

# EIGHTY-THIRD DAY

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SUNDAY, MAY 27, 2001

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## PROCEEDINGS

The Senate met at 1:00 p.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, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini, Mr. President.

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

Senate Doorkeeper Don Long offered the invocation as follows:

Lord, this is our prayer for this day:

When I have come to the end of the road I should like to look back and see that I have done my very best with the trust that's placed in me.

I should like to know I never have by action, word, or deed betrayed a confidence given or forsaken a friend in need.

I should like the consolation when I've traveled the very last mile to know I've meant something to someone and caused those in sorrow to smile.

I know that I shall be happy if in the heart of each one I can leave a lingering memory of something good I've done.

God bless each and every one. 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.

## **CONCLUSION OF MORNING CALL**

The President at 1:06 p.m. announced the conclusion of morning call.

## **SENATE RESOLUTION 1248**

Senator Carona offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 Senate Bill No. 507, relating to residential subdivisions that require membership in a property owners' association.

(1) Senate Rule 12.03(1) is suspended to permit the committee to change text that is not in disagreement by substituting "six months" for "12 months" in added Section 209.006(b)(2)(A), Property Code, to read as follows:

(b) The notice must:

(1) describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner; and

(2) inform the owner that the owner:

(A) is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; and

(B) may request a hearing under Section 209.007 on or before the 30th day after the date the owner receives the notice.

Explanation: The changed text is necessary to more adequately protect the rights of property owners.

(2) Senate Rule 12.03(1) is suspended to permit the committee to amend proposed Section 209.011(a), Property Code, to change text that is not in disagreement to read as follows:

(a) A property owners' association or other person who purchases occupied property at a sale foreclosing a property owners' association's assessment lien must commence and prosecute a forcible entry and detainer action under Chapter 24 to recover possession of the property.

Explanation: The changed text is necessary to clarify that a person who purchases property at a sale foreclosing a property owners' assessment lien is only required to commence a forcible entry and detainer action if the property purchased is occupied at the time of the purchase.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not-voting: Mr. President.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3507 ADOPTED**

Senator Moncrief called from the President's table the Conference Committee Report on **HB 3507**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Moncrief, the Conference Committee Report was adopted by a viva voce vote.

**(Senator Brown in Chair)**

### **SENATE RESOLUTION 1247**

Senator Armbrister offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 S.B. No. 510, relating to the procurement methods a political subdivision or a related entity may use, to consider and take action on the following matter:

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, to read as follows:

SECTION 13. Subchapter B, Chapter 44, Education Code, is amended by adding Section 44.043 to read as follows:

Sec. 44.043. RIGHT TO WORK. (a) This section applies to a school district while the school district is engaged in:

(1) procuring goods or services;

(2) awarding a contract; or

(3) overseeing procurement or construction for a public work or public improvement.

(b) Notwithstanding any other provision of this chapter, a school district:

(1) may not consider whether a vendor is a member of or has another relationship with any organization; and

(2) shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Explanation: This change is necessary to ensure that a school district, in procuring goods or services, awarding a contract, or overseeing procurement or construction of public works or public improvements, does not consider a vendor's or other person's relationship with any organization.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### SENATE RESOLUTION 1232

Senator Shapleigh offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 House Bill No. 2585, relating to motorcycle operator and passenger safety, to consider and take action on the following matter:

Senate Rule 12.03(4) is suspended to permit the committee to add a new section to the bill to read as follows:

SECTION 1. Section 661.003(c), Transportation Code, is amended to read as follows:

(c) It is an exception to the application of Subsection (a) or (b) that at the time the offense was committed, the person required to wear protective headgear was at least 21 years old and had successfully completed a motorcycle operator training and safety course under Chapter 662 or was covered by a health insurance plan providing the person with at least \$10,000 in medical benefits for injuries incurred as a result of an accident while operating or riding on a motorcycle. A peace officer may not arrest a person or issue a citation to a person for a violation of Subsection (a) or (b) if the person required to wear protective headgear is at least 21 years of age and presents evidence sufficient to show that the person required to wear protective headgear has successfully completed a motorcycle operator training and safety course or is covered by a health insurance plan as described by this subsection.

Explanation: This addition is necessary to prohibit a peace officer from arresting a motorcycle operator or passenger for a violation of the law that requires

the wearing of protective headgear and from issuing a citation for a violation of that law if the motorcycle operator or passenger produces evidence to show that the operator or passenger is excepted from the requirement to wear protective headgear.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### SENATE RESOLUTION 1245

Senator Cain offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 Senate Bill No. 409, relating to the powers and duties of the Texas Turnpike Authority division of the Texas Department of Transportation, to consider and take action on the following matter:

Senate Rules 12.03(1) and 12.03(3) are suspended to permit the committee to amend and add new text to Subdivision (4), Section 361.001, Transportation Code, as amended by Senate Bill No. 409, so that Subdivision (4), Section 361.001, reads as follows:

(4) "Turnpike project" means a toll highway constructed, maintained, or operated under this chapter as part of the state highway system and any improvement, extension, or expansion to the highway and includes:

(A) a facility to relieve traffic congestion and promote safety;

(B) a bridge, tunnel, overpass, underpass, interchange, entrance plaza, approach, toll house, service road, ramp, or service station;

(C) an administration, storage, or other building the authority considers necessary to operate the project; ~~and~~

(D) property rights, easements, and interests the authority acquires to construct or operate the project;

(E) a parking area or structure, rest stop, park, and any other improvement or amenity the authority considers necessary, useful, or beneficial for the operation of a turnpike project; and

(F) a toll-free facility that is appurtenant to and necessary for the efficient operation of a turnpike project, including a service road, access road, ramp, interchange, bridge, and tunnel.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### SENATE RESOLUTION 1246

Senator Cain offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 House Bill No. 2061, relating to establishing a historical representation advisory committee, to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add Section 442.0087, Government Code, to read as follows:

Sec. 442.0087. EQUITABLE REPRESENTATION IN MONUMENTS. (a) In this section, "monument" has the meaning assigned by Section 443.015, as added by Chapter 1141, Acts of the 75th Legislature, Regular Session, 1997.

(b) To ensure that the diverse history of Texas is accurately represented on land owned by the state other than the Capitol Complex, the Texas Historical Commission shall:

(1) collect information relating to each monument on land owned by the state other than the Capitol Complex; and

(2) in cooperation with the chair of the history department at Prairie View A&M University, at The University of Texas at Austin, or at any other land grant university in the state, as determined by the commission, ensure the:

(A) historical accuracy of the monuments; and

(B) equitable representation of all Texans, including African slaves, African Americans, Hispanic Americans, Native Americans, women in Texas history, and Texans exemplifying military service and rural heritage in monuments on land owned by the state other than the Capitol Complex.

(c) The commission shall make the information collected under this section available to the public.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2255 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **HB 2255**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Harris, the Conference Committee Report was adopted by a viva voce vote.

**(President in Chair)**

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 115 ADOPTED**

Senator Madla called from the President's table the Conference Committee Report on **SB 115**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Madla, the Conference Committee Report was adopted by a viva voce vote.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 406 ADOPTED**

Senator Cain called from the President's table the Conference Committee Report on **SB 406**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Cain, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1166 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **HB 1166**. The Conference Committee Report was filed with the Senate on Wednesday, May 23, 2001.

On motion of Senator Carona, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1234 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **HB 1234**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 787 ADOPTED**

Senator Madla called from the President's table the Conference Committee Report on **HB 787**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Madla, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 328 ADOPTED**

Senator Madla called from the President's table the Conference Committee Report on **HB 328**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Madla, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1119 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **SB 1119**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Armbrister, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 11 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 11**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Nelson, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 45 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 45**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 768 ADOPTED**

Senator Madla called from the President's table the Conference Committee Report on **SB 768**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Madla, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1128 ADOPTED**

Senator Bernsen called from the President's table the Conference Committee Report on **SB 1128**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Bernsen, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 154 ADOPTED**

Senator Gallegos called from the President's table the Conference Committee Report on **HB 154**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Gallegos, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 536 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **SB 536**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Ellis, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2005 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **HB 2005**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Wentworth, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1057 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **SB 1057**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Ellis, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**GUESTS PRESENTED**

Senator Nelson was recognized and introduced to the Senate soccer team members from Lewisville.

The Senate welcomed its guests.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 342 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **SB 342**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Shapiro, the Conference Committee Report was adopted by a viva voce vote.

**GUEST PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate Oklahoma State Senator Frank Shurden from Henryetta, Oklahoma.

The Senate welcomed Senator Shurden.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2530 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **HB 2530**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Ellis, the Conference Committee Report was adopted by a viva voce vote.

**RECORD OF VOTE**

Senator Brown asked to be recorded as "Present-not voting" on the adoption of the Conference Committee Report on **HB 2530**.

**BILLS AND RESOLUTIONS SIGNED**

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

**SB 7, SB 51, SB 63, SB 195, SB 215, SB 279, SB 303, SB 338, SB 354, SB 416, SB 465, SB 484, SB 538, SB 588, SB 638, SB 687, SB 734, SB 736** (signed subject to Sec. 49-a, Art. III, Texas Constitution), **SB 776, SB 791, SB 889, SB 893, SB 907,**



SB 917, SB 929, SB 1050, SB 1051, SB 1078, SB 1165, SB 1181, SB 1190, SB 1296, SB 1315, SB 1377, SB 1434, SB 1475, SB 1496, SB 1536, SB 1637, SB 1646, SB 1654, SB 1686, SB 1689, SB 1747, SB 1764, SB 1767, SB 1775, SB 1776, SB 1777, SB 1821, SCR 72, SJR 6, HB 792, HB 920, HB 1005, HB 1144, HB 1392, HB 1544, HB 1585, HB 1739, HB 1776, HB 1806, HB 2004, HB 2102, HB 2109, HB 2111, HB 2127, HB 2159, HB 2191, HB 2218, HB 2243, HB 2250, HB 2277, HB 2295, HB 2313, HB 2337, HB 2351, HB 2368, HB 2378, HB 2383, HB 2397, HB 2557, HB 2571, HB 2602, HB 2691, HB 2804, HB 2845, HB 3329, HCR 2, HCR 123, HCR 238, HCR 278, HCR 289, HCR 292, HCR 306, HCR 310, HCR 313, HCR 319.

### SENATE BILL 43 WITH HOUSE AMENDMENTS

Senator Zaffirini called **SB 43** 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 43** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to simplifying the certification process for medical assistance provided to children.

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

SECTION 1. Section 32.025, Human Resources Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) To the extent allowed by federal law and except as otherwise provided by this section, the department shall adopt application forms and procedures for a request for medical assistance provided to a child under 19 years of age that are similar to the application forms and procedures adopted under Section 62.103, Health and Safety Code.

(e) The department shall permit an application requesting medical assistance for a child under 19 years of age to be conducted by mail instead of through a personal appearance at a department office.

SECTION 2. Section 32.026, Human Resources Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) In adopting rules under this section, the department shall ensure, to the extent allowed by federal law, that documentation and verification procedures used in determining and certifying the eligibility and need for medical assistance of a child under 19 years of age, including the documentation and verification procedures used to evaluate the assets and resources of the child, the child's parents, or the child's other caretaker for that purpose, are the same as the documentation and verification procedures used to determine and certify a child's eligibility for coverage under Chapter 62, Health and Safety Code, except that the documentation and verification procedures adopted in accordance with this subsection may not be more stringent than the documentation and verification procedures existing on January 1, 2001, for determination and certification of a child's eligibility for coverage under Chapter 62, Health and Safety Code.

(e) The department shall permit a recertification review of the eligibility and need for medical assistance of a child under 19 years of age to be conducted by telephone or mail instead of through a personal appearance at a department office.

SECTION 3. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0261 to read as follows:

Sec. 32.0261. CONTINUOUS ELIGIBILITY. The department shall adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under this chapter. The rules shall provide that the child remains eligible for medical assistance, without additional review by the department and regardless of changes in the child's resources or income, until the earlier of:

(1) the first anniversary of the date on which the child's eligibility was determined; or

(2) the child's 19th birthday.

SECTION 4. 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, the state agency shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 5. (a) This Act takes effect January 1, 2002.

(b) The Health and Human Services Commission or the appropriate state agency operating part of the medical assistance program under Chapter 32, Human Resources Code, shall adopt rules required by Section 32.0261, Human Resources Code, as added by this Act, not later than February 1, 2002. The rules must provide for a period of continuous eligibility in accordance with that section for a child whose initial or continued eligibility is determined on or after the effective date of the rules.

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

Amend **CSSB 43** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 62.103(b), Health and Safety Code, is amended to read as follows:

(b) The form and procedures must be coordinated with forms and procedures under the Medicaid program and those used by the Texas Healthy Kids Corporation to ensure that~~[, to the extent possible,]~~ there is a single consolidated application to seek assistance under this chapter or the Medicaid program or from the corporation.

SECTION 2. Section 32.025, Human Resources Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) The department shall adopt an application form and procedures for a request for medical assistance provided to a child under 19 years of age. To the extent allowed by federal law and except as otherwise provided by this section, the application form and procedures must be the same as the form and procedures adopted under Section 62.103, Health and Safety Code. The department shall coordinate the form and procedures adopted under this subsection with the form and procedures adopted under Section 62.103, Health and Safety Code, to ensure that there is a single consolidated application for a child under 19 years of age to seek medical assistance or to request coverage under the state child health plan under Chapter 62, Health and Safety Code.

(e) The department shall permit an application requesting medical assistance for a child under 19 years of age to be conducted by mail instead of through a personal appearance at a department office.

(f) The commissioner by rule may develop procedures by which:

(1) any office of a health and human services agency may accept an application requesting medical assistance for a child under 19 years of age; and

(2) the department may contract with hospital districts and county health departments to accept applications requesting medical assistance for a child under 19 years of age.

SECTION 3. Section 32.026, Human Resources Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) In adopting rules under this section, the department shall ensure, to the extent allowed by federal law, that documentation and verification procedures used in determining and certifying the eligibility and need for medical assistance of a child under 19 years of age, including the documentation and verification procedures used to evaluate the assets and resources of the child, the child's parents, or the child's other caretaker for that purpose, are the same as the documentation and verification procedures used to determine and certify a child's eligibility for coverage under Chapter 62, Health and Safety Code, except that the documentation and verification procedures adopted in accordance with this subsection may not be more stringent than the documentation and verification procedures existing on January 1, 2001, for determination and certification of a child's eligibility for coverage under Chapter 62, Health and Safety Code.

(e) The department shall permit a recertification review of the eligibility and need for medical assistance of a child under 19 years of age to be conducted by telephone or mail instead of through a personal appearance at a department office.

(f) In adopting rules under this section, the department shall ensure, to the extent allowed by federal law, that forms and procedures used in conducting a recertification review of the eligibility and need for medical assistance of a child under 19 years of age, including documentation and verification procedures, are the same as the forms and procedures used to determine and certify a child's renewal of coverage under Chapter 62, Health and Safety Code.

SECTION 4. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Sections 32.0261, 32.0262, and 32.0263 to read as follows:

Sec. 32.0261. CONTINUOUS ELIGIBILITY. The department shall adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under this chapter. The rules shall provide that the child remains eligible for medical assistance, without additional review by the department and regardless of changes in the child's resources or income, until the earlier of:

(1) the first anniversary of the date on which the child's eligibility was determined; or

(2) the child's 19th birthday.

Sec. 32.0262. ELIGIBILITY TRANSITION. (a) The department shall develop procedures to ensure that all necessary information regarding a child who will be denied continued medical assistance under this chapter because of an increase in income, assets, or resources but who is eligible for enrollment in the child health plan

under Chapter 62, Health and Safety Code, is promptly transmitted to the child health plan in accordance with the standards established under Section 62.104(d), Health and Safety Code.

(b) The department shall develop procedures to ensure that the parent or caretaker of a child who will be denied continued medical assistance under this chapter because of a failure to keep an appointment, including an appointment for recertification of eligibility, a failure to provide information, or for another procedural reason, is promptly contacted and informed of:

(1) the need to recertify eligibility for continued medical assistance under this chapter; and

(2) the availability of medical coverage under the child health plan under Chapter 62, Health and Safety Code.

(c) The department shall develop materials under this section in consultation with the Health and Human Services Commission and the appropriate agencies administering all or part of the child health plan under Chapter 62, Health and Safety Code.

(d) The department by rule shall adopt procedures to assist a family whose child loses eligibility for medical assistance under this chapter in making a transition to the child health plan under Chapter 62, Health and Safety Code, with no interruption in coverage.

Sec. 32.0263. HEALTH CARE ORIENTATION. (a) The department shall require that the parent or guardian of a child under 19 years of age who originally establishes eligibility for medical assistance must:

(1) attend an in-person counseling session with a department representative not later than the 31st day after the date the child originally establishes eligibility; or

(2) accompany the child to an appointment with a health care provider for a comprehensive health care orientation not later than the 61st day after the date the child originally establishes eligibility.

(b) The commissioner by rule shall develop procedures to verify that:

(1) the parent or guardian of the child who originally establishes eligibility complies with the requirement of Subsection (a)(2), if applicable; and

(2) the child is provided a comprehensive health care orientation at the appointment with the health care provider.

SECTION 5. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.053 to read as follows:

Sec. 32.053. COMPLIANCE WITH TEXAS HEALTH STEPS. The commissioner by rule shall develop procedures to ensure that parents of children who are recipients of medical assistance comply with the regimen of care prescribed by the Texas Health Steps Comprehensive Care Program.

SECTION 6. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0076 to read as follows:

Sec. 533.0076. LIMITATIONS ON RECIPIENT DISENROLLMENT. (a) Except as provided by Subsections (b) and (c), and to the extent permitted by federal law, the commission may prohibit a recipient from disenrolling in a managed care plan under this chapter and enrolling in another managed care plan during the 12-month period after the date the recipient initially enrolls in a plan.

(b) At any time before the 91st day after the date of a recipient's initial enrollment in a managed care plan under this chapter, the recipient may disenroll in that plan for any reason and enroll in another managed care plan under this chapter.

(c) The commission shall allow a recipient who is enrolled in a managed care plan under this chapter to disenroll in that plan at any time for cause in accordance with federal law.

SECTION 7. 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, the state agency shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 8. (a) Notwithstanding Section 32.0261, Human Resources Code, as added by this Act, the Health and Human Services Commission or the appropriate state agency operating part of the medical assistance program under Chapter 32, Human Resources Code, shall adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under that chapter. The rules shall provide that the child remains eligible for medical assistance, without additional review by the agency and regardless of changes in the child's resources or income, until the earlier of:

(1) the 180th day after the date on which the child's eligibility was determined; or

(2) the child's 19th birthday.

(b) The Health and Human Services Commission or the appropriate state agency operating part of the medical assistance program under Chapter 32, Human Resources Code, shall adopt rules required by this section not later than February 1, 2002. The rules must provide for a six-month period of continuous eligibility in accordance with this section for a child whose initial or continued eligibility is determined on or after the effective date of the rules. The rules adopted under this subsection remain in effect until superseded by the rules adopted under Section 32.0261, Human Resources Code, as added by this Act.

