necessary. If the judge

determines that the services are necessary, the judge shall appoint an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf.

(c) The court shall approve reasonable compensation for expert services rendered on behalf of an indigent person on the filing of a certified compensation claim supported by a written statement specifying:

- (1) time expended on behalf of the person;
- (2) services rendered on behalf of the person;
- (3) expenses incurred on behalf of the person; and
- (4) compensation received in the same case or for the same services from any

other source.

(d) The court shall ensure that an expert retained or appointed under this section has for purposes of examination reasonable access to a person examined under this chapter, as well as to all relevant medical and psychological records and reports.

Sec. 841.146. CIVIL COMMITMENT PROCEEDING; PROCEDURE AND COSTS. (a) On request, a person subject to a civil commitment proceeding under this chapter and the attorney representing the state are entitled to a jury trial or a hearing before a jury for that proceeding, except for a proceeding set by the judge under Section 841.102(c)(1). The number and selection of jurors are governed by Chapter 33, Code of Criminal Procedure.

(b) A civil commitment proceeding is subject to the rules of procedure and appeal for civil cases.

(c) In an amount not to exceed \$1,600, the state shall pay the costs of a civil commitment proceeding conducted under Subchapter D. For any civil commitment proceeding conducted under this chapter, the state shall pay the costs of state or appointed counsel or experts and the costs of the person's outpatient treatment and supervision.

Sec. 841.147. IMMUNITY. The following persons are immune from liability for good faith conduct under this chapter:

(1) an employee or officer of the Texas Department of Criminal Justice, the Texas Department of Mental Health and Mental Retardation, or the council;

(2) a member of the multidisciplinary team established under Section 841.022;

(3) the attorney representing the state; and

(4) a person contracting, appointed, or volunteering to perform a service under this chapter.

SECTION 4.02. Sections 51.13(a) and (b), Family Code, are amended to read as follows:

(a) Except as provided by Subsection (d), an order of adjudication or disposition in a proceeding under this title is not a conviction of crime. Except as provided by Chapter 841, Health and Safety Code, an order of adjudication or disposition [and] does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment.

(b) The adjudication or disposition of a child or evidence adduced in a hearing under this title may be used only in subsequent:

(1) proceedings under this title in which the child is a party;

(2) ~~[or in subsequent]~~ sentencing proceedings in criminal court against the child to the extent permitted by the Texas Code of Criminal Procedure, 1965; or

(3) civil commitment proceedings under Chapter 841, Health and Safety Code.

SECTION 4.03. Section 61.066, Human Resources Code, is amended to read as follows:

Sec. 61.066. COMMITMENT RECORDS. A commitment to the commission may not be received in evidence or used in any way in any proceedings in any court except in:

(1) subsequent proceedings under Title 3[;] of the Family Code against the same child;

(2) [~~and except in~~] imposing sentence in any criminal proceedings against the same person; or

(3) subsequent civil commitment proceedings under Chapter 841, Health and Safety Code, regarding the same person.

SECTION 4.04. Title 11, Health and Safety Code, as added by this Act, applies only to an individual who on or after January 1, 2000, is serving a sentence in the Texas Department of Criminal Justice or is committed to the Texas Department of Mental Health and Mental Retardation for an offense committed before, on, or after the effective date of this Act.

ARTICLE 5

SECTION 5.01. This Act takes effect September 1, 1999.

SECTION 5.02. 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.

The Conference Committee Report was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1291

Senator Harris submitted the following Conference Committee Report:

Austin, Texas
May 28, 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 1291** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS
LUCIO
ELLIS

BRIMER
WALKER
CRABB
MOWERY
F. BROWN

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

CONGRATULATORY RESOLUTIONS

SR 1162 - by Fraser: Congratulating Philip Bayne Barott of Harker Heights.

SR 1163 - by Madla: Congratulating the board of directors and staff of the Bexar Metropolitan Water District.

SR 1165 - by Nelson: Commending Thomas Hammerle of Highland Village.

SR 1168 - by Haywood: Congratulating Lillye Emma Easter Dickey of Wichita Falls.

SR 1170 - by Brown: Congratulating Chalanda Denise Allison of Brazosport.

SR 1171 - by West: Congratulating Candice Charl Washington of Dallas.

ADJOURNMENT

On motion of Senator Truan, the Senate at 5:05 p.m. adjourned, in memory of Hal W. Holbrook of Dallas and David I. Pasternack of Houston, until 10:00 a.m. tomorrow.

APPENDIX

SENT TO GOVERNOR

May 28, 1999

SB 15, SB 16, SB 17, SB 30, SB 76, SB 133, SB 199, SB 247, SB 323, SB 332, SB 429, SB 435, SB 436, SB 440, SB 486, SB 524, SB 526, SB 556, SB 578, SB 579, SB 590, SB 613, SB 640, SB 682, SB 753, SB 804, SB 848, SB 858, SB 868, SB 928, SB 931, SB 939, SB 941, SB 959, SB 1034, SB 1070, SB 1074, SB 1092, SB 1157, SB 1176, SB 1215, SB 1235, SB 1297, SB 1323, SB 1340, SB 1351, SB 1443, SB 1486, SB 1547, SB 1576, SB 1586, SB 1589, SB 1610, SB 1628, SB 1641, SB 1656, SB 1657, SB 1664, SB 1730, SB 1742, SB 1747, SB 1780, SB 1807, SB 1822, SB 1851, SB 1853, SB 1870, SB 1881, SCR 7, SCR 34, SCR 37, SCR 38, SCR 59

**In Memory
of
David I. Pasternack**

Senator Lindsay offered the following resolution:

(Senate Resolution 1157)

WHEREAS, The Senate of the State of Texas joins the citizens of Houston in mourning the loss of David I. Pasternack, who died April 22, 1999, at the age of 67; and

WHEREAS, Born March 25, 1932, David Pasternack served in the United States Army as a reconnaissance pilot in the Korean War; he was an outstanding Texas citizen whose successful work included serving as an advisor to presidents and serving on a special task force on foreign investments for Governor Bill Clements; he was honored for his work in shareholders' rights; and

WHEREAS, An exemplary and distinguished gentleman, Mr. Pasternack was respected for his leadership in the community and for his many accomplishments; and

WHEREAS, He was a member of MENSA and was active in numerous charitable causes and civic organizations; he was a trustee of the National Jewish Hospital in Denver and a supporter of End Hunger Network, the Aids Foundation of Houston, and Seven Acres Geriatric Center; and

WHEREAS, He was a supporter of homeless and underprivileged children and of PDAPT—Drug and Alcohol Halfway House; he was a major donor to the Houston Grand Opera; and

WHEREAS, A man of integrity, strength, compassion and generosity, he gave unselfishly of his time to others, and his wisdom, warmth, and valued counsel will not be forgotten by those who knew him; and

WHEREAS, David Pasternack touched the lives of innumerable citizens and was devoted to his wife, Carole Pasternack, and he leaves behind memories that will be treasured forever by his family and many friends; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, hereby extend sincere condolences to the bereaved family of David I. Pasternack; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of David Pasternack.

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 Lindsay and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

Senator Lindsay was recognized and introduced to the Senate family members of David I. Pasternack: his wife, Carole; his daughter, Karen; his niece, Shelley Edelstein; and his lifelong friend, Bernard Lerner.

The Senate welcomed its guests and extended its condolences.