(c) This section expires on the date that the rules adopted under Section 32.0261, Human Resources Code, as added by this Act, take effect.

SECTION 9. (a) The Medicaid legislative oversight committee created under S.B. No. 1156, Acts of the 77th Legislature, Regular Session, 2001, may review and make recommendations regarding legislation necessary to accomplish the purposes of Sections 32.025, and 32.026, Human Resources Code, as amended by this Act, and Section 32.0261, Human Resources Code, as added by this Act.

(b) Subsection (a) of this section takes effect only if S.B. No. 1156, Acts of the 77th Legislature, Regular Session, 2001, authorizes the creation of the Medicaid legislative oversight committee and is enacted and becomes law. If S.B. No. 1156 does not authorize the creation of the committee, is not enacted, or does not become law, this section has no effect.

SECTION 10. (a) Except as otherwise provided by this Act, this Act takes effect January 1, 2002.

(b) Section 32.0261, Human Resources Code, as added by this Act, takes effect September 1, 2002, but the appropriate state agency may not implement the 12-month period of continuous eligibility prescribed by that section until the date on which the rules adopted under Subsection (c) of this section take effect.

(c) The Health and Human Services Commission or the appropriate state agency operating part of the medical assistance program under Chapter 32, Human Resources Code, shall adopt rules required by Section 32.0261, Human Resources Code, as added

by this Act, so that the rules take effect in accordance with that section not earlier than September 1, 2002, or later than June 1, 2003. The rules must provide for a 12-month period of continuous eligibility in accordance with that section for a child whose initial or continued eligibility is determined on or after the effective date of the rules.

(d) The Health and Human Services Commission or the appropriate agency operating part of the medical assistance program under Chapter 32, Human Resources Code, shall adopt rules required by Section 32.0262, Human Resources Code, as added by this Act, not later than February 1, 2002.

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

Amend the proposed Floor Amendment No. 1 to **CSSB 43** as follows:

(1) On page 1, strike SECTION 1 and substitute:

SECTION 1. Section 62.103(b), Health and Safety Code, is amended to read as follows:

(b) The form and procedures must be coordinated with forms and procedures under the Medicaid program ~~and those used by the Texas Healthy Kids Corporation~~ to ensure that, ~~to the extent possible,~~ there is a single consolidated application to seek assistance under this chapter or the Medicaid program ~~or from the corporation.~~

(2) On page 2, line 9, between "districts" and "and", add "hospitals".

(3) On page 5, strike SECTION 5 and substitute the following:

SECTION 5. Subchapter B, Chapter 2, Human Resources Code, is amended by adding Section 32.053 to read as follows:

Sec. 32.053. COMPLIANCE WITH TEXAS HEALTH STEPS. The commissioner by rule shall develop procedures to ensure that recipients of medical assistance, who are eligible for Texas Health Steps, comply with the regimen of care prescribed by the Texas Health Steps Comprehensive Care Program.

### **Floor Amendment No. 1 on Third Reading**

Amend **CSSB 43**, on third reading, by striking added Section 32.025(f)(2), Human Resources Code, as added by SECTION 2 of the bill, and substituting the following:

(2) the department may contract with hospital districts, hospitals, including state-owned teaching hospitals, federally qualified health centers, and county health departments to accept applications requesting medical assistance for a child under 19 years of age.

The amendments were read.

On motion of Senator Zaffirini, the Senate concurred in the House amendments to **SB 43** by a viva voce vote.

### **RECORD OF VOTES**

Senators Bivins, Carona, Fraser, Jackson, Ogden, Sibley, and Staples asked to be recorded as voting "Nay" on the concurrence in the House amendments to **SB 43**.

**STATEMENT ON SENATE BILL 43**

The following statement was submitted for **SB 43**:

To Whom it May Concern:

Senate Bill 43 simplifies the Medicaid eligibility and enrollment process for children. The bill eliminates the face-to-face interview requirements for children's Medicaid, implements a self-declared assets test, simplifies documentation and verification requirements, and authorizes the staggered implementation of continuous eligibility. The bill requires the Health and Human Services Commission to implement six month continuous eligibility no later than February 1, 2002, and authorizes the implementation of 12 months continuous eligibility no earlier than September 1, 2002, but no later than June 1, 2003.

We recommend that an interim study be undertaken to examine the cost-benefit of 12 month continuous eligibility. The study shall include review of the implementation, methodology, and cost of continuous coverage in the Medicaid program. Additionally, the study shall investigate programs in other states to examine the impact of continuous coverage under Medicaid. The study shall make recommendations and provide affirmative direction to the 78th Legislature as to the feasibility of the final implementation of 12 month continuous eligibility by June 1, 2003.

The staggered implementation schedule was developed with the intent of giving the 78th Legislature the opportunity to revise the experience with six month continuous eligibility. By signing this letter, we the undersigned express our strong support of this review and indicate our commitment to revise the implementation date of, or repeal altogether, the provision requiring the implementation of 12 months of continuous eligibility for children, if such review indicates that implementing this provision will result in an unsustainable level of expenditures in the state Medicaid program.

OGDEN  
DUNCAN  
FRASER  
ARMBRISTER  
SIBLEY  
NELSON

GRAY  
MAXEY  
WOHLGEMUTH  
COLEMAN  
KEFFER

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 981 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **HB 981**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Armbrister, the Conference Committee Report was adopted by a viva voce vote.

**SENATE BILL 322 WITH HOUSE AMENDMENTS**

Senator Lucio called **SB 322** 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 322** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the continuation and functions of the Texas Department of Housing and Community Affairs and to other matters relating to housing or community development, including the creation of the Manufactured Housing Board and the Office of Rural Community Affairs; providing a penalty.

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

ARTICLE 1

SECTION 1.01. Section 2306.001, Government Code, is amended to read as follows:

Sec. 2306.001. PURPOSES. The purposes of the department are to:

- (1) assist local governments in:
  - (A) providing essential public services for their residents; and
  - (B) overcoming financial, social, and environmental problems;
- (2) provide for the housing needs of individuals and families of low, ~~and~~ very low, and extremely low income and families of moderate income;
- (3) contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income;
- (4) assist the governor and the legislature in coordinating federal and state programs affecting local government; ~~and~~
- (5) inform state officials and the public of the needs of local government; and
- (6) serve as a source of information to the public regarding all affordable housing resources and community support services in the state.

SECTION 1.02. Section 2306.021(b), Government Code, is amended to read as follows:

- (b) The department is composed of:
  - (1) the community affairs division;
  - (2) the housing finance division;
  - (3) the manufactured housing division;
  - (4) the community development division; and
  - (5) any other division created by the director under Section 2306.0521.

SECTION 1.03. Subchapter B, Chapter 2306, Government Code, is amended by amending Sections 2306.022, 2306.024, 2306.025, 2306.027, and 2306.033-2306.035 and adding Section 2306.028 to read as follows:

Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas Department of Housing and Community Affairs is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2003 [~~2004~~].



Sec. 2306.024. BOARD MEMBERS: APPOINTMENT AND COMPOSITION. The board consists of seven public [nine] members appointed by the governor.

Sec. 2306.025. TERMS OF BOARD MEMBERS. Members of the board hold office for staggered terms of six years, with the terms of two or three members expiring on January 31 of each odd-numbered year.

Sec. 2306.027. ELIGIBILITY. (a) The governor shall appoint [make appointments] to the board public members who have a demonstrated interest in issues related to housing and community support services. A person appointed to the board must be a registered voter in the state and may not hold another public office [as follows:

- [(1) Place 1: an individual representing lending institutions;
- [(2) Place 2: an individual representing local government;
- [(3) Place 3: an individual representing housing construction;
- [(4) Place 4: an individual representing community-based nonprofit housing organizations;
- [(5) Place 5: an individual representing realtors or housing developers;
- [(6) Place 6: an individual representing individuals and families of low or very low income; and
- [(7) Places 7 through 9: public members].

(b) Appointments [Except as necessary to comply with the requirements of Section 2306.026 regarding diversity, appointments] to the board shall be made without regard to the race, color, disability [handicap], sex, religion, age, or national origin of the appointees and shall be made in a manner that produces representation on the board of the different geographical regions of this state. Appointments to the board must broadly reflect the geographic, economic, cultural, and social diversity of the state, including ethnic minorities, persons with disabilities, and women.

(c) A person may not be a member of the board 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;
- (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
- (3) uses or receives a substantial amount of tangible goods, services, or money from the department other than compensation or reimbursement authorized by law for board membership, attendance, or expenses [An elected or appointed official of a political subdivision appointed to Place 2 on the board is a member of the board as an additional or ex officio duty required by the member's other official capacity, and the member's service on the board is not dual office holding].

Sec. 2306.028. TRAINING. (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;
- (8) the requirements of:
  - (A) state and federal fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.);
  - (B) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);
  - (C) the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); and
  - (D) the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.); and
- (9) 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.

Sec. 2306.033. REMOVAL OF MEMBERS. (a) It is a ground for removal from the board that a member:

- (1) does not have at the time of taking office [~~appointment~~] the qualifications required by Section [~~2306.026;~~] 2306.027[~~, or 2306.028 for appointment to the board~~];
- (2) does not maintain during [~~the~~] service on the board the qualifications required by Section [~~2306.026;~~] 2306.027[~~, or 2306.028 for appointment to the board~~];
- (3) is ineligible for membership under [~~violates a prohibition established by~~] Section 2306.027(c), 2306.034, or 2306.035;
- (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term [~~for which the member is appointed because of illness or disability~~];
- (5) is absent from more than half of the regularly scheduled board meetings [~~of the board~~] that the member is eligible to attend during a calendar year without an excuse approved [~~unless the absence is excused~~] by a majority vote of the board; or
- (6) engages in misconduct or unethical or criminal behavior.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the board 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 board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 2306.034. DISQUALIFICATION OF MEMBERS AND CERTAIN EMPLOYEES. (a) ~~In [An employee or paid consultant of a Texas trade association in the field of banking, real estate, housing development, or housing construction may not be a member of the board or an employee of the department who is exempt from the state's position classification plan or 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.~~

~~[(b) For the purposes of] this section, [a] "Texas trade association" means [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 interest.~~

~~(b) 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.) if:~~

~~(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of banking, real estate, housing development, or housing construction; or~~

~~(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of banking, real estate, housing development, or housing construction.~~

Sec. 2306.035. LOBBYIST RESTRICTION. A person may not ~~be [serve as]~~ a member of the board or act as the director of the department or the general counsel to the board or the department if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation ~~[in or]~~ on behalf of a profession related to the operation of the department.

SECTION 1.04. Section 2306.030(a), Government Code, is amended to read as follows:

(a) The governor shall designate a member of ~~[appoint a presiding officer from]~~ the board as the presiding officer of the board to serve in that capacity at the will of the governor ~~[members]~~. The presiding officer presides at meetings of the board and performs other duties required by this chapter.

SECTION 1.05. Section 2306.032, Government Code, is amended by adding Subsections (c)-(g) to read as follows:

(c) All materials in the possession of the department that are relevant to a matter proposed for discussion at a board meeting must be posted on the department's website, made available in hard-copy format at the department, filed with the secretary of state for publication by reference in the Texas Register, and disseminated by any other means required by this chapter or by Chapter 551.

(d) The materials described by Subsection (c) must be made available to the public as required by Subsection (c) not later than the seventh day before the date of the meeting. The board may not consider at the meeting any material that is not made available to the public by the date required by this subsection.

(e) The agenda for a board meeting must state each project the staff is recommending for assistance by the department.

(f) For each item on the board's agenda at the meeting, the board shall provide for public comment after the presentation made by department staff and the motions made by the board on that topic.

(g) The board shall adopt rules that give the public a reasonable amount of time for testimony at meetings.

SECTION 1.06. Subchapter B, Chapter 2306, Government Code, is amended by adding Section 2306.0321 to read as follows:

Sec. 2306.0321. APPEAL OF BOARD AND DEPARTMENT DECISIONS. (a) The board shall adopt rules outlining a formal process for appealing board and department decisions.

(b) The rules must specify the requirements for appealing a board or department decision, including:

- (1) the persons eligible to appeal;
- (2) the grounds for an appeal;
- (3) the process for filing an appeal, including the information that must be submitted with an appeal;
- (4) a reasonable period in which an appeal must be filed, heard, and decided;
- (5) the process by which an appeal is heard and a decision is made;
- (6) the possible outcomes of an appeal; and
- (7) the process by which notification of a decision and the basis for a decision is given.

SECTION 1.07. Subchapter C, Chapter 2306, Government Code, is amended by adding Sections 2306.051, 2306.0521, and 2306.057 to read as follows:

Sec. 2306.051. SEPARATION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the director and staff of the department.

Sec. 2306.0521. ORGANIZATIONAL FLEXIBILITY OF DEPARTMENT. (a) Notwithstanding Section 2306.021(b) or any other provision of this chapter, the director, with the approval of the board, may:

- (1) create divisions in addition to those listed in Section 2306.021(b) and assign to the newly created divisions any duties and powers imposed on or granted to an existing division or the department generally;
- (2) eliminate any division listed in Section 2306.021(b) or created under this section and assign any duties or powers previously assigned to the eliminated division to another division listed in Section 2306.021(b) or created under this section; or
- (3) eliminate all divisions listed in Section 2306.021(b) or created under this section and reorganize the distribution of powers and duties granted to or imposed on a division in any manner the director determines appropriate for the proper administration of the department.

(b) This section does not apply to the manufactured housing division.

Sec. 2306.057. COMPLIANCE ASSESSMENT REQUIRED FOR PROJECT APPROVAL BY BOARD. (a) Before the board approves any project application submitted under this chapter, the department, through the division with responsibility for compliance matters, shall:

- (1) assess:
  - (A) the compliance history of the applicant and any affiliate of the applicant with respect to all applicable requirements; and
  - (B) the compliance issues associated with the proposed project; and

(2) provide to the board a written report regarding the results of the assessments described by Subdivision (1).

(b) The written report described by Subsection (a)(2) must be included in the appropriate project file for board and department review.

(c) The board shall fully document and disclose any instances in which the board approves a project application despite any noncompliance associated with the project, applicant, or affiliate.

SECTION 1.08. Section 2306.052, Government Code, is amended by amending Subsection (c) and adding Subsections (e) and (f) to read as follows:

(c) The director shall develop and implement the policies established by the board that define the responsibilities of each[-:

~~[(1) the director, board, and staff of the department; and~~

~~[(2) the community affairs division, the housing finance division, and any other] division in the department.~~

(e) The board shall adopt rules and the director shall develop and implement a program to train employees on the public information requirements of Chapter 552. The director shall monitor the compliance of employees with those requirements.

(f) The director shall use existing department resources to provide the board with any administrative support necessary for the board to exercise its duties regarding the implementation of this chapter, including:

(1) assigning personnel to assist the board;

(2) providing office space, equipment, and documents and other information to the board; and

(3) making in-house legal counsel available to the board.

SECTION 1.09. Subchapter D, Chapter 2306, Government Code, is amended by amending Section 2306.061 and adding Sections 2306.0631 and 2306.081 to read as follows:

Sec. 2306.061. STANDARDS OF [INFORMATION ON QUALIFICATIONS AND] CONDUCT. The director or the director's designee shall become aware of and provide to members of the board [~~members~~] and to [~~the~~] department employees, as often as necessary, information regarding the requirements [~~about the director's, members', and employees':~~

~~[(1) qualifications] for office or employment under this chapter, including information regarding a person's[-; and~~

~~[(2)] responsibilities under applicable laws relating to standards of conduct for state officers or employees.~~

Sec. 2306.0631. STATE EMPLOYEE INCENTIVE PROGRAM. The director or the director's designee shall provide to department employees information and training on the benefits and methods of participation in the state employee incentive program under Subchapter B, Chapter 2108.

Sec. 2306.081. PROJECT COMPLIANCE; DATABASE. (a) The department, through the division with responsibility for compliance matters, shall monitor for compliance with all applicable requirements the entire construction phase associated with any project under this chapter. The monitoring level for each project must be based on the amount of risk associated with the project.

(b) After completion of a project's construction phase, the department shall periodically review the performance of the project to confirm the accuracy of the department's initial compliance evaluation during the construction phase.

(c) The department shall use the division responsible for credit underwriting matters and the division responsible for compliance matters to determine the amount of risk associated with each project.

(d) The department shall create an easily accessible database that contains all project compliance information developed under this chapter.

SECTION 1.10. Sections 2306.066(b) and (c), Government Code, are amended to read as follows:

(b) The department shall maintain a ~~keep an information~~ file on ~~about~~ each written complaint filed with the department ~~[that the department has authority to resolve]~~. 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 department closed the file without taking action other than to investigate the complaint.

(c) The department shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the department's policies and procedures relating to complaint investigation and resolution. The ~~[If a written complaint is filed with the department that the department has authority to resolve, the]~~ department, at least quarterly ~~[and]~~ until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of ~~[parties to]~~ the complaint of the status of the investigation ~~[complaint]~~ unless the notice would jeopardize an undercover investigation.

SECTION 1.11. Section 2306.0661, Government Code, is amended to read as follows:

Sec. 2306.0661. PUBLIC HEARINGS. (a) Except as provided by Subsection (b), this ~~[This]~~ section applies only to state-funded housing programs, programs funded with bond proceeds, the low income housing tax credit program, and the state low income housing plan. Federally funded programs shall comply with the federal public participation requirements and Chapter 2105, if applicable.

(b) The department shall encourage informed and effective public participation in the department's programs and plans by ~~[through]~~ holding, on at least an annual basis in each uniform service region of the state, a consolidated public hearing in which the board solicits and accepts public comments regarding the following programs:

- (1) the housing trust fund program;
- (2) the HOME investment partnerships program;
- (3) the single-family housing mortgage revenue bond program;
- (4) the multifamily housing mortgage revenue bond program;
- (5) the low income housing tax credit program;
- (6) the low income energy assistance program;
- (7) any other program in the consolidated plan submitted to the United States Department of Housing and Urban Development; and
- (8) any other program in the state low income housing plan ~~[hearings and soliciting and accepting public comments during those hearings]~~.

- (c) In holding a public hearing, the department shall ensure that:
- (1) the location of the hearing is:
    - (A) in a public building or facility accessible to the public;
    - (B) accessible to persons with disabilities; and
    - (C) reasonably accessible by public transportation, if available;
  - (2) hearings are scheduled at times when working and nonworking people can attend; and
  - (3) child care is provided where practical.
- (d) ~~(c)~~ In scheduling a public hearing, the department shall:
- (1) publish notice of the time, place, and subject of the hearing in the Texas Register and a newspaper of general circulation in the community in which the hearing is to be held at least seven days before the date of the hearing. Whenever practical, the department shall publish notice of the time, place, and subject of the hearing in the Texas Register and a newspaper of general circulation in the community in which the hearing is to be held at least thirty days before the date of the hearing;
  - (2) provide notice of the hearing to each public library, in the community in which the hearing is to be held, for posting in a public area of the library;
  - (3) provide notice of the hearing to:
    - (A) each member of the board;
    - (B) each member of the advisory committee consulted by the department during preparation of the state low income housing plan; and
    - (C) each member of the legislature;
  - (4) ~~make a reasonable effort to inform interested persons and organizations of the hearing;~~
  - (5) ~~make information about the hearing, including, if appropriate, the qualified allocation plan, application forms for a low income housing tax credit, and the state low income housing plan, available on the Internet in accordance with Subsection (e) and with Section 2306.077; and~~
  - (5) ~~(6)~~ provide an opportunity for persons to transmit on the Internet written testimony or comments on a subject of a hearing in accordance with rules adopted by the board.
- (e) At least one week before the date of the hearing, all materials in the possession of the department that are relevant to a matter proposed for discussion at a consolidated public hearing under this section must be sent to interested persons and organizations, posted on the department's website, made available in hard-copy format at the department, filed with the secretary of state for publication by reference in the Texas Register, and disseminated by any other means required by this chapter or by Chapter 551.

SECTION 1.12. Section 2306.067, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The director may enter into an agreement with the manufactured housing division to loan or assign department employees, equipment, and facilities to that division.

SECTION 1.13. Section 2306.0721, Government Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

- (c) The plan must include:
- (1) an estimate and analysis of the housing needs of the following populations in each uniform [the] state service region:

(A) individuals and families of moderate, low, [~~and~~] very low, and extremely low income;

(B) individuals with special needs; and

(C) homeless individuals;

(2) a proposal to use all available housing resources to address the housing needs of the populations described by Subdivision (1) by establishing funding levels for all housing-related programs;

(3) an estimate of the number of federally assisted housing units available for individuals and families of low and very low income and individuals with special needs in each uniform state service region [~~county~~];

(4) a description of state programs that govern the use of all available housing resources;

(5) a resource allocation plan that targets all available housing resources to individuals and families of low and very low income and individuals with special needs in each uniform state service region;

(6) a description of the department's efforts to monitor and analyze the unused or underused federal resources of other state agencies for housing-related services and services for homeless individuals and the department's recommendations to ensure the full use by the state of all available federal resources for those services in each uniform state service region;

(7) strategies to provide housing for individuals and families with special needs in each uniform state service region;

(8) a description of the department's efforts to encourage in each uniform state service region the construction of housing units that incorporate energy efficient construction and appliances; [~~and~~]

(9) an estimate and analysis of the housing supply in each uniform state service region;

(10) an inventory of all publicly and, where possible, privately funded housing resources, including public housing authorities, housing finance corporations, community housing development organizations, and community action agencies;

(11) strategies for meeting rural housing needs;

(12) information on the demand for contract-for-deed conversions, services from self-help centers, consumer education, and other colonia resident services in counties some part of which is within 150 miles of the international border of this state;

(13) a summary of public comments received at a hearing under this chapter or from another source that concern the demand for colonia resident services described by Subdivision (12); and

(14) any other housing-related information that the state is required to include in the one-year action plan of the consolidated plan submitted annually to the United States Department of Housing and Urban Development.

(f) The director may subdivide the uniform state service regions as necessary for purposes of the state low income housing plan.

SECTION 1.14. Section 2306.0722, Government Code, is amended to read as follows:

Sec. 2306.0722. PREPARATION OF PLAN AND REPORT. (a) Before preparing the annual low income housing report under Section 2306.072 and the state low income housing plan under Section 2306.0721, the department shall meet with



regional planning commissions created under Chapter 391, Local Government Code, representatives of groups with an interest in low income housing, nonprofit housing organizations, managers, owners, and developers of affordable housing, local government officials, and residents of low income housing. The department shall obtain the comments and suggestions of the representatives, officials, and residents about the prioritization and allocation of the department's resources in regard to housing.

(b) In preparing the annual report under Section 2306.072 and the state low income housing plan under Section 2306.0721, the director shall:

(1) coordinate local, state, and federal housing resources, including tax exempt housing bond financing and low income housing tax credits;

(2) set priorities for the available housing resources to help the neediest individuals;

(3) evaluate the success of publicly supported housing programs;

(4) survey and identify the unmet housing needs of individuals the department is required to assist;

(5) ensure that housing programs benefit an individual without regard to the individual's race, ethnicity, sex, or national origin;

(6) develop housing opportunities for individuals and families of low and very low income and individuals with special housing needs;

(7) develop housing programs through an open, fair, and public process;

(8) set priorities for assistance in a manner that is appropriate and consistent with the housing needs of the populations described by Section 2306.0721(c)(1);

(9) incorporate recommendations that are consistent with the consolidated plan submitted annually by the state to the United States Department of Housing and Urban Development;

(10) identify the organizations and individuals consulted by the department in preparing the annual report and state low income housing plan and summarize and incorporate comments and suggestions provided under Subsection (a) as the board determines to be appropriate;

(11) develop a plan to respond to changes in federal funding and programs for the provision of affordable housing; ~~and~~

(12) use the following standardized categories to describe the income of program applicants and beneficiaries:

(A) 0 to 30 percent of area median income adjusted for family size;

(B) more than 30 to 60 percent of area median income adjusted for family size;

(C) more than 60 to 80 percent of area median income adjusted for family size;

(D) more than 80 to 115 percent of area median income adjusted for family size; or

(E) more than 115 percent of area median income adjusted for family size; and

(13) use the most recent census data combined with existing data from local housing and community service providers in the state, including public housing authorities, housing finance corporations, community housing development organizations, and community action agencies.

SECTION 1.15. Section 2306.0723(a), Government Code, is amended to read as follows:

(a) The department shall hold public hearings on the annual state low income housing plan and report before the director submits the report and the plan to the board. ~~[Public hearings shall be held in Dallas or Fort Worth, El Paso, Houston, San Antonio, the Lower Rio Grande Valley, and at least two additional municipalities selected by the department to represent geographically diverse communities.]~~ The department shall provide notice of the public hearings as required by Section 2306.0661. The published notice must include a summary of the report and plan. The department shall accept comments on the report and plan at the public hearings and for at least 30 days after the date of the publication of the notice of the hearings.

SECTION 1.16. Section 2306.111, Government Code, is amended by amending Subsection (d) and adding Subsections (g) and (h) to read as follows:

(d) The department shall allocate housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), housing trust funds administered by the department under Sections 2306.201-2306.206, and commitments issued under the federal low income housing tax credit program administered by the department under Subchapter DD [Sections 2306.671-2306.678] to each uniform state service region based on a formula developed by the department that is based on the need for housing assistance and the availability of housing resources, provided that the allocations are consistent with applicable federal and state requirements and limitations. The department shall use the information contained in its annual state low income housing plan and shall use other appropriate data to develop the formula. If the department determines under the formula that an insufficient number of eligible applications for assistance out of funds or credits allocable under this subsection are submitted to the department from a particular uniform state service region, the department shall use the unused funds or credits allocated to that region for all other regions based on identified need and financial feasibility.

(g) For each uniform state service region, the department shall establish funding priorities to ensure that:

(1) funds are awarded to project applicants who are best able to meet recognized needs for affordable housing, as determined by the department;

(2) when practicable and when authorized under Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), the least restrictive funding sources are used to serve the lowest income residents; and

(3) funds are awarded based on a project applicant's ability, when consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), practicable, and economically feasible, to:

(A) provide the greatest number of quality residential units;

(B) serve persons with the lowest percent area median family income;

(C) extend the duration of the project to serve a continuing public need;

(D) use other funding sources to minimize the amount of subsidy needed to complete the project; and

(E) provide integrated, affordable housing for individuals and families with different levels of income.

(h) The department by rule shall adopt a policy providing for the reallocation of financial assistance administered by the department, including financial assistance

related to bonds issued by the department, if the department's obligation with respect to that assistance is prematurely terminated.

SECTION 1.17. Subchapter F, Chapter 2306, Government Code, is amended by adding Sections 2306.1111, 2306.1112, and 2306.1113 to read as follows:

Sec. 2306.1111. UNIFORM APPLICATION AND FUNDING CYCLE. (a) Notwithstanding any other state law and to the extent consistent with federal law, the department shall establish a uniform application and funding cycle for all single-family and multifamily housing programs administered by the department under this chapter.

(b) Wherever possible, the department shall use uniform threshold requirements for single-family and multifamily housing program applications, including uniform threshold requirements relating to market studies and environmental reports.

Sec. 2306.1112. EXECUTIVE AWARD AND REVIEW ADVISORY COMMITTEE. (a) The department shall establish an executive award and review advisory committee to make recommendations to the board regarding funding and allocation decisions.

(b) The advisory committee is composed of the director, the administrator of each of the department's programs, and one representative from each of the department's planning, underwriting, and compliance functions.

(c) The advisory committee shall develop the funding priorities required by Section 2306.111(g) and shall make funding and allocation recommendations to the board based on the ability of applicants to meet those priorities.

(d) The advisory committee is not subject to Chapter 2110.

Sec. 2306.1113. EX PARTE COMMUNICATIONS. (a) During the period beginning on the date a project application is filed and ending on the date the board makes a final decision with respect to any approval of that application, a member of the board or a member of the advisory committee established under Section 2306.1112 may not communicate with the following persons:

(1) the applicant or a related party, as defined by state law, including board rules, and federal law; and

(2) any person who is:

(A) active in the construction, rehabilitation, ownership, or control of the proposed project, including:

(i) a general partner or contractor; and

(ii) a principal or affiliate of a general partner or contractor; or

(B) employed as a lobbyist by the applicant or a related party.

(b) Notwithstanding Subsection (a), a board member or advisory committee member may communicate with a person described by that subsection at any board meeting or public hearing held with respect to the application.

SECTION 1.18. Subchapter H, Chapter 2306, Government Code, is amended by adding Section 2306.1711 to read as follows:

Sec. 2306.1711. RULEMAKING PROCEDURES FOR CERTAIN PROGRAMS. (a) The department shall adopt rules outlining formal rulemaking procedures for the low income housing tax credit program and the multifamily housing mortgage revenue bond program in accordance with Chapter 2001.

(b) The rules adopted under Subsection (a) must include:

(1) procedures for allowing interested parties to petition the department to request the adoption of a new rule or the amendment of an existing rule;

- (2) notice requirements and deadlines for taking certain actions; and
- (3) a provision for a public hearing.

(c) The department shall provide for public input before adopting rules for programs with requests for proposals and notices of funding availability.

SECTION 1.19. Section 2306.252, Government Code, is amended by amending Subsection (b) and adding Subsections (d)-(g) to read as follows:

- (b) The department, through the center, shall:
  - (1) provide educational material prepared in plain language to housing advocates, housing sponsors, borrowers, and tenants;
  - (2) provide technical assistance to nonprofit housing sponsors; [and]
  - (3) assist in the development of housing policy, including the annual state low income housing plan and report and the consolidated plan;
  - (4) maintain communication with local governments and act as an advocate for local governments at the state and federal levels;
  - (5) assist local governments with advisory and technical services;
  - (6) provide financial aid to local governments and combinations of local governments for programs that are authorized to receive assistance;
  - (7) provide information about and referrals for state and federal programs and services that affect local governments;
  - (8) administer, conduct, or jointly sponsor educational and training programs for local government officials;
  - (9) conduct research on problems of general concern to local governments;
  - (10) collect, publish, and distribute information useful to local governments, including information on:
    - (A) local government finances and employment;
    - (B) housing;
    - (C) population characteristics; and
    - (D) land-use patterns;
  - (11) encourage cooperation among local governments as appropriate;
  - (12) advise and inform the governor and the legislature about the affairs of local governments and recommend necessary action;
  - (13) assist the governor in coordinating federal and state activities affecting local governments;
  - (14) administer, as appropriate:
    - (A) state responsibilities for programs created under the federal Economic Opportunity Act of 1964 (42 U.S.C. Section 2701 et seq.);
    - (B) programs assigned to the department under the Omnibus Budget Reconciliation Act of 1981 (Pub.L. No. 97-35); and
    - (C) other federal acts creating economic opportunity programs assigned to the department;
  - (15) develop a consumer education program to educate consumers on executory contract transactions for the conveyance of real property used or to be used as the consumer's residence;
  - (16) adopt rules that are necessary and proper to carry out programs and responsibilities assigned by the legislature or the governor; and
  - (17) perform other duties relating to local governments that are assigned by the legislature or the governor.

(d) The center shall serve as a housing and community services clearinghouse to provide information to the public, local communities, housing providers, and other interested parties regarding:

- (1) the performance of each department program;
- (2) the number of people served;
- (3) the income of people served;
- (4) the funding amounts distributed;
- (5) allocation decisions;
- (6) regional impact of department programs; and
- (7) any other relevant information.

(e) The center shall compile the department's reports into an integrated format and shall compile and maintain a list of all affordable housing resources in the state, organized by community.

(f) The information required under Subsections (d) and (e) must be readily available in:

- (1) a hard-copy format; and
- (2) a user-friendly format on the department's website.

(g) The center shall provide information regarding the department's housing and community affairs programs to the Texas Information and Referral Network for inclusion in the statewide information and referral network as required by Section 531.0312.

SECTION 1.20. Subchapter K, Chapter 2306, Government Code, is amended by adding Sections 2306.256 and 2306.257 to read as follows:

Sec. 2306.256. AFFORDABLE HOUSING PRESERVATION PROGRAM. (a) The department shall develop and implement a program to preserve affordable housing in this state.

(b) Through the program, the department shall:

- (1) maintain data on housing projected to lose its affordable status;
- (2) develop policies necessary to ensure the preservation of affordable housing in this state;
- (3) advise other program areas with respect to the policies; and
- (4) assist those other program areas in implementing the policies.

Sec. 2306.257. APPLICANT COMPLIANCE WITH STATE AND FEDERAL LAWS PROHIBITING DISCRIMINATION: CERTIFICATION AND MONITORING. (a) The department may provide assistance through a housing program under this chapter only to an applicant who certifies the applicant's compliance with:

- (1) state and federal fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. Section 3601 et seq.), and the Fair Housing Amendments Act of 1988 (42 U.S.C. Section 3601 et seq.);
- (2) the Civil Rights Act of 1964 (42 U.S.C. Section 2000a et seq.);
- (3) the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.); and
- (4) the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.).

(b) In conjunction with the state Commission on Human Rights, the department shall adopt rules governing the certification process described by this section, including rules establishing:

- (1) procedures for certifying compliance;
- (2) methods for measuring continued compliance; and

(3) different degrees of sanctions for noncompliance and reasonable periods for correcting noncompliance.

(c) Sanctions imposed under Subsection (b)(3) may:

(1) include a public reprimand, termination of assistance, and a bar on future eligibility for assistance through a housing program under this chapter; and

(2) be imposed in addition to any action taken by the state Commission on Human Rights.

(d) The department shall promptly notify the state Commission on Human Rights if the department determines that a program participant may have failed to comply with the laws listed by Subsection (a).

SECTION 1.21. Sections 2306.358(a), (a-1), and (b), Government Code, are amended to read as follows:

(a) Of the total qualified 501(c)(3) bonds issued under Section 145 of the Internal Revenue Code of 1986 (26 U.S.C. Section 145) in each fiscal year, it is the express intent of the legislature that the department shall allocate qualified 501(c)(3) bonding authority as follows:

~~(1) [at least 50 percent of the total annual issuance amount authorized through the memorandum of understanding provided for in Subsection (b) of this section is reserved for the purposes of new construction or acquisition with substantial rehabilitation;~~

~~[(2)] not more than 25 percent of the total annual issuance amount authorized through the memorandum of understanding provided for in Subsection (b) [of this section] may be used for projects in any one metropolitan area; and~~

~~(2) [(3)] at least 15 percent of the annual issuance amount authorized through the memorandum of understanding provided for in Subsection (b) [of this section] is reserved for projects in rural areas.~~

(a-1) For the purposes of Subsection (a), "rural":

~~[(1) "Rural"] area and "metropolitan area" shall be defined through the memorandum of understanding provided for in Subsection (b) [of this section].~~

~~[(2) "Substantial rehabilitation" means rehabilitation of a project with a minimum of \$5,000 of rehabilitation cost per unit].~~

(b) A qualified 501(c)(3) bond may not be issued unless approved by the Bond Review Board. In addition, the Bond Review Board shall enter into a memorandum of understanding with the department specifying the amount of bonds to be issued in each fiscal year. The department and the Bond Review Board shall review the memorandum of understanding annually to determine the specific amount of bonds to be issued in each fiscal year. The Bond Review Board may not approve a proposal to issue qualified 501(c)(3) bonds unless they meet the requirements of this section, including the memorandum of understanding, and all other laws that may apply.

SECTION 1.22. Section 2306.431, Government Code, is amended by adding Subsection (c) to read as follows:

(c) Any bonds submitted by the department to the attorney general under this section must include a certification by the board that home mortgage loans made using the proceeds of the bonds do not include a mandatory arbitration requirement.

SECTION 1.23. The heading to Subchapter Z, Chapter 2306, Government Code, is amended to read as follows:

SUBCHAPTER Z. COLONIAS  
[COLONIA SELF-HELP CENTERS]

SECTION 1.24. Subchapter Z, Chapter 2306, Government Code, is amended by amending Sections 2306.584 and 2306.585 and adding Sections 2306.590 and 2306.591 to read as follows:

Sec. 2306.584. COLONIA RESIDENT ADVISORY COMMITTEE. (a) The board [department] shall appoint not fewer than five persons who are residents of colonias to serve on a colonia resident [an] advisory committee. The members of the colonia resident advisory committee shall be selected from lists of candidates submitted to the board [department] by local nonprofit organizations and the commissioners court of a county in which a self-help center is located.

(b) The board [department] shall appoint one committee member to represent each of the counties in which self-help centers are located. Each committee member:

- (1) must be a resident of a colonia in the county the member represents; and
- (2) may not be a board member, contractor, or employee of or have any ownership interest in an entity that is awarded a contract under this subchapter.

Sec. 2306.585. DUTIES OF COLONIA RESIDENT ADVISORY COMMITTEE. (a) The colonia resident advisory committee shall advise the board [department] regarding:

- (1) the needs of colonia residents;
- (2) appropriate and effective programs that are proposed or are operated through the self-help centers; and
- (3) activities that may be undertaken through the self-help centers to better serve the needs of colonia residents.

(b) The colonia resident advisory committee shall meet before the 30th day preceding the date on which a contract is scheduled to be awarded for the operation of a self-help center and may meet at other times.

Sec. 2306.590. COLONIA INITIATIVES ADVISORY COMMITTEE. (a) The board shall establish a colonia initiatives advisory committee that is composed of the following members appointed by the board:

- (1) one member who resides in a colonia;
- (2) one member who represents a nonprofit organization that provides assistance to colonia residents;
- (3) one member who represents a local political subdivision containing all or part of a colonia;
- (4) one member who represents private interests in banking or land development; and
- (5) one member who represents the public.

(b) Each member of the colonia initiatives advisory committee other than the public member must reside within 150 miles of the international border of this state.

(c) The colonia initiatives advisory committee shall:

- (1) review public comments regarding the colonia needs assessment incorporated into the state low income housing plan under Section 2306.0721; and
- (2) based on those public comments, recommend to the board new colonia programs or improvements to existing colonia programs.

Sec. 2306.591. BIENNIAL ACTION PLAN. (a) The office established by the department to promote initiatives for colonias shall prepare a biennial action plan addressing policy goals for colonia programs, strategies to meet the policy goals, and the projected outcomes with respect to the policy goals.

(b) The office shall solicit public comments regarding the plan at a public hearing. At least six weeks before the public hearing, the office shall prepare and publish an initial draft of the plan.

(c) After the public hearing, the office must publish a final plan that:

(1) lists any changes made to the initial draft of the plan that are based on public comments regarding the initial draft; and

(2) directly addresses those public comments.

(d) The office shall send the final plan to the colonia initiatives advisory committee for review and comment. After receiving comments, the office shall send the plan to the board for final approval, with the comments of the colonia initiatives advisory committee attached to the plan.

SECTION 1.25. Section 2306.589(c), Government Code, is amended to read as follows:

(c) The department may use money in the colonia set-aside fund for specific activities that assist colonias, including:

(1) the operation and activities of the self-help centers established under this subchapter;

(2) reimbursement of colonia resident advisory committee members and colonia initiatives advisory committee members for their reasonable expenses in the manner provided by Chapter 2110 [Article 6252-33, Revised Statutes,] or the General Appropriations Act; and

(3) funding for the provision of water and sewer service connections in accordance with Subsection (b).

SECTION 1.26. Subchapter AA, Chapter 2306, Government Code, is amended to read as follows:

#### SUBCHAPTER AA. MANUFACTURED HOUSING DIVISION

Sec. 2306.6001 [2306.60+]. DEFINITIONS. In this subchapter:

(1) "Division" means the manufactured housing division.

(2) "Division director" means the executive director of the division.

(3) "Manufactured Housing Board" means the governing board of the division.

Sec. 2306.6002. REGULATION AND ENFORCEMENT. The department shall administer and enforce the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) through the [~~manufactured housing~~] division. The Manufactured Housing Board [board] and the division director shall exercise authority and responsibilities assigned to them under that Act.

Sec. 2306.6003. MANUFACTURED HOUSING BOARD. (a) The Manufactured Housing Board is an independent entity within the department, is administratively attached to the department, and is not an advisory body to the department.

(b) The Manufactured Housing Board shall carry out the functions and duties conferred on the Manufactured Housing Board by this subchapter and by other law.

Sec. 2306.6004. MANUFACTURED HOUSING BOARD MEMBERSHIP. (a) The Manufactured Housing Board consists of five public members appointed by the governor.

(b) A person is eligible to be appointed as a public member of the Manufactured Housing Board if the person is a citizen of the United States and a resident of this state.

(c) A person may not be a member of the Manufactured Housing Board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of manufactured housing;



(2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the division;

(3) 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 division; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the division other than compensation or reimbursement authorized by law for Manufactured Housing Board membership, attendance, or expenses.

(d) Appointments to the Manufactured Housing Board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 2306.6005. CONFLICT 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 Manufactured Housing Board and may not be a division 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.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of manufactured housing; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of manufactured housing.

(c) A person may not be a member of the Manufactured Housing Board or act as the general counsel to the Manufactured Housing Board or the division 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 division.

Sec. 2306.6006. TERMS; VACANCY. (a) The members of the Manufactured Housing Board serve staggered six-year terms, with the terms of one or two members expiring on January 31 of each odd-numbered year.

(b) A person may not serve two consecutive full six-year terms as a member of the Manufactured Housing Board.

(c) If a vacancy occurs during a member's term, the governor shall appoint a new member to fill the unexpired term.

Sec. 2306.6007. PRESIDING OFFICER. The governor shall designate a member of the Manufactured Housing Board as the presiding officer of the Manufactured Housing Board to serve in that capacity at the will of the governor.

Sec. 2306.6008. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the Manufactured Housing Board that a member:

(1) does not have at the time of taking office the qualifications required by Section 2306.6004(b);

(2) does not maintain during service on the Manufactured Housing Board the qualifications required by Section 2306.6004(b);

(3) is ineligible for membership under Section 2306.6004(c) or 2306.6005;

(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 Manufactured Housing Board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the Manufactured Housing Board.

(b) The validity of an action of the Manufactured Housing Board is not affected by the fact that it is taken when a ground for removal of a Manufactured Housing Board member exists.

(c) If the division director has knowledge that a potential ground for removal exists, the division director shall notify the presiding officer of the Manufactured Housing Board 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 division director shall notify the next highest ranking officer of the Manufactured Housing Board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 2306.6009. REIMBURSEMENT. A Manufactured Housing Board member may not receive compensation, but may be reimbursed for actual travel expenses, including expenses for meals, lodging, and transportation. A Manufactured Housing Board member is entitled to reimbursement for transportation expenses as provided by the General Appropriations Act.

Sec. 2306.6010. MEETINGS. (a) The Manufactured Housing Board shall have regular meetings as the majority of the members may specify and special meetings at the request of the presiding officer, any two members, or the division director.

(b) Reasonable notice of all meetings shall be given as prescribed by Manufactured Housing Board rules.

(c) The presiding officer shall preside at all meetings of the Manufactured Housing Board. In the absence of the presiding officer, the members present shall select one of the members to preside at the meeting.

Sec. 2306.6011. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the Manufactured Housing Board may not vote, deliberate, or be counted as a member in attendance at a meeting of the Manufactured Housing 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 division and the Manufactured Housing Board;

(2) the programs operated by the division;

(3) the role and functions of the division;

(4) the rules of the division, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the division;

(6) the results of the most recent formal audit of the division;

(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 division or the Texas Ethics Commission.

(c) A person appointed to the Manufactured Housing 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.

Sec. 2306.6012. APPROPRIATIONS; DONATIONS. (a) The legislature shall separately appropriate money to the Manufactured Housing Board within the appropriations to the department for all matters relating to the operation of the division.

(b) The Manufactured Housing Board may accept gifts and grants of money or property under this subchapter and shall spend the money and use the property for the purpose for which the donation was made, except that the expenditure of money or use of property must promote the acceptance of HUD-Code manufactured homes as a viable source of housing for very low, low, and moderate income families.

Sec. 2306.6013. BUDGET; SHARING OF DEPARTMENT PERSONNEL, EQUIPMENT, AND FACILITIES. (a) The Manufactured Housing Board shall develop a budget for the operations of the department relating to the division.

(b) The Manufactured Housing Board shall reduce administrative costs by entering into an agreement with the department to enable the sharing of department personnel, equipment, and facilities.

Sec. 2306.6014. DIVISION DIRECTOR. (a) The Manufactured Housing Board shall employ the division director. The division director is the Manufactured Housing Board's chief executive and administrative officer.

(b) The division director is charged with administering, enforcing, and carrying out the functions and duties conferred on the division director by this subchapter and by other law.

(c) The division director serves at the pleasure of the Manufactured Housing Board.

Sec. 2306.6015 [2306.602]. PERSONNEL. The division director may employ staff as necessary to perform the work of the [~~manufactured housing~~] division and may prescribe their duties and compensation. Subject to applicable personnel policies and regulations, the division director may remove any division employee.

Sec. 2306.6016. SEPARATION OF RESPONSIBILITIES. The Manufactured Housing Board shall develop and implement policies that clearly separate the policy-making responsibilities of the Manufactured Housing Board and the management responsibilities of the division director and staff of the division.

Sec. 2306.6017. STANDARDS OF CONDUCT. The division director or the division director's designee shall provide to members of the Manufactured Housing Board and to division 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. 2306.6018. EQUAL EMPLOYMENT OPPORTUNITY. (a) The division director or the division 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 division 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 division'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. 2306.6019. STATE EMPLOYEE INCENTIVE PROGRAM. The division director or the division director's designee shall provide to division employees information and training on the benefits and methods of participation in the state employee incentive program under Subchapter B, Chapter 2108.

Sec. 2306.6020 [2306.603]. RULES. (a) The Manufactured Housing Board [~~director~~] shall adopt rules as necessary to implement this subchapter and to administer and enforce the manufactured housing program through the [~~manufactured housing~~] division. Rules adopted by the Manufactured Housing Board [~~director~~] are subject to Chapter 2001[~~, Government Code~~].

(b) The Manufactured Housing Board [~~director~~] may not adopt rules restricting competitive bidding or advertising by a person regulated by the division except to prohibit false, misleading, or deceptive practices by that person.

(c) The Manufactured Housing Board [~~director~~] may not include in the rules to prohibit false, misleading, or deceptive practices by a person regulated by the division a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or the use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement used by the person; or

(4) restricts the use of a trade name in advertising by the person.

Sec. 2306.6021. PUBLIC PARTICIPATION. The Manufactured Housing Board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Manufactured Housing Board and to speak on any issue under the jurisdiction of the division.

Sec. 2306.6022. COMPLAINTS. (a) The division shall maintain a file on each written complaint filed with the division. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the division;

(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 division closed the file without taking action other than to investigate the complaint.

(b) The division shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the division's policies and procedures relating to complaint investigation and resolution.

(c) The division, 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.

(d) Unless otherwise confidential by law, the records of a license holder or other person that are required or obtained by the division or its agents or employees in connection with the investigation of a complaint are subject to the requirements of Chapter 552.

Sec. 2306.6023 [2306.604]. SANCTIONS AND PENALTIES. (a) The Manufactured Housing Board [director] shall adopt rules relating to the administrative sanctions that may be enforced against a person regulated by the [manufactured housing] division. If the person violates a law relating to the regulation of manufactured housing or a rule or order adopted or issued by the Manufactured Housing Board [director] relating to the program, the division director may:

- (1) issue a written reprimand to the person that specifies the violation;
- (2) revoke or suspend the person's certificate of registration; or
- (3) place on probation a person whose certificate of registration has been suspended.

(b) In addition to or in lieu of a sanction imposed under Subsection (a) of this section, the Manufactured Housing Board [board] may assess an administrative penalty in an amount not to exceed \$1,000 for each violation.

(c) If a suspension is probated, the division director may require the person to report regularly to the division director on matters that are the basis of the probation.

(d) If the division director proposes to suspend or revoke a certificate of registration or the division director proposes to assess an administrative penalty against a person regulated by the division, the person is entitled to a hearing before a hearings officer appointed by the division director. The Manufactured Housing Board [director] by rule shall prescribe the procedures by which a decision to suspend or revoke a certificate of registration or to assess an administrative penalty are made and are appealable.

(e) In determining the amount of an administrative penalty assessed under this section, the Manufactured Housing Board [board] shall consider:

- (1) the seriousness of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter future violations;
- (4) efforts made to correct the violation; and
- (5) any other matters that justice may require.

(f) If, after investigation of a possible violation and the facts surrounding that possible violation, the division director determines that a violation has occurred, the division director shall issue a preliminary report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty under this section be imposed on the person charged, and recommending the amount of that proposed penalty. The division director shall base the recommended amount of the proposed penalty on the seriousness of the violation determined by consideration of the factors set forth in Subsection (e) [~~of this section~~].

(g) Not later than the 14th day after the date on which the preliminary report is issued, the division director shall give written notice of the violation to the person charged. The notice shall include:

- (1) a brief summary of the charges;
- (2) a statement of the amount of the penalty recommended; and
- (3) a statement of the right of the person charged to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(h) Not later than the 20th day after the date on which the notice is received, the person charged may accept the determination of the division director made under Subsection (f) [~~of this section~~], including the recommended penalty, or make a written request for a hearing on that determination.

(i) If the person charged with the violation accepts the determination of the division director, the division director shall issue an order approving the determination and ordering that the person pay the recommended penalty.

(j) If the person charged fails to respond in a timely manner to the notice or if the person requests a hearing, the division director shall set a hearing, give written notice of the hearing to the person, and designate a hearings examiner to conduct the hearing. The hearings examiner shall make findings of fact and conclusions of law and shall promptly issue to the Manufactured Housing Board [~~board~~] a proposal for decision as to the occurrence of the violation and a recommendation as to the amount of the proposed penalty if a penalty is determined to be warranted. Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the Manufactured Housing Board [~~board~~] by order may find that a violation has occurred and may assess a penalty, or may find that no violation has occurred.

(k) The division director shall give notice of the Manufactured Housing Board's [~~board's~~] order to the person charged. The notice must include:

- (1) separate statements of the findings of fact and conclusions of law;
- (2) the amount of any penalty assessed;
- (3) a statement of the right of the person charged to judicial review of the Manufactured Housing Board's [~~commission's~~] order; and
- (4) any other information required by law.

(l) Not later than the 30th day after the date on which the decision is final, the person charged shall:

- (1) pay the penalty in full; or
- (2) if the person files a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both the fact of the violation and the amount of the penalty:

(A) forward the amount assessed to the division [~~department~~] for deposit in an escrow account;

(B) in lieu of payment into escrow, post with the division [~~department~~] a supersedeas bond for the amount of the penalty, in a form approved by the division director and effective until judicial review of the decision is final; or

(C) without paying the amount of the penalty or posting the supersedeas bond, pursue the judicial review.

(m) A person charged with a penalty who is financially unable to comply with Subsection (l)(2) [~~of this section~~] is entitled to judicial review if the person files with the court, as part of the person's petition for judicial review, a sworn statement that the person is unable to meet the requirements of that subsection.

(n) If the person charged does not pay the penalty and does not pursue judicial review, the division [~~department~~] or the attorney general may bring an action for the collecty of the penalty.

(o) Judicial review of the order of the Manufactured Housing Board [~~board~~] assessing the penalty is subject to the substantial evidence rule and shall be instituted by filing a petition with a Travis County district court.

(p) If, after judicial review, the penalty is reduced or not assessed, the division director shall remit to the person charged the appropriate amount, plus accrued interest if the penalty has been paid, or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted by the division director under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and shall be paid for the period beginning on the date that the assessed penalty is paid to the division director and ending on the date the penalty is remitted.

(q) A penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

(r) All proceedings conducted under this section and any review or appeal of those proceedings are subject to Chapter 2001[~~Government Code~~].

(s) If it appears that a person is in violation of, or is threatening to violate, any provision of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), or a rule or order related to the administration and enforcement of the manufactured housing program, the attorney general or the division director may institute an action for injunctive relief to restrain the person from continuing the violation and for civil penalties not to exceed \$1,000 for each violation and not exceeding \$250,000 in the aggregate. A civil action filed under this subsection shall be filed in district court in Travis County. The attorney general and the division director may recover reasonable expenses incurred in obtaining injunctive relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

~~[Sec. 2306.605. ACCEPTANCE OF DONATIONS. The department may accept gifts and grants of money or property under this chapter and shall spend the money and use the property for the purpose for which the donation was made, except that the expenditure of money or use of property must promote the acceptance of HUD-Code manufactured homes as a viable source of housing for very low, low, and moderate income families.]~~

SECTION 1.27. Subchapter DD, Chapter 2306, Government Code, is amended by adding Sections 2306.6728 and 2306.6729 to read as follows:

Sec. 2306.6728. DEPARTMENT POLICY AND PROCEDURES REGARDING RECIPIENTS OF CERTAIN FEDERAL HOUSING ASSISTANCE. (a) The department by rule shall adopt a policy regarding the admittance to low income housing tax credit properties of income-eligible individuals and families receiving assistance under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

(b) The policy must provide a reasonable minimum income standard that is not otherwise prohibited by this chapter and that is to be used by owners of low income housing tax credit properties and must place reasonable limits on the use of any other factors that impede the admittance of individuals and families described by Subsection (a) to those properties, including credit histories, security deposits, and employment histories.

(c) The department by rule shall establish procedures to monitor low income housing tax credit properties that refuse to admit individuals and families described by Subsection (a). The department by rule shall establish enforcement mechanisms with respect to those properties, including a range of sanctions to be imposed against the owners of those properties.

Sec. 2306.6729. QUALIFIED NONPROFIT ORGANIZATION. (a) A qualified nonprofit organization may compete in any low income housing tax credit allocation pool, including:

- (1) the nonprofit allocation pool;
- (2) the rural projects/prison communities allocation pool; and
- (3) the general projects allocation pool.

(b) A qualified nonprofit organization submitting an application under this subchapter must have a controlling interest in a project proposed to be financed with a low income housing tax credit from the nonprofit allocation pool.

SECTION 1.28. Section 531.0312, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The Texas Department of Housing and Community Affairs shall provide the Texas Information and Referral Network with information regarding the department's housing and community affairs programs for inclusion in the statewide information and referral network. The department shall provide the information in a form determined by the commissioner and shall update the information at least quarterly.

SECTION 1.29. Section 1372.023, Government Code, is amended to read as follows:

Sec. 1372.023. DEDICATION OF PORTIONS [~~PORTION~~] OF STATE CEILING TO TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS. (a) Until August 15 [~~25~~], of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds, one-third is available exclusively to the Texas Department of Housing and Community Affairs for the purpose of issuing qualified mortgage bonds.

(b) Until August 15, of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds, one-fourth is available exclusively to the Texas Department of Housing and Community Affairs in the manner described by Section 1372.0231.

(c) The Texas Department of Housing and Community Affairs may not reserve a portion of the state ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds other than the portion dedicated to the department under Subsection (b).

SECTION 1.30. Section 1372.025(b), Government Code, is amended to read as follows:

(b) Subsection (a) does not apply to qualified mortgage bonds or qualified residential rental project bonds made available exclusively to the Texas Department of Housing and Community Affairs under Section 1372.023.

SECTION 1.31. Sections 3(3), (7), and (8), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), are amended to read as follows:

(3) "Board" means the Manufactured Housing Board within the Texas Department of Housing and Community Affairs [governing board of the department].

(7) "Department" means the Texas Department of Housing and Community Affairs operating through its manufactured housing division.

(8) "Director" means the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs [department].

SECTION 1.32. Section 7, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended by amending Subsections (g) and (k) and adding Subsections (t)-(y) to read as follows:



(g) All licenses are valid for one year and are renewable as provided by the director. The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, the department shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

(k) The director shall conduct any hearing involving the denial, renewal, revocation or suspension of a license in accordance with Chapter 2001, Government Code. The department may place on probation a person whose license is suspended. If a license suspension is probated, the department may require the person:

(1) to report regularly to the department on matters that are the basis of the probation;

(2) to limit practice to the areas prescribed by the department; or

(3) to continue or review professional education until the person attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

(t) A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(u) A person whose license has been expired for 90 days or less may renew the license by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(v) A person whose license has been expired for more than 90 days but less than one year may renew the license by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(w) A person whose license has been expired for one year or more may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

(x) 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 fulfilling the instruction requirements of Subsection (o). The person must pay to the department a fee that is equal to two times the normally required renewal fee for the license.

(y) Not later than the 30th day before the date a person's license is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

SECTION 1.33. Section 7(s), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), as added by Chapter 351, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

(s) A person licensed as a real estate broker or salesperson under The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) may act as a manufactured housing broker or salesperson without holding a license under this Act or posting a surety bond or other security under this Act, provided that any negotiations for the sale, exchange, or lease-purchase of a manufactured home are conducted for a consumer for whom the person is also acting as a real estate broker or salesperson consistent with Section 18(e) of this Act.

SECTION 1.34. Section 7A, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7A. EDUCATION PROGRAMS. (a) The department [~~director~~] may recognize, prepare, or administer certification programs [~~and continuing education programs~~] for persons regulated under this Act. Participation in the programs is voluntary.

(b) The board shall recognize, prepare, or administer continuing education programs for its license holders. A license holder must participate in the continuing education programs to the extent required by the board to retain the person's license.

(c) To prepare or administer a certification program or a continuing education program under this section, the board may contract with a private, nonprofit, tax-exempt organization listed in Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)) or with an educational institution.

(d) The department [~~director~~] shall issue appropriate certificates to those persons who complete a [the] certification program or who participate in a [the] continuing education program under this section.

SECTION 1.35. (a) The nine members of the governing board of the Texas Department of Housing and Community Affairs who are serving immediately before September 1, 2001, continue to serve as members of the governing board of the department on and after that date regardless of whether those members meet the membership requirements prescribed by Subchapter B, Chapter 2306, Government Code, as amended by this Act. However, the positions of those nine members are abolished on the date on which a majority of the seven board membership positions that are created under Subchapter B, Chapter 2306, Government Code, as amended by this Act, are filled by appointment by the governor and the appointees qualify for office.

(b) The governor shall make the seven appointments to the board under Subchapter B, Chapter 2306, Government Code, as amended by this Act, as soon as possible on or after September 1, 2001. In making the initial appointments, the governor shall designate two members for terms expiring January 31, 2003, two members for terms expiring January 31, 2005, and three members for terms expiring January 31, 2007. The governor may reappoint any person to the board who served as a member of the board before September 1, 2001.

(c) The changes in law made by this Act in amending Subchapter B, Chapter 2306, Government Code, do not affect the ability of the director of the Texas Department of Housing and Community Affairs who is serving on the effective date of this Act to continue to serve in that capacity until the governing board of the department appointed by the governor under Subchapter B, Chapter 2306, Government Code, as amended by this Act, employs a director under Chapter 2306.

SECTION 1.36. (a) The governor shall make the appointments to the Manufactured Housing Board created by Subchapter AA, Chapter 2306, Government Code, as amended by this Act, as soon as possible on or after September 1, 2001. In making the initial appointments, the governor shall designate one member for a term expiring January 31, 2003, two members for terms expiring January 31, 2005, and two members for terms expiring January 31, 2007.

(b) Until the Manufactured Housing Board employs a division director for the manufactured housing division of the Texas Department of Housing and Community Affairs, the director of the department may continue to carry out the functions of the division director for that division.

SECTION 1.37. As soon as practicable after the effective date of this Act, the new governing board of the Texas Department of Housing and Community Affairs

appointed by the governor under Subchapter B, Chapter 2306, Government Code, as amended by this Act, shall develop a strategic action plan to implement the requirements of this Act. The board shall employ a director to provide and monitor the provision of administrative support to the board to assist in implementing the plan. The director shall evaluate the organizational structure of the department, including the evaluation of essential management positions, and shall make any organizational changes necessary to implement the plan and the other requirements of this Act.

SECTION 1.38. (a) Not later than December 31, 2002, the Sunset Advisory Commission shall evaluate the success of the Texas Department of Housing and Community Affairs in implementing the requirements of this Act before that date, including actions taken by the department with respect to the following:

(1) establishment of a functional governing board that values public input and enables board members to develop the expertise necessary to make informed decisions about and to ensure the accountability of the department and the programs of the department;

(2) establishment of an organizational structure to develop and implement a statewide needs assessment and a corresponding allocation process that:

(A) ensure that the state's objectives regarding housing and community support services are fulfilled;

(B) ensure that the state's most critical needs regarding housing and community support services are identified and met;

(C) incorporate input from local entities;

(D) maximize the preservation of affordable housing; and

(E) achieve the best use of state resources;

(3) development of policies and procedures that clearly define the appropriate roles of board members, the director, and department staff;

(4) implementation of rules outlining a formal process to appeal board decisions; and

(5) establishment of project compliance procedures that ensure that the programs of the department provide fair access to housing and community support services in this state.

(b) Before January 1, 2003, the Sunset Advisory Commission shall report the results of evaluation to the presiding officer of each house of the legislature.

SECTION 1.39. The rules of the Texas Department of Housing and Community Affairs relating to the administration and enforcement of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) are continued in effect as rules of the manufactured housing division of the Texas Department of Housing and Community Affairs until amended or repealed by that division. Each affected license, certificate, permit, bond, order, security, or registration issued or regulated by the Texas Department of Housing and Community Affairs is continued in effect as a license, certificate, permit, bond, order, security, or registration of the manufactured housing division of the Texas Department of Housing and Community Affairs.

SECTION 1.40. A complaint or investigation pending before the Texas Department of Housing and Community Affairs on August 31, 2001, is transferred without change in status to the manufactured housing division of the Texas Department of Housing and Community Affairs on the effective date of this Act. A contested case pending before the Texas Department of Housing and Community

Affairs on August 31, 2001, is transferred to the jurisdiction of the manufactured housing division of the Texas Department of Housing and Community Affairs on the effective date of this Act, and actions taken in the proceeding shall be treated as if taken by that division.

SECTION 1.41. A reference in a law to the Texas Department of Housing and Community Affairs relating to the administration and enforcement of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) means the manufactured housing division of the Texas Department of Housing and Community Affairs.

SECTION 1.42. Sections 2306.023, 2306.026, 2306.052(d), and 2306.092, Government Code, are repealed.

SECTION 1.43. Section 7(s), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), as added by Chapter 1369, Acts of the 76th Legislature, Regular Session, 1999, is repealed.

SECTION 1.44. A member of the governing board of the Texas Department of Housing and Community Affairs or of the Manufactured Housing Board is not subject to the prohibition imposed by Section 2306.028 or 2306.6011, Government Code, as applicable, until September 1, 2002.

SECTION 1.45. The change in law made by this Act in adding Section 2306.6728, Government Code, applies only to a low income housing tax credit property for which an application for an allocation of low income housing tax credits is received by the Texas Department of Housing and Community Affairs on or after August 10, 1993.

## ARTICLE 2

SECTION 2.01. Section 2306.004, Government Code, is amended by adding Subdivisions (31)-(34) to read as follows:

(31) "Economic submarket" means a group of borrowers who have common home mortgage loan market eligibility characteristics, including income level, credit history or credit score, and employment characteristics, that are similar to Standard and Poor's credit underwriting criteria.

(32) "Geographic submarket" means a geographic region in the state, including a county, census tract, or municipality, that shares similar levels of access to home mortgage credit from the private home mortgage lending industry, as determined by the department based on home mortgage lending data published by federal and state banking regulatory agencies.

(33) "Rural county" means a county that is outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area.

(34) "Subprime loan" means a loan that is originated by a lender designated as a subprime lender on the subprime lender list maintained by the United States Department of Housing and Urban Development or identified as a lender primarily engaged in subprime lending under Section 2306.143.

SECTION 2.02. Section 2306.142, Government Code, is amended to read as follows:

Sec. 2306.142. AUTHORIZATION OF BONDS. (a) Subject to the requirements of this section [~~In its discretion~~], the board shall authorize all bonds issued by the department.

(b) If the issuance is authorized by the board, the department shall issue single-family mortgage revenue bonds to make home mortgage credit available for the

purchase of newly constructed or previously owned single-family homes to economic and geographic submarkets of borrowers who are not served or who are substantially underserved by the conventional, Fannie Mae, Freddie Mac, or Federal Housing Administration home mortgage lending industry or by housing finance corporations organized under Chapter 394, Local Government Code.

(c) The board by rule shall adopt a methodology for determining through a market study the home mortgage credit needs in underserved economic and geographic submarkets in the state. In conducting the market study required by this subsection, the department or its designee shall analyze for the underserved economic and geographic submarkets, at a minimum, the following factors:

(1) home ownership rates;

(2) loan volume;

(3) loan approval ratios;

(4) loan interest rates;

(5) loan terms;

(6) loan availability;

(7) type and number of dwelling units; and

(8) use of subprime mortgage loan products, comparing the volume amount of subprime loans and interest rates to "A" paper mortgage loans as defined by Standard and Poor's credit underwriting criteria.

(d) The department or its designee shall analyze the potential market demand, loan availability, and private sector home mortgage lending rates available to extremely low, very low, low, and moderate income borrowers in the rural counties of the state, in census tracts in which the median family income is less than 80 percent of the median family income for the county in which the census tract is located, and in the region of the state adjacent to the international border of the state. The department or its designee shall establish a process for serving those counties, census tracts, and regions through the single-family mortgage revenue bond program in a manner proportionate to the credit needs of those areas as determined through the department's market study.

(e) Using the market study and the analysis required by this section, the board shall evaluate the feasibility of a single-family mortgage revenue bond program with loan marketing, eligibility, underwriting, structuring, collection, and foreclosure criteria and with loan services practices that are designed to meet the credit needs of the underserved economic and geographic submarkets of the state, including those submarkets served disproportionately by subprime lenders.

(f) In evaluating a proposed bond program under this section, the board shall consider, consistent with the reasonable financial operation of the department, specific set-asides or reservations of mortgage loans for underserved economic and geographic submarkets in the state, including the reservation of funds to serve borrowers who have "A-" to "B-" credit according to Standard and Poor's credit underwriting criteria.

(g) The department may use any source of funds or subsidy available to the department to provide credit enhancement, down payment assistance, pre-homebuyer and post-homebuyer counseling, interest rate reduction, and payment of incentive lender points to accomplish the purposes of this section in a manner considered by the board to be consistent with the reasonable financial operation of the department.

(h) In allocating funds under Subsection (g), the department's highest priority is to provide assistance to borrowers in underserved economic and geographic

submarkets in the state. If the board determines that sufficient funds are available after fully meeting the credit needs of borrowers in those submarkets, the department may provide assistance to other borrowers.

(i) The board shall certify that each single-family mortgage revenue bond issued by the department under this section is structured in a manner that serves the credit needs of borrowers in underserved economic and geographic submarkets in the state.

(j) After any board approval and certification of a single-family mortgage revenue bond issuance, the department shall submit the proposed bond issuance to the Bond Review Board for review.

(k) In the state fiscal year beginning on September 1, 2001, the department shall:  
(1) adopt by rule a market study methodology as required by Subsection (c);  
(2) conduct the market study;  
(3) propose for board review a single-family mortgage revenue bond program, including loan feature details, a program for borrower subsidies as provided by Subsections (g) and (h), and origination and servicing infrastructure;  
(4) identify reasonable capital markets financing;  
(5) conduct a public hearing on the market study results and the proposed bond program; and

(6) submit for review by the Bond Review Board the market study results and, if approved and certified by the board, the proposed bond program.

(l) In the state fiscal year beginning on September 1, 2002, and in each subsequent state fiscal year, the department shall allocate not less than 40 percent of the total single-family mortgage revenue bond loan volume to meet the credit needs of borrowers in underserved economic and geographic submarkets in the state, subject to the identification of a satisfactory market volume demand through the market study.

(m) On completion of the market study, if the board determines in any year that bonds intended to be issued to achieve the purposes of this section are unfeasible or would damage the financial condition of the department, the board may formally appeal to the Bond Review Board the requirements of Subsection (k) or (l), as applicable. The Bond Review Board has sole authority to modify or waive the required allocation levels.

(n) In addition to any other loan originators selected by the department, the department shall authorize colonia self-help centers and any other community-based, nonprofit institutions considered appropriate by the board to originate loans on behalf of the department. All non-financial institutions acting as loan originators under this subsection must undergo adequate training, as prescribed by the department, to participate in the bond program. The department may require lenders to participate in ongoing training and underwriting compliance audits to maintain good standing to participate in the bond program. The department may require that lenders meet appropriate eligibility standards as prescribed by the department.

(o) The department shall structure all single-family mortgage revenue bond issuances in a manner designed to recover the full costs associated with conducting the activities required by this section.

SECTION 2.03. Subchapter G, Chapter 2306, Government Code, is amended by adding Section 2306.143 to read as follows:

Sec. 2306.143. ALTERNATIVE TO SUBPRIME LENDER LIST. (a) If the United States Department of Housing and Urban Development ceases to prepare or make public a subprime lender list, the market study required by Section 2306.142

must annually survey the 100 largest refinancing lenders and the 100 largest home purchase loan lenders in the state to identify lenders primarily engaged in subprime lending.

(b) The lenders included in the survey must be identified on the basis of home mortgage loan data reported by lenders under the Home Mortgage Disclosure Act of 1975 (12 U.S.C. Section 2801 et seq.) and the Community Reinvestment Act of 1977 (12 U.S.C. Section 2901 et seq.).

SECTION 2.04. Section 2306.583, Government Code, is amended to read as follows:

Sec. 2306.583. SELF-HELP CENTERS: DESIGNATION. (a) The department shall designate[~~:-~~

~~]~~ (+) a geographic area for the services provided by each self-help center.

(b) In consultation with the colonia resident advisory committee and the appropriate self-help center, the department shall designate[~~:-~~ and

~~(2)]~~ (2) five colonias in each service area to receive concentrated attention from that center.

(c) In consultation with the colonia resident advisory committee and the appropriate self-help center, the [(b) The] department may change the designation of colonias made under Subsection (b) [(a)(2)].

SECTION 2.05. Section 2306.586, Government Code, is amended by adding Subsection (e) to read as follows:

(e) Through a self-help center, a colonia resident may apply for any direct loan or grant program operated by the department.

SECTION 2.06. Section 2306.587, Government Code, is amended to read as follows:

Sec. 2306.587. OPERATION OF SELF-HELP CENTER; MONITORING. (a) To operate a self-help center, the [The] department shall, subject to the availability of revenue for that purpose, enter into a four-year contract directly [for the operation of a self-help center] with a local nonprofit organization, including a local community action agency that qualifies as an eligible entity under 42 U.S.C. Section 9902, or a local housing authority that has demonstrated the ability to carry out the functions of a self-help center under this subchapter.

(b) The department is solely responsible for contract oversight and for the monitoring of self-help centers under this subchapter.

(c) The department and the self-help centers may apply for and receive public or private gifts or grants to enable the centers to achieve their purpose.

SECTION 2.07. Section 2306.589(a), Government Code, is amended to read as follows:

(a) The department shall establish a fund in the department designated as the colonia set-aside fund. The department may contribute money to the fund from any available source of revenue that the department considers appropriate to implement the purposes of this subchapter, except that the department may not use federal community development block grant money authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.) unless the money is specifically appropriated by the legislature for that purpose.

SECTION 2.08. Sections 2306.753(a) and (b), Government Code, are amended to read as follows:

(a) Subject to this section, the department shall establish eligibility requirements for an owner-builder to receive a loan under this subchapter. The eligibility requirements must establish a priority for loans made under this subchapter to owner-builders with an annual income, as determined under Subsection (b)(1) [(b)(2)], of less than \$17,500.

(b) To be eligible for a loan under this subchapter, an owner-builder:

(1) ~~[(1)] must reside with at least two other persons related to the owner-builder in the first degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573;~~

~~[(2)]~~ may not have an annual income that exceeds 60 percent, as determined by the department, of the greater of the state or local median family income, when combined with the income of any person who resides with the owner-builder;

~~[(3)]~~ must have resided in this state for the preceding six months;

~~[(4)]~~ must have successfully completed an owner-builder education class under Section 2306.756; and

~~[(5)]~~ must agree to:

(A) provide at least 60 percent of the labor necessary to build the proposed housing by working through a state-certified owner-builder housing program; or

(B) provide an amount of labor equivalent to the amount required under Paragraph (A) in connection with building housing for others through a state-certified nonprofit owner-builder housing program.

SECTION 2.09. Sections 2306.754(a) and (b), Government Code, are amended to read as follows:

(a) The department may establish the minimum amount of a loan under this subchapter, but a loan may not exceed \$30,000 ~~[\$25,000]~~.

(b) If it is not possible for an owner-builder to purchase necessary real property and build adequate housing for \$30,000 ~~[\$25,000]~~, the owner-builder must obtain the amount necessary that exceeds \$30,000 ~~[\$25,000]~~ from one or more local governmental entities, nonprofit organizations, or private lenders. The total amount of loans made by the department and other entities to an owner-builder under this subchapter may not exceed \$60,000.

SECTION 2.10. Section 2306.755, Government Code, is amended to read as follows:

Sec. 2306.755. NONPROFIT OWNER-BUILDER HOUSING PROGRAMS.

(a) The department may certify nonprofit owner-builder housing programs operated by a tax-exempt organization listed under Section 501(c)(3), Internal Revenue Code of 1986, to:

(1) qualify potential owner-builders for loans under this subchapter;

(2) provide owner-builder education classes under Section 2306.756;

(3) assist owner-builders in building housing; and

(4) originate or service ~~administer~~ loans made ~~by the department~~ under this subchapter.

(b) The department by rule shall adopt procedures for the certification of nonprofit owner-builder housing programs under this section.

SECTION 2.11. Section 2306.758, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:



(b) The department may also make loans under this subchapter from:

- (1) available funds in the housing trust fund established under Section 2306.201;
- (2) federal block grants that may be used for the purposes of this subchapter; and
- (3) the owner-builder revolving loan fund established under Section 2306.7581 [amounts received by the department in repayment of loans made under this subchapter].

(c) In a state fiscal year, the department may use not more than 10 percent of the revenue available for purposes of this subchapter to enhance the ability of tax-exempt organizations described by Section 2306.755(a) to implement the purposes of this chapter.

SECTION 2.12. Subchapter FF, Chapter 2306, Government Code, is amended by adding Section 2306.7581 to read as follows:

Sec. 2306.7581. OWNER-BUILDER REVOLVING LOAN FUND. (a) The department shall establish an owner-builder revolving loan fund in the department for the sole purpose of funding loans under this subchapter.

(a-1) Each state fiscal year the department shall transfer at least \$3 million to the fund from money received under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), from money in the housing trust fund, or from money appropriated by the legislature to the department. This subsection expires August 31, 2010.

(b) The department shall deposit money received in repayment of a loan under this subchapter to the owner-builder revolving loan fund.

SECTION 2.13. Chapter 2306, Government Code, is amended by adding Subchapter GG to read as follows:

#### SUBCHAPTER GG. COLONIA MODEL SUBDIVISION PROGRAM

Sec. 2306.781. DEFINITION. In this subchapter, "program" means the colonia model subdivision program established under this subchapter.

Sec. 2306.782. ESTABLISHMENT OF PROGRAM. The department shall establish the colonia model subdivision program to promote the development of new, high-quality, residential subdivisions that provide:

- (1) alternatives to substandard colonias; and
- (2) housing options affordable to individuals and families of extremely low and very low income who would otherwise move into substandard colonias.

Sec. 2306.783. COLONIA MODEL SUBDIVISION REVOLVING LOAN FUND. (a) The department shall establish a colonia model subdivision revolving loan fund in the department. Money in the fund may be used only for purposes of the program.

(a-1) The department may transfer money into the fund using any available source of revenue.

(a-2) On application, the department may provide a loan under this subchapter through an eligible political subdivision using money from the portion of community development block grant that is set aside under federal law to provide financial assistance to colonias. In a state fiscal year, the department may not provide loans under this subchapter using more than \$2 million from the set-aside for colonias.

(a-3) Subsections (a-1) and (a-2) and this subsection expire August 31, 2010.

(b) The department shall deposit money received in repayment of loans under this subchapter to the colonia model subdivision revolving loan fund.

Sec. 2306.784. SUBDIVISION COMPLIANCE. Any subdivision created with assistance from the fund must fully comply with all state and local laws, including any process established under state or local law for subdividing real property.

Sec. 2306.785. PROGRAM LOANS. (a) The department may make loans under the program only to:

- (1) colonia self-help centers established under Subchapter Z; and
- (2) community housing development organizations certified by the

department.

(b) A loan made under the program may be used only for the payment of:

- (1) costs associated with the purchase of real property;
- (2) costs of surveying, platting, and subdividing or resubdividing real

property:

(3) fees, insurance costs, or recording costs associated with the development of the subdivision;

(4) costs of providing proper infrastructure necessary to support residential uses;

(5) real estate commissions and marketing fees; and

(6) any other costs as the department by rule determines to be reasonable and prudent to advance the purposes of this subchapter.

(c) A loan made by the department under the program may not bear interest and may not exceed a term of 36 months.

(d) The department may offer a borrower under the program one loan renewal for each subdivision.

Sec. 2306.786. ADMINISTRATION OF PROGRAM; RULES. (a) In administering the program, the department by rule shall adopt:

(1) any subdivision standards in excess of local standards the department considers necessary;

(2) loan application procedures;

(3) program guidelines; and

(4) contract award procedures.

(b) The department shall adopt rules to:

(1) ensure that a borrower under the program sells real property under the program only to an individual borrower, nonprofit housing developer, or for-profit housing developer for the purposes of constructing residential dwelling units; and

(2) require a borrower under the program to convey real property under the program at a cost that is affordable to:

(A) individuals and families of extremely low income; or

(B) individuals and families of very low income.

SECTION 2.14. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.184 to read as follows:

Sec. 11.184. COLONIA MODEL SUBDIVISION PROGRAM. (a) An organization is entitled to an exemption from taxation of unimproved real property it owns if the organization:

(1) meets the requirements of a charitable organization provided by Sections 11.18(e) and (f);

(2) purchased the property or is developing the property with proceeds of a loan made by the Texas Department of Housing and Community Affairs under the colonia model subdivision program under Subchapter GG, Chapter 2306, Government Code; and

(3) owns the property for the purpose of developing a model colonia subdivision.

(b) Property may not be exempted under Subsection (a) after the fifth anniversary of the date the organization acquires the property.

(c) An organization entitled to an exemption under Subsection (a) is also entitled to an exemption from taxation of any building or tangible personal property the organization owns and uses in the administration of its acquisition, building, repair, or sale of property. To qualify for an exemption under this subsection, property must be used exclusively by the charitable organization, except that another individual or organization may use the property for activities incidental to the charitable organization's use that benefit the beneficiaries of the charitable organization.

(d) For the purposes of Subsection (e), the chief appraiser shall determine the market value of property exempted under Subsection (a) and shall record the market value in the appraisal records.

(e) If the organization that owns improved or unimproved real property that has been exempted under Subsection (a) sells the property to a person other than a person described by Section 2306.786(b)(1), Government Code, a penalty is imposed on the property equal to the amount of the taxes that would have been imposed on the property in each tax year that the property was exempted from taxation under Subsection (a), plus interest at an annual rate of 12 percent computed from the dates on which the taxes would have become due.

SECTION 2.15. If the administration of the federal community development block grant program is transferred to an agency other than the Texas Department of Housing and Community Affairs, the new administering agency shall enter into a memorandum of understanding with the Texas Department of Housing and Community Affairs to permit the housing department to receive and administer the portion of community development block grant money specifically allocated under the General Appropriations Act to fund the operation of colonia self-help centers. The memorandum must require the new administering agency to transfer to the housing department a portion of the agency's total administrative funds in the same ratio that the portion of community development block grant money allocated for the self-help centers bears to the total yearly allocation of community development block grant money. The memorandum must require the new administering agency to continue to fund the housing department's border field offices through the community development block grant program and must require the housing department to exercise oversight and supervision over those field offices and staff.

SECTION 2.16. Section 2306.760, Government Code, is repealed.

### ARTICLE 3

SECTION 3.01. Subchapter A, Chapter 2306, Government Code, is amended by adding Section 2306.008 to read as follows:

Sec. 2306.008. PRESERVATION OF AFFORDABLE HOUSING. (a) The department shall support in the manner described by Subsection (b) the preservation of affordable housing for individuals with special needs, as defined by Section 2306.511, and individuals and families of low income at any location considered necessary by the department.

(b) The department shall support the preservation of affordable housing under this section by:

(1) making low interest financing and grants available to private for-profit and nonprofit buyers who seek to acquire, preserve, and rehabilitate affordable housing; and

(2) prioritizing available funding and financing resources for affordable housing preservation activities.

SECTION 3.02. Subchapter H, Chapter 2306, Government Code, is amended by adding Section 2306.185 to read as follows:

Sec. 2306.185. LONG-TERM AFFORDABILITY AND SAFETY OF MULTIFAMILY RENTAL HOUSING DEVELOPMENTS. (a) The department shall adopt policies and procedures to ensure that, for a multifamily rental housing development funded through loans, grants, or tax credits under this chapter, the owner of the development:

(1) keeps the rents affordable for low income tenants for the longest period that is economically feasible; and

(2) provides regular maintenance to keep the development sanitary, decent, and safe.

(b) In implementing Subsection (a)(1) and in developing underwriting standards and application scoring criteria for the award of loans, grants, or tax credits to multifamily developments, the department shall ensure that the economic benefits of longer affordability terms and below market rate rents are accurately assessed and considered.

(c) The department shall require that a recipient of funding maintains the affordability of the multifamily housing development for households of extremely low, very low, low, and moderate incomes for the greater of a 30-year period from the date the recipient takes legal possession of the housing or the remaining term of the existing federal government assistance. In addition, the agreement between the department and the recipient shall require the renewal of rental subsidies if available and if the subsidies are sufficient to maintain the economic viability of the multifamily development.

(d) The development restrictions provided by Subsection (a) and Section 2306.269 are enforceable by the department, by tenants of the development, or by private parties against the initial owner or any subsequent owner. The department shall require a land use restriction agreement providing for enforcement of the restrictions by the department, a tenant, or a private party that includes the right to recover reasonable attorney's fees if the party seeking enforcement of the restriction is successful.

(e) Subsections (c) and (d) and Section 2306.269 apply only to multifamily rental housing developments to which the department is providing one or more of the following forms of assistance:

(1) a loan or grant in an amount greater than 33 percent of the market value of the development on the date the recipient took legal possession of the development;

(2) a loan guarantee for a loan in an amount greater than 33 percent of the market value of the development on the date the recipient took legal title to the development; or

(3) a low income housing tax credit.

(f) An owner of the housing development who intends to sell, lease, prepay the loan insured by the United States Department of Housing and Urban Development, opt

out of a housing assistance payments contract under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), or otherwise dispose of the development shall agree to provide notice to the department at least 12 months before the date of any attempt to dispose of the development, prepay the loan, or opt out of the Section 8 contract to enable the department to attempt to locate a buyer who will conform to the development restrictions provided by this section.

(g) This section does not apply to a multifamily rental housing development supported by qualified 501(c)(3) bonds.

SECTION 3.03. Subchapter K, Chapter 2306, Government Code, is amended by adding Section 2306.2561 to read as follows:

Sec. 2306.2561. AFFORDABLE HOUSING PRESERVATION PROGRAM: LOANS AND GRANTS. (a) The department, through the housing finance division, shall provide loans and grants to political subdivisions, housing finance corporations, public housing authorities, for-profit organizations, nonprofit organizations, and income-eligible individuals, families, and households for purposes of rehabilitating housing to preserve affordability of the housing.

(b) The department may use any available revenue, including legislative appropriations, to provide loans and grants under this section.

SECTION 3.04. Section 2306.269, Government Code, is amended to read as follows:

Sec. 2306.269. TENANT AND MANAGER SELECTION. (a) The department shall set standards for tenant and management selection by a housing sponsor.

(b) The department shall prohibit a multifamily rental housing development funded or administered by the department, including a development supported with a housing tax credit allocation under Subchapter DD, from:

(1) excluding an individual or family from admission to the development because the individual or family participates in the housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f); and

(2) using a financial or minimum income standard for an individual or family participating in the voucher program described by Subdivision (1) that requires the individual or family to have a monthly income of more than 2-1/2 times the individual's or family's share of the total monthly rent payable to the owner of the development.

SECTION 3.05. Chapter 2306, Government Code, is amended by adding Subchapter HH to read as follows:

#### SUBCHAPTER HH. AFFORDABLE HOUSING PRESERVATION

Sec. 2306.801. DEFINITION. In this subchapter, "federally subsidized" means receiving financial assistance through a federal program administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture under which housing assistance is provided on the basis of income, including a program under:

(1) Section 221(d), National Housing Act (12 U.S.C. Section 1715l(d));

(2) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(3) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(4) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(5) Section 514, 515, or 516, Housing Act of 1949 (42 U.S.C. Section 1484, 1485, or 1486); or

(6) Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

Sec. 2306.802. MULTIFAMILY HOUSING PRESERVATION CLASSES. The department shall establish two classes of priorities of developments to preserve multifamily housing. The classes, in order of descending priority, are:

(1) Class A, which includes any federally subsidized multifamily housing development at risk because the contract granting a federal subsidy with a stipulation to maintain affordability is nearing expiration or because the government-insured mortgage on the property is eligible for prepayment or near the end of its mortgage term; and

(2) Class B, which includes any other multifamily housing development with low income use or rental affordability restrictions.

Sec. 2306.803. AT-RISK MULTIFAMILY HOUSING: IDENTIFICATION, PRIORITIZATION, AND PRESERVATION. (a) The department shall determine the name and location of and the number of units in each multifamily housing development that is at risk of losing its low income use restrictions and subsidies and that meets the requirements of a Class A priority described by Section 2306.802.

(b) The department shall maintain an accurate list of those developments on the department's website.

(c) The department shall develop cost estimates for the preservation and rehabilitation of the developments in priority Class A.

(d) The department shall contact owners of developments assigned a Class A priority under this section and shall attempt to negotiate with those owners to ensure continued affordability for individuals and families of low income under the federal housing assistance program for those developments.

Sec. 2306.804. USE OF HOUSING PRESERVATION RESOURCES. (a) To the extent possible, the department shall use available resources for the preservation and rehabilitation of the multifamily housing developments identified and listed under Section 2306.803.

(b) To the extent possible, the department shall allocate low income housing tax credits to applications involving the preservation of developments assigned a Class A priority under Section 2306.803 and in both urban and rural communities in approximate proportion to the housing needs of each uniform state service region.

(c) The department shall give priority to providing financing or funding to a buyer who is supported or approved by an association of residents of the multifamily housing development.

Sec. 2306.805. HOUSING PRESERVATION INCENTIVES PROGRAM. (a) The department shall establish and administer a housing preservation incentives program to provide incentives through loan guarantees, loans, and grants to political subdivisions, housing finance corporations, public housing authorities, for-profit organizations, and nonprofit organizations for the acquisition and rehabilitation of multifamily housing developments assigned a Class A or Class B priority under Section 2306.803.

(b) A loan issued by a lender participating in the program must be fully underwritten by the department.

(c) Consistent with the requirements of federal law, the department may guarantee loans issued under the program by obtaining a Section 108 loan guarantee from the United States Department of Housing and Urban Development under the Housing and Community Development Act of 1974 (42 U.S.C. Section 5308).

(d) Grants under this program may include direct subsidies offered as an equity contribution to enable an owner to acquire and rehabilitate a Class A or Class B priority

property described by Section 2306.802. Grants may also be offered to provide consultation and technical assistance services to a nonprofit organization seeking to acquire and rehabilitate a Class A or Class B priority property.

(e) A housing development that benefits from the incentive program under this section is subject to the requirements concerning:

- (1) long-term affordability and safety prescribed by Section 2306.185; and
- (2) tenant and manager selection prescribed by Section 2306.269.

SECTION 3.06. (a) Chapter 2306, Government Code, is amended by adding Section 2306.806 to Subchapter HH, as added by this Act, to read as follows:

Sec. 2306.806. APPROVAL OF OFFICE OF RURAL COMMUNITY AFFAIRS. The department must obtain the approval of the executive director of the Office of Rural Community Affairs to guarantee loans as described by Section 2306.805(c).

(b) This section takes effect only if H.B. No. 7, Acts of the 77th Legislature, Regular Session, 2001, becomes law. If that bill does not become law, this section has no effect.

SECTION 3.07. Chapter 2306, Government Code, is amended by adding Subchapter II to read as follows:

SUBCHAPTER II. MULTIFAMILY HOUSING DEVELOPMENTS:  
PRESERVATION OF AFFORDABILITY

Sec. 2306.851. APPLICATION. (a) This subchapter applies only to a property owner of a multifamily housing development that is insured or assisted under a program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), or that is:

- (1) insured or assisted under a program under:
  - (A) Section 221(d)(3), National Housing Act (12 U.S.C. Section 1715l);
  - (B) Section 236, National Housing Act (12 U.S.C. Section 1715z-1); or
  - (C) Section 514, 515, or 516, Housing Act of 1949 (42 U.S.C.

Section 1484, 1485, or 1486); and

- (2) financed by a mortgage that is eligible for prepayment at the option of the property owner.

(b) This subchapter does not apply to the disposal of property because of:

- (1) a governmental taking by eminent domain or negotiated purchase;
- (2) a foreclosure action;
- (3) a transfer by gift, devise, or operation of law; or
- (4) a sale to a person who would be entitled to an interest in the property if the

property owner died intestate.

(c) This subchapter does not apply to property included in a restructuring program with a participating administrative entity designated by the United States Department of Housing and Urban Development.

Sec. 2306.852. PROPERTY OWNER RESTRICTION. Except as provided by this subchapter, a property owner to whom this subchapter applies may not sell, lease, or otherwise dispose of a multifamily housing development described by Section 2306.851(a) or take any other action if that action will cause the disruption or discontinuance of:

- (1) the development's federal insurance or assistance; or
- (2) the provision of low income housing assistance to residents of the

development.

Sec. 2306.853. NOTICE OF INTENT. (a) A property owner of a multifamily housing development may take an action, sell, lease, or otherwise dispose of the development subject to the restriction under Section 2306.852 if the property owner provides notice by mail of the owner's intent to the residents of the development and to the department.

(b) The notice required by Subsection (a) must indicate, as applicable, that the property owner intends to prepay a mortgage under a program described by Section 2306.851(a)(1) or that a contract formed under a program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f), will expire.

(c) The property owner shall provide the notice required by Subsection (a) before the 90th day preceding the date of mortgage prepayment or contract expiration, as applicable, and as otherwise required by federal law.

(d) The notice required by this section is sufficient if the notice meets the requirements of Section 8(c)(8), United States Housing Act of 1937 (42 U.S.C. Section 1437f(c)(8)).

SECTION 3.08. (a) The Texas Department of Housing and Community Affairs shall adopt the policies and procedures on the long-term affordability and safety of multifamily rental housing developments under Section 2306.185, Government Code, as added by this Act, not later than November 1, 2001.

(b) The enforcement of the restrictions concerning multifamily rental housing developments under Section 2306.185, Government Code, as added by this Act, applies only to developments that receive assistance from the Texas Department of Housing and Community Affairs on or after January 1, 2002.

(c) The enforcement of restrictions concerning tenant and manager selection under Section 2306.269, Government Code, as amended by this Act, applies only to housing developments that receive assistance from the Texas Department of Housing and Community Affairs on or after January 1, 2002.

(d) The Texas Department of Housing and Community Affairs shall create an initial list of multifamily housing developments that are ranked by priority as required by Section 2306.803, Government Code, as added by this Act, not later than January 1, 2002.

(e) If community development block grant funds are transferred to another state agency, the Texas Department of Housing and Community Affairs shall negotiate a memorandum of understanding to permit the implementation of Section 2306.805(c), Government Code, as added by this Act.

(f) The changes in law made by this article apply to a multifamily housing development described by Section 2306.851, Government Code, as added by this Act, that a property owner intends to sell, lease, or otherwise dispose of on or after January 1, 2002.

(g) The outstanding balance of Section 108 loan guarantees issued as described by Section 2306.805(c), Government Code, as added by this Act, may not exceed \$10 million. This subsection expires December 31, 2004.

SECTION 3.09. (a) Except as provided by Subsection (b) of this section, the change in law made by this Act in adding Section 2306.269(b), Government Code, applies only to a multifamily rental housing development for which the funding or administration by the Texas Department of Housing and Community Affairs begins on or after the effective date of this Act.



(b) If the multifamily rental housing development funded or administered by the Texas Department of Housing and Community Affairs is a low income housing tax credit property, the change in law made by this Act in adding Section 2306.269(b), Government Code, applies only if an application for an allocation of low income housing tax credits for that development is received by the department on or after August 10, 1993.

#### ARTICLE 4

SECTION 4.01. Section 2306.072(c), Government Code, is amended to read as follows:

(c) The report must include:

(1) a complete operating and financial statement of the department;

(2) a comprehensive statement of the activities of the department during the preceding year to address the needs identified in the state low income housing plan prepared as required by Section 2306.0721, including:

(A) a statistical and narrative analysis of the department's performance in addressing the housing needs of individuals and families of low and very low income;

(B) the ethnic and racial composition of individuals and families applying for and receiving assistance from each housing-related program operated by the department; and

(C) the department's progress in meeting the goals established in the previous housing plan;

(3) an explanation of the efforts made by the department to ensure the participation of individuals of low income and their community-based institutions in department programs that affect them;

(4) a statement of the evidence that the department has made an affirmative effort to ensure the involvement of individuals of low income and their community-based institutions in the allocation of funds and the planning process;

(5) a statistical analysis, delineated according to each ethnic and racial group served by the department, that indicates the progress made by the department in implementing the state low income housing plan in each of the uniform state service regions;

(6) an analysis, based on information provided by the fair housing sponsor reports required under Section 2306.0724 and other available data, of fair housing opportunities in each housing development that receives financial assistance from the department that includes the following information for each housing development that contains 20 or more living units:

(A) the street address and municipality or county in which the property is located;

(B) the telephone number of the property management or leasing agent;

~~(C)~~ the total number of units, reported by bedroom size;

~~(D)~~ ~~[(C)]~~ the total number of units, reported by bedroom size, designed for individuals who are physically challenged or who have special needs and the number of these individuals served annually [as reported by each housing sponsor];

~~(E)~~ the rent for each type of rental unit, reported by bedroom size ~~[(D)]~~ ~~a statistical analysis of average rents reported by county]~~;

~~(F)~~ ~~[(E)]~~ the race or ethnic makeup of each project [as reported annually by each housing sponsor];

(G) [~~F~~] the number of units occupied by individuals receiving government-supported housing assistance and the type of assistance received [as reported by each housing sponsor];

(H) the number of units occupied by individuals and families of extremely low income, very low income, low income, moderate income, and other levels of income;

(I) [~~G~~] a statement as to whether the department has been notified of a violation of the fair housing law that has been filed with the United States Department of Housing and Urban Development, the Commission on Human Rights, or the United States Department of Justice; and

(J) [~~H~~] a statement as to whether the development has any instances of material noncompliance with bond indentures or deed restrictions discovered through the normal monitoring activities and procedures that include meeting occupancy requirements or rent restrictions imposed by deed restriction or financing agreements; [~~and~~]

(7) a report on the geographic distribution of low income housing tax credits, the amount of unused low income housing tax credits, and the amount of low income housing tax credits received from the federal pool of unused funds from other states; and

(8) a statistical analysis, based on information provided by the fair housing sponsor reports required by Section 2306.0724 and other available data, of average rents reported by county.

SECTION 4.02. Subchapter D, Chapter 2306, Government Code, is amended by adding Section 2306.0724 to read as follows:

Sec. 2306.0724. FAIR HOUSING SPONSOR REPORT. (a) The department shall require the owner of each housing development that receives financial assistance from the department and that contains 20 or more living units to submit an annual fair housing sponsor report. The report must include the relevant information necessary for the analysis required by Section 2306.072(c)(6). In compiling the information for the report, the owner of each housing development shall use data current as of January 1 of the reporting year.

(b) The department shall adopt rules regarding the procedure for filing the report.

(c) The department shall maintain the reports in electronic and hard-copy formats readily available to the public at no cost.

(d) A housing sponsor who fails to file a report in a timely manner is subject to the following sanctions, as determined by the department:

(1) denial of a request for additional funding; or

(2) an administrative penalty in an amount not to exceed \$1,000, assessed in the manner provided for an administrative penalty under Section 2306.6023.

SECTION 4.03. Section 2306.077, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The department shall provide for annual housing sponsor reports required by Section 2306.0724 to be filed through the Internet.

(e) The department shall provide for reports regarding housing units designed for persons with disabilities made under Section 2306.078 to be filed through the Internet.

SECTION 4.04. Subchapter D, Chapter 2306, Government Code, is amended by adding Section 2306.078 to read as follows:

Sec. 2306.078. INFORMATION REGARDING HOUSING FOR PERSONS WITH DISABILITIES. (a) The department shall establish a system that requires owners of state or federally assisted housing developments with 20 or more housing units to report information regarding housing units designed for persons with disabilities.

(b) The system must provide for each owner of a development described by Subsection (a) with at least one housing unit designed for a person with a disability to enter the following information on the department's Internet site:

- (1) the name, if any, of the development;
- (2) the street address of the development;
- (3) the number of housing units in the development that are designed for persons with disabilities and that are available for lease;
- (4) the number of bedrooms in each housing unit designed for a person with a disability;
- (5) the special features that characterize each housing unit's suitability for a person with a disability;
- (6) the rent for each housing unit designed for a person with a disability; and
- (7) the telephone number and name of the development manager or agent to whom inquiries by prospective tenants may be made.

(c) The department shall require each owner to maintain updated contact information under Subsection (b)(7) and shall solicit the owner's voluntary provision of updated information under Subsections (b)(3) and (6).

(d) The department shall make information provided under this section available to the public in electronic and hard-copy formats at no cost.

#### ARTICLE 5

SECTION 5.01. Subchapter D, Chapter 2306, Government Code, is amended by adding Sections 2306.079 and 2306.080 to read as follows:

Sec. 2306.079. REGIONAL DEVELOPMENT COORDINATOR. (a) In this section:

(1) "Regional development coordinator" means a person employed by or under contract with the department to perform the duties described by this section.

(2) "Regional partner" means an entity such as a regional planning commission, political subdivision, local nonprofit organization, institution of higher education, community housing development organization, housing finance corporation, public housing authority, agricultural extension agent, local bank, or field office or service center of the United States Department of Agriculture Rural Development Texas that is engaged in data-gathering projects related to the goals of the department.

(b) The department shall employ or contract with a regional development coordinator for each uniform state service region of this state. The primary responsibilities of a regional development coordinator are:

- (1) assisting local communities in determining how to address affordable housing and community development needs;
- (2) establishing regional planning and resource-sharing partnerships; and
- (3) facilitating the leveraging of available local, state, and federal funds.

(c) A regional development coordinator shall:

(1) gather and manage data about affordable housing and community development needs in the uniform state service region the coordinator represents by:

(A) identifying and working with regional partners;

(B) using a variety of data resources, including:

(i) the United States Census Bureau;

(ii) the United States Department of Housing and Urban

Development;

(iii) the Texas State Data Center;

(iv) the Texas Real Estate Research Center; and

(v) the office of the comptroller, the Texas Department of

Economic Development, and other state agencies;

(C) developing an analysis of the region's affordable housing and community development needs based on the data gathered and local and regional input; and

(D) establishing a framework for sharing the data with the regional partners;

(2) use the data described by Subdivision (1) to facilitate the development of a regional plan and shall encourage the consensus of the regional partners concerning the plan;

(3) identify statewide and national partners for meeting the region's affordable housing and community development needs, including the United States Department of Housing and Urban Development, the United States Department of Agriculture Rural Development Texas, the Texas State Affordable Housing Corporation, statewide nonprofit entities, banking associations, developer associations, and foundations; and

(4) provide an information clearinghouse for the region that facilitates planning and resource sharing by identifying programs that leverage local, state, and federal financial aid.

(d) In each uniform state service region, the regional planning commission and other regional partners shall establish an advisory committee consisting of representatives of two or more regional partners that shall:

(1) advise the department regarding the affordable housing and community development needs of that region;

(2) assist the department in:

(A) assigning priorities to the affordable housing and community development needs of that region;

(B) identifying resources to address those needs; and

(C) implementing the low income housing plan as applied to that region; and

(3) request and gather from political subdivisions and other appropriate entities any affordable housing and community development plans that are relevant to the development of the regional plan described by Subsection (c), including local plans, regional plans from regional planning commissions, and plans developed for the United States Department of Housing and Urban Development consolidated planning process.

Sec. 2306.080. DATABASE INFORMATION SPECIALIST. The director shall appoint a database information specialist. The primary responsibility of the database information specialist is to provide for the effective and efficient dissemination to the public of information related to affordable housing and community development in a form that is accessible, widely available, and easily used.

## ARTICLE 6

SECTION 6.01. Section 2306.111(c), Government Code, is amended to read as follows:

(c) In administering federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), the department shall expend at least 95 percent of [give the highest priority to utilizing] these funds for the benefit of non-participating small cities and rural areas that do not qualify to receive funds under the Cranston-Gonzalez National Affordable Housing Act directly from the United States Department of Housing and Urban Development [~~unless the department finds there is insufficient need and demand for housing funds within these areas~~]. All funds not set aside under this subsection shall be used for the benefit of persons with disabilities who live in areas other than small cities and rural areas.

## ARTICLE 7

SECTION 7.01. Section 2306.223, Government Code, is amended to read as follows:

Sec. 2306.223. CRITERIA FOR FINANCING HOUSING DEVELOPMENT OF HOUSING SPONSOR. Notwithstanding any other provision of this chapter, the department may not finance a housing development undertaken by a housing sponsor under this chapter, unless the department first determines that:

(1) the housing development is necessary to provide needed decent, safe, and sanitary housing at rentals or prices that individuals or families of low and very low income or families of moderate income can afford;

(2) the housing sponsor undertaking the proposed housing development will supply well-planned and well-designed housing for individuals or families of low and very low income or families of moderate income;

(3) the housing sponsor is financially responsible;

(4) the housing sponsor is not, or will not enter into a contract for the proposed housing development with, a housing developer that:

(A) is on the department's debarred list, including any parts of that list that are derived from the debarred list of the United States Department of Housing and Urban Development;

(B) breached a contract with a public agency; or

(C) misrepresented to a subcontractor the extent to which the developer has benefited from contracts or financial assistance that has been awarded by a public agency, including the scope of the developer's participation in contracts with the agency and the amount of financial assistance awarded to the developer by the agency;

(5) the financing of the housing development is a public purpose and will provide a public benefit; and

(6) [(5)] the housing development will be undertaken within the authority granted by this chapter to the housing finance division and the housing sponsor.

SECTION 7.02. The change in law made by this Act to Section 2306.223, Government Code, applies only to an application for financing a housing development that is submitted to the Texas Department of Housing and Community Affairs on or after the effective date of this Act.

## ARTICLE 8

SECTION 8.01. Subchapter DD, Chapter 2306, Government Code, is amended to read as follows:

SUBCHAPTER DD. LOW INCOME HOUSING  
TAX CREDIT PROGRAM

Sec. 2306.6701. PURPOSE. The department shall administer the low income housing tax credit program to:

(1) encourage the development and preservation of appropriate types of rental housing for households that have difficulty finding suitable, affordable rental housing in the private marketplace;

(2) maximize the number of suitable, affordable residential rental units added to the state's housing supply;

(3) prevent losses for any reason to the state's supply of suitable, affordable residential rental units by enabling the rehabilitation of rental housing or by providing other preventive financial support under this subchapter; and

(4) provide for the participation of for-profit organizations and provide for and encourage the participation of nonprofit organizations in the acquisition, development, and operation of affordable housing developments in urban and rural communities.

Sec. 2306.6702. DEFINITIONS. (a) In this subchapter:

(1) "Applicant" means any person or affiliate of a person who files an application with the department requesting a housing tax credit allocation.

(2) "Application" means an application filed with the department by an applicant and includes any exhibits or other supporting materials.

(3) "Application log" means a form containing at least the information required by Section 2306.6709.

(4) "Application round" means the period beginning on the date the department begins accepting applications and continuing until all available housing tax credits are allocated, but not extending past the last day of the calendar year.

(5) "At-risk development" means a development that:

(A) receives the benefit of a subsidy in the form of a below-market interest rate loan, interest rate reduction, rental subsidy, Section 8 housing assistance payment, rental supplement payment, or rental assistance payment under the following federal laws, as applicable:

(i) Sections 221(d)(3) and (5), National Housing Act (12 U.S.C. Section 1715l);

(ii) Section 236, National Housing Act (12 U.S.C. Section 1715z-1);

(iii) Section 202, Housing Act of 1959 (12 U.S.C. Section 1701q);

(iv) Section 101, Housing and Urban Development Act of 1965 (12 U.S.C. Section 1701s);

(v) the Section 8 Additional Assistance Program for housing developments with HUD-Insured and HUD-Held Mortgages administered by the United States Department of Housing and Urban Development;

(vi) the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects administered by the United States Department of Housing and Urban Development; or

(vii) Sections 514, 515, and 516, Housing Act of 1949 (42 U.S.C. Sections 1484, 1485, and 1486); and

(B) is subject to the following conditions:

(i) the stipulation to maintain affordability in the contract granting the subsidy is nearing expiration; or

(ii) the federally insured mortgage on the development is eligible for prepayment or is nearing the end of its term.

(6) "Development" means a proposed qualified low income housing project, as defined by Section 42(g), Internal Revenue Code of 1986 (26 U.S.C. Section 42(g)), that consists of one or more buildings containing multiple units, that is financed under a common plan, and that is owned by the same person for federal tax purposes, including a project consisting of multiple buildings that:

(A) are located on scattered sites; and

(B) contain only rent-restricted units.

(7) "Development owner" means any person or affiliate of a person who owns or proposes a development or expects to acquire control of a development under a purchase contract approved by the department.

(8) "Housing tax credit" means a tax credit allocated under the low income housing tax credit program.

(9) "Land use restriction agreement" means an agreement between the department, the development owner, and the development owner's successors in interest that encumbers the development with respect to the requirements of this subchapter and the requirements of Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42).

(10) "Qualified allocation plan" means a plan adopted by the board under this subchapter that:

(A) provides the threshold, scoring, and underwriting criteria based on housing priorities of the department that are appropriate to local conditions;

(B) gives preference in housing tax credit allocations to developments that, as compared to the other developments:

(i) when practicable and feasible based on available funding sources, serve the lowest income tenants; and

(ii) are affordable to qualified tenants for the longest economically feasible period; and

(C) provides a procedure for the department, the department's agent, or another private contractor of the department to use in monitoring compliance with the qualified allocation plan and this subchapter.

(11) "Related party" means the following individuals or entities:

(A) the brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573;

(B) a person and a corporation, if the person owns more than 50 percent of the outstanding stock of the corporation;

(C) two or more corporations that are connected through stock ownership with a common parent possessing more than 50 percent of:

(i) the total combined voting power of all classes of stock of each of the corporations that can vote;

(ii) the total value of shares of all classes of stock of each of the corporations; or

(iii) the total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;

(D) a grantor and fiduciary of any trust;

(E) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(F) a fiduciary of a trust and a beneficiary of the trust;

(G) a fiduciary of a trust and a corporation if more than 50 percent of the outstanding stock of the corporation is owned by or for:

(i) the trust; or

(ii) a person who is a grantor of the trust;

(H) a person or organization and an organization that is tax-exempt under Section 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section 501), and that is controlled by that person or the person's family members or by that organization;

(I) a corporation and a partnership or joint venture if the same persons own more than:

(i) 50 percent of the outstanding stock of the corporation; and

(ii) 50 percent of the capital interest or the profits' interest in the partnership or joint venture;

(J) an S corporation and another S corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(K) an S corporation and a C corporation if the same persons own more than 50 percent of the outstanding stock of each corporation;

(L) a partnership and a person or organization owning more than 50 percent of the capital interest or the profits' interest in that partnership; or

(M) two partnerships, if the same person or organization owns more than 50 percent of the capital interests or profits' interests.

(12) "Rural area" means an area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;

(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 20,000 or less and does not share a boundary with an urban area; or

(C) in an area that is eligible for funding by the Texas Rural Development Office of the United States Department of Agriculture.

(13) "Rural development agency" means the state agency designated by the legislature as primarily responsible for rural area development in the state.

(14) "Set-aside" means a reservation of a portion of the available housing tax credits to provide financial support for specific types of housing or geographic locations or serve specific types of applicants as permitted by the qualified allocation plan on a priority basis.

(15) "Threshold criteria" means the criteria used to determine whether the development satisfies the minimum level of acceptability for consideration established in the department's qualified allocation plan.

(16) "Unit" means any residential rental unit in a development consisting of an accommodation, including a single room used as an accommodation on a non-transient basis, that contains separate and complete physical facilities and fixtures for living, sleeping, eating, cooking, and sanitation.

(b) For purposes of Subsection (a)(11), the constructive ownership provisions of Section 267, Internal Revenue Code of 1986 (26 U.S.C. Section 267), apply. The board may lower in the qualified allocation plan the percentages described by Subsection (a)(11).



Sec. 2306.67021. APPLICABILITY OF SUBCHAPTER. Except as provided by Section 2306.6703, this subchapter does not apply to the allocation of housing tax credits to developments financed through the private activity bond program.

Sec. 2306.67022. QUALIFIED ALLOCATION PLAN; MANUAL. The board annually shall adopt a qualified allocation plan and a corresponding manual to provide information regarding the administration of and eligibility for the low income housing tax credit program.

Sec. 2306.6703. INELIGIBILITY FOR CONSIDERATION. An application is ineligible for consideration under the low income housing tax credit program if:

(1) at the time of application or at any time during the two-year period preceding the date the application round begins, the applicant or a related party is or has been:

(A) a member of the board; or

(B) the director, a deputy director, the director of housing programs, or the low income housing tax credit program manager employed by the department; or

(2) the applicant proposes to replace in less than 15 years any private activity bond financing of the development described by the application, unless:

(A) the applicant proposes to maintain for a period of 30 years or more 100 percent of the development units supported by low income housing tax credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the area median income, adjusted for family size; and

(B) at least one-third of all the units in the development are public housing units or Section 8 project-based units.

Sec. 2306.6704. PREAPPLICATION PROCESS. (a) To prevent unnecessary filing costs, the department by rule shall establish a voluntary preapplication process to enable a preliminary assessment of an application proposed for filing under this subchapter.

(b) The department shall award in the application evaluation process described by Section 2306.6710 an appropriate number of points as an incentive for participation in the preapplication process established under this section.

(c) The department shall reject and return to the applicant any application assessed by the department under this section that fails to satisfy the threshold criteria required by the board in the qualified allocation plan.

(d) If feasible under Section 2306.67041, an application under this section must be submitted electronically.

Sec. 2306.67041. ON-LINE APPLICATION SYSTEM. (a) The department and the Department of Information Resources shall cooperate to evaluate the feasibility of an on-line application system for the low income housing tax credit program to provide the following functions:

(1) filing of preapplications and applications on-line;

(2) posting of on-line preapplication or application status and the application log detailing the status of, and department's evaluations and scores pertaining to, those applications; and

(3) posting of comments from applicants and the public regarding a preapplication or application.

(b) The department shall determine the process for allowing access to on-line preapplications and applications, information related to those applications, and department decisions relating to those applications.

(c) In the application cycle following the date any on-line application system becomes operational, the department shall require use of the system for submission of preapplications and applications under this subchapter.

(d) The department shall publish a status report on the implementation of the on-line application on the department's website not later than January 1, 2002.

(e) Before the implementation of the on-line application system, the department may implement the requirements of Section 2306.6717 in any manner the department considers appropriate.

Sec. 2306.6705. GENERAL APPLICATION REQUIREMENTS. An application must contain at a minimum the following written, detailed information in a form prescribed by the board:

(1) a description of:

(A) the financing plan for the development, including any nontraditional financing arrangements;

(B) the use of funds with respect to the development;

(C) the funding sources for the development, including:

(i) construction, permanent, and bridge loans; and

(ii) rents, operating subsidies, and replacement reserves; and

(D) the commitment status of the funding sources for the development;

(2) if syndication costs are included in the eligible basis, a justification of the syndication costs for each cost category by an attorney or accountant specializing in tax matters;

(3) from a syndicator or a financial consultant of the applicant, an estimate of the amount of equity dollars expected to be raised for the development in conjunction with the amount of housing tax credits requested for allocation to the applicant, including:

(A) pay-in schedules; and

(B) syndicator consulting fees and other syndication costs;

(4) if rental assistance, an operating subsidy, or an annuity is proposed for the development, any related contract or other agreement securing those funds and an identification of:

(A) the source and annual amount of the funds;

(B) the number of units receiving the funds; and

(C) the term and expiration date of the contract or other agreement;

(5) if the development is located within the boundaries of a political subdivision with a zoning ordinance, evidence in the form of a letter from the chief executive officer of the political subdivision or from another local official with jurisdiction over zoning matters that states that:

(A) the development is permitted under the provisions of the ordinance that apply to the location of the development; or

(B) the applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied;

(6) if an occupied development is proposed for rehabilitation:

(A) an explanation of the process used to notify and consult with the tenants in preparing the application;

- (B) a relocation plan outlining:
  - (i) relocation requirements; and
  - (ii) a budget with an identified funding source; and
- (C) if applicable, evidence that the relocation plan has been submitted to the appropriate local agency:
  - (7) a certification of the applicant's compliance with appropriate state and federal laws, as required by other state law or by the board; and
  - (8) any other information required by the board in the qualified allocation plan.

Sec. 2306.6706. ADDITIONAL APPLICATION REQUIREMENT: NONPROFIT SET-ASIDE ALLOCATION. (a) In addition to the information required by Section 2306.6705, an application for a housing tax credit allocation from the nonprofit set-aside, as defined by Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)), must contain the following written, detailed information with respect to each development owner and each general partner of a development owner:

(1) Internal Revenue Service documentation of designation as a Section 501(c)(3) or 501(c)(4) organization;

(2) evidence that one of the exempt purposes of the nonprofit organization is to provide low income housing;

(3) a description of the nonprofit organization's participation in the construction or rehabilitation of the development and in the ongoing operations of the development;

(4) evidence that the nonprofit organization prohibits a member of its board of directors, other than a chief staff member serving concurrently as a member of the board, from receiving material compensation for service on the board;

(5) a third-party legal opinion stating that the nonprofit organization is not affiliated with or controlled by a for-profit organization and the basis for that opinion;

(6) a copy of the nonprofit organization's most recent audited financial statement;

(7) a list of the names and home addresses of members of the board of directors of the nonprofit organization;

(8) a third-party legal opinion stating that the nonprofit organization is eligible under Subsection (b) for a housing tax credit allocation from the nonprofit set-aside and the basis for that opinion; and

(9) evidence that a majority of the members of the nonprofit organization's board of directors principally reside:

(A) in this state, if the development is located in a rural area; or

(B) not more than 90 miles from the development in the community in which the development is located, if the development is not located in a rural area.

(b) To be eligible for a housing tax credit allocation from the nonprofit set-aside, a nonprofit organization must:

(1) control a majority of the development;

(2) if the organization's application is filed on behalf of a limited partnership, be the managing general partner; and

(3) otherwise meet the requirements of Section 42(h)(5), Internal Revenue Code of 1986 (26 U.S.C. Section 42(h)(5)).

Sec. 2306.6707. ADDITIONAL APPLICATION REQUIREMENT: DISCLOSURE OF INTERESTED PERSONS. (a) The applicant must disclose in the application the names of any persons, including affiliates of those persons and related parties, providing developmental or operational services to the development, including:

- (1) a development owner;
- (2) an architect;
- (3) an attorney;
- (4) a tax professional;
- (5) a property management company;
- (6) a consultant;
- (7) a market analyst;
- (8) a tenant services provider;
- (9) a syndicator;
- (10) a real estate broker or agent or a person receiving a fee in connection with services usually provided by a real estate broker or agent;
- (11) at the time the application is submitted, the owners of the property on which the development is located;
- (12) a developer; and
- (13) a builder or general contractor.

(b) For each person described by Subsection (a), the application must disclose any company name, company contact person, address, and telephone number.

Sec. 2306.6708. APPLICATION CHANGES OR SUPPLEMENTS. (a) Except as provided by Subsection (b), an applicant may not change or supplement an application in any manner after the filing deadline.

(b) This section does not prohibit an applicant from:

- (1) at the request of the department, clarifying information in the application or correcting administrative deficiencies in the application; or
- (2) amending an application after allocation of housing tax credits in the manner provided by Section 2306.6712.

Sec. 2306.6709. APPLICATION LOG. (a) In a form prescribed by the department, the department shall maintain for each application an application log that tracks the application from the date of its submission.

(b) The application log must contain at least the following information:

- (1) the names of the applicant and related parties;
- (2) the physical location of the development, including the relevant region of the state;
- (3) the amount of housing tax credits requested for allocation by the department to the applicant;
- (4) any set-aside category under which the application is filed;
- (5) the score of the application in each scoring category adopted by the department under the qualified allocation plan;
- (6) any decision made by the department or board regarding the application, including the department's decision regarding whether to underwrite the application and the board's decision regarding whether to allocate housing tax credits to the development;
- (7) the names of persons making the decisions described by Subdivision (6), including the names of department staff scoring and underwriting the application, to be recorded next to the description of the applicable decision;

(8) the amount of housing tax credits allocated to the development; and  
(9) a dated record and summary of any contact between the department staff, the board, and the applicant or any related parties.

Sec. 2306.6710. EVALUATION AND UNDERWRITING OF APPLICATIONS.

(a) In evaluating an application, the department shall determine whether the application satisfies the threshold criteria required by the board in the qualified allocation plan. The department shall reject and return to the applicant any application that fails to satisfy the threshold criteria.

(b) If an application satisfies the threshold criteria, the department shall score and rank the application using a point system based on criteria that are adapted to regional market conditions and adopted by the department, including criteria:

(1) regarding:

(A) the income levels of tenants of the development;

(B) the rent levels of the units;

(C) the period of guaranteed affordability for low income tenants;

(D) the cost by square foot of the development;

(E) the size, quality, and amenities of the units;

(F) the services to be provided to tenants of the development;

(G) the commitment of development funding by local political subdivisions that enables additional units for individuals and families of very low income; and

(H) the level of community support for the application, evaluated on the basis of written statements of support from local and state elected officials representing constituents in areas that include the location of the development; and

(2) imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round.

(c) The department shall publish in the qualified allocation plan details of the scoring system used by the department to score applications.

(d) The department shall underwrite the applications ranked under Subsection (b) beginning with the applications with the highest scores in each region described by Section 2306.111(d) and in each set-aside category described in the qualified allocation plan. Based on application rankings, the department shall continue to underwrite applications until the department has processed enough applications satisfying the department's underwriting criteria to enable the allocation of all available housing tax credits according to regional allocation goals and set-aside categories. To enable the board to establish an applications waiting list under Section 2306.6711, the department shall underwrite as many additional applications as the board considers necessary to ensure that all available housing tax credits are allocated within the period required by law.

(e) In adopting criteria for scoring and underwriting applications for purposes of housing tax credit allocations, the department shall attach, consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), the most weight to criteria that will:

(1) result in an allocation of housing tax credits for developments serving the lowest income tenants; and

(2) produce the greatest number of high quality units committed to remaining affordable to qualified tenants for extended periods.

Sec. 2306.6711. ALLOCATION OF HOUSING TAX CREDITS. (a) The director shall provide the application scores to the board before the 30th day preceding the date the board begins to issue commitments for housing tax credits in the allocation round.

(b) Not later than the deadline specified in the qualified allocation plan, the board shall issue commitments for available housing tax credits based on the application evaluation process provided by Section 2306.6710. The board may not allocate to an applicant housing tax credits in any unnecessary amount, as determined by the department's underwriting policy and by federal law, and in any event may not allocate to the applicant housing tax credits in an amount greater than \$1.6 million in a single application round.

(c) Concurrently with the initial issuance of commitments for housing tax credits under Subsection (b), the board shall establish a waiting list of additional applications ranked by score in descending order of priority based on set-aside categories and regional allocation goals.

(d) The board shall issue commitments for housing tax credits with respect to applications on the waiting list as additional credits become available.

(e) Not later than the 120th day after the date of the initial issuance of commitments for housing tax credits under Subsection (b), the department shall provide to an applicant who did not receive a commitment under that subsection an opportunity to meet and discuss with the department the application's deficiencies and scoring.

Sec. 2306.6712. AMENDMENT OF APPLICATION SUBSEQUENT TO ALLOCATION BY BOARD. (a) If a proposed modification would materially alter a development approved for an allocation of a housing tax credit, the department shall require the applicant to file a formal, written amendment to the application on a form prescribed by the department.

(b) The director shall require the department staff assigned to underwrite applications to evaluate the amendment and provide an analysis and written recommendation to the board. The appropriate monitor under Section 2306.6719 shall also provide to the board an analysis and written recommendation regarding the amendment.

(c) The board must vote on whether to approve the amendment. The board by vote may reject an amendment and, if appropriate, rescind the allocation of housing tax credits and reallocate the credits to other applicants on the waiting list required by Section 2306.6711 if the board determines that the modification proposed in the amendment:

(1) would materially alter the development in a negative manner; or  
(2) would have adversely affected the selection of the application in the application round.

(d) Material alteration of a development includes:  
(1) a significant modification of the site plan;  
(2) a modification of the number of units or bedroom mix of units;  
(3) a substantive modification of the scope of tenant services;  
(4) a reduction of three percent or more in the square footage of the units or common areas;  
(5) a significant modification of the architectural design of the development;  
(6) a modification of the residential density of the development of at least five percent; and  
(7) any other modification considered significant by the board.

(e) In evaluating the amendment under this subsection, the department staff shall consider whether the need for the modification proposed in the amendment was:

(1) reasonably foreseeable by the applicant at the time the application was submitted; or

(2) preventable by the applicant.

(f) This section shall be administered in a manner that is consistent with Section 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42).

Sec. 2306.6713. HOUSING TAX CREDIT AND OWNERSHIP TRANSFERS.

(a) An applicant may not transfer an allocation of housing tax credits or ownership of a development supported with an allocation of housing tax credits to any person other than an affiliate unless the applicant obtains the director's prior, written approval of the transfer.

(b) The director may not unreasonably withhold approval of the transfer.

(c) An applicant seeking director approval of a transfer and the proposed transferee must provide to the department a copy of any applicable agreement between the parties to the transfer, including any third-party agreement with the department.

(d) On request, an applicant seeking director approval of a transfer must provide to the department:

(1) a list of the names of transferees and related parties; and

(2) detailed information describing the experience and financial capacity of transferees and related parties.

(e) The development owner shall certify to the director that the tenants in the development have been notified in writing of the transfer before the 30th day preceding the date of submission of the transfer request to the department.

(f) Not later than the fifth working day after the date the department receives all necessary information under this section, the department shall conduct a qualifications review of a transferee to determine:

(1) the transferee's past compliance with all aspects of the low income housing tax credit program, including land use restriction agreements; and

(2) the sufficiency of the transferee's experience with developments supported with housing tax credit allocations.

Sec. 2306.6714. AT-RISK DEVELOPMENT SET-ASIDE. (a) The department shall set aside for at-risk developments not less than 15 percent of the housing tax credits available for allocation in the calendar year.

(b) Any amount of housing tax credits set aside under this section that remains after the initial allocation of housing tax credits is available for allocation to any eligible applicant as provided by the qualified allocation plan.

Sec. 2306.6715. APPEAL. (a) In a form prescribed by the department in the qualified allocation plan, an applicant may appeal the following decisions made by the department in the application evaluation process provided by Section 2306.6710:

(1) a determination regarding the application's satisfaction of threshold and underwriting criteria;

(2) the scoring of the application; and

(3) a recommendation as to the amount of housing tax credits to be allocated to the application.

(b) An applicant may not appeal a decision made under Section 2306.6710 regarding an application filed by another applicant.

(c) An applicant must file a written appeal authorized by this section with the department not later than the seventh day after the date the department publishes the results of the application evaluation process provided by Section 2306.6710. In the appeal, the applicant must specifically identify the applicant's grounds for appeal, based on the original application and additional documentation filed with the original application.

(d) The director shall respond in writing to the appeal not later than the 14th day after the date of receipt of the appeal. If the applicant is not satisfied with the director's response to the appeal, the applicant may appeal directly in writing to the board, provided that an appeal filed with the board under this subsection must be received by the board before:

(1) the seventh day preceding the date of the board meeting at which the relevant allocation decision is expected to be made; or

(2) the third day preceding the date of the board meeting described by Subdivision (1), if the director does not respond to the appeal before the date described by Subdivision (1).

(e) Board review of an appeal under Subsection (d) is based on the original application and additional documentation filed with the original application. The board may not review any information not contained in or filed with the original application. The decision of the board regarding the appeal is final.

Sec. 2306.6716. FEES. (a) A fee charged by the department for filing an application may not be excessive and must reflect the department's actual costs in processing the application, providing copies of documents to persons connected with the application process, and making appropriate information available to the public through the department's website.

(b) The department shall publish not later than July 1 of each year a schedule of application fees that specifies the amount to be charged at each stage of the application process.

(c) In accordance with the fee schedule, the department shall refund the balance of any fees collected for an application that is withdrawn by the applicant or that is not fully processed by the department. The department must provide the refund to the applicant not later than the 30th day after the date the last official action is taken with respect to the application.

(d) The department shall develop a sliding scale fee schedule for applications that encourages increased participation by community housing development organizations in the low income housing tax credit program.

Sec. 2306.6717. PUBLIC INFORMATION AND HEARINGS. (a) Subject to Section 2306.67041, the department shall make the following items available on the department's website:

(1) as soon as practicable, any proposed application submitted through the preapplication process established by this subchapter;

(2) before the 30th day preceding the date of the relevant board allocation decision, except as provided by Subdivision (3), the entire application, including all supporting documents and exhibits, the application log, a scoring sheet providing details of the application score, and any other document relating to the processing of the application;

(3) not later than the third working day after the date of the relevant determination, the results of each stage of the application process, including the results of the application scoring and underwriting phases and the allocation phase;



(4) before the 15th day preceding the date of board action on the amendment, notice of an amendment under Section 2306.6712 and the recommendation of the director and monitor regarding the amendment; and

(5) an appeal filed with the department or board under Section 2306.6715 or 2306.6721 and any other document relating to the processing of the appeal.

(b) The department shall provide information regarding the low income housing tax credit program, including notice regarding public hearings, board meetings, and the opening and closing dates for applications, to:

(1) local housing departments;

(2) newspapers;

(3) nonprofit organizations;

(4) on-site property managers of occupied developments that are the subject of applications; and

(5) any other interested persons, including community groups, who request the information.

(c) The department shall hold at least three public hearings in different regions of the state to receive public comments on applications and on other issues relating to the low income housing tax credit program.

(d) Notwithstanding any other provision of this section, the department may treat the financial statements of any applicant as confidential and may elect not to disclose those statements to the public.

Sec. 2306.6718. ELECTED OFFICIALS. (a) The department shall provide written notice of the filing of an application to the following elected officials:

(1) members of the legislature who represent the community containing the development described in the application; and

(2) the chief executive officer of the political subdivision containing the development described in the application.

(b) The department shall provide the elected officials with an opportunity to comment on the application during the application evaluation process provided by Section 2306.6710 and shall consider those comments in evaluating applications under that section.

(c) A member of the legislature who represents the community containing the development may hold a community meeting at which the department shall provide appropriate representation.

(d) If the department receives written notice from the mayor or county judge of an affected municipality or county opposing an application, the department must contact the mayor or county judge and offer to conduct a physical inspection of the development site and consult with the mayor or county judge before the application is scored.

Sec. 2306.6719. MONITORING OF COMPLIANCE. (a) The department may contract with an independent third party to monitor a development during its construction or rehabilitation and during its operation for compliance with:

(1) any conditions imposed by the department in connection with the allocation of housing tax credits to the development; and

(2) appropriate state and federal laws, as required by other state law or by the board.

(b) The department may assign department staff other than housing tax credit division staff to perform the relevant monitoring functions required by this section in the construction or rehabilitation phase of a development.

Sec. 2306.6720. ENFORCEABILITY OF APPLICANT REPRESENTATIONS. Each representation made by an applicant to secure a housing tax credit allocation is enforceable by the department and the tenants of the development supported with the allocation.

Sec. 2306.6721. DEBARMENT FROM PROGRAM PARTICIPATION. (a) The board by rule shall adopt a policy providing for the debarment of a person from participation in the low income housing tax credit program as described by this section.

(b) The department may debar a person from participation in the program on the basis of the person's past failure to comply with any condition imposed by the department in connection with the allocation of housing tax credits.

(c) The department shall debar a person from participation in the program if the person:

(1) materially violates any condition imposed by the department in connection with the allocation of housing tax credits;

(2) is debarred from participation in federal housing programs by the United States Department of Housing and Urban Development; or

(3) is in material noncompliance with or has repeatedly violated a land use restriction agreement regarding a development supported with a housing tax credit allocation.

(d) A person debarred by the department from participation in the program may appeal the person's debarment to the board.

Sec. 2306.6722. DEVELOPMENT ACCESSIBILITY. Any development supported with a housing tax credit allocation shall comply with the accessibility standards that are required under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C.

Sec. 2306.6723. COORDINATION WITH RURAL DEVELOPMENT AGENCY. (a) The department shall jointly administer with the rural development agency any set-aside for rural areas to:

(1) ensure the maximum use and optimum geographic distribution of housing tax credits in rural areas; and

(2) provide for information sharing, efficient procedures, and fulfillment of development compliance requirements in rural areas.

(b) The rural development agency shall assist in developing all threshold, scoring, and underwriting criteria applied to applications eligible for the rural area set-aside. The criteria must be approved by that agency.

(c) To ensure that the rural area set-aside receives a sufficient volume of eligible applications, the department shall fund and, with the rural development agency, shall jointly implement outreach, training, and rural area capacity building efforts as directed by the rural development agency.

(d) The department and the rural development agency shall jointly adjust the regional allocation of housing tax credits described by Section 2306.111 to offset the under-utilization and over-utilization of multifamily private activity bonds and other housing resources in the different regions of the state.

(e) From application fees collected under this subchapter, the department shall reimburse the rural development agency for any costs incurred by the agency in carrying out the functions required by this section.

Sec. ~~2306.6724~~ [2306.674]. DEADLINES FOR ALLOCATION OF LOW INCOME HOUSING TAX CREDITS. (a) Not later than September 30 [~~November 15~~] of each year, the department shall prepare and submit to the board for adoption the qualified allocation plan required by federal law for use by the department in setting criteria and priorities for the allocation of tax credits under the low income housing tax credit program.

(b) The board shall adopt and submit to the governor the qualified allocation plan not later than November 15 [~~January 31~~].

(c) The governor shall approve, reject, or modify and approve the qualified allocation plan not later than December 1 [~~February 28~~].

(d) An applicant for a low income housing tax credit to be issued a commitment during the initial allocation cycle in a calendar year must submit an application to the department not later than March 1 [~~May 15~~].

(e) The board shall review the recommendations of department staff regarding applications and shall issue a list of approved applications [~~issue a commitment for allocation for the initial cycle of low income housing tax credits~~] each year in accordance with the qualified allocation plan not later than June 30 [~~July 31~~].

(f) The board shall issue final commitments for allocations of housing tax credits each year in accordance with the qualified allocation plan not later than July 31.

Sec. ~~2306.6725~~ [2306.672]. SCORING OF APPLICATIONS. (a) [~~The goal of the low income housing tax credit program is to provide permanent affordable housing.~~] In allocating low income housing tax credits, the department shall score each application using a point system based on criteria adopted by the department that are consistent with the department's housing goals, including criteria addressing the ability of the proposed project to:

(1) provide quality social support services to residents;

(2) demonstrate community and neighborhood support as defined by the qualified allocation plan;

(3) consistent with sound underwriting practices and when economically feasible, serve individuals and families of extremely low income by leveraging private and state and federal resources, including federal HOPE VI grants received through the United States Department of Housing and Urban Development;

(4) serve traditionally underserved areas;

(5) remain affordable to qualified tenants for an extended, economically feasible period; and

(6) comply with the accessibility standards that are required under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), and specified under 24 C.F.R. Part 8, Subpart C. [The department shall publish in the qualified allocation plan any discretionary factor that the department will consider in scoring an application.]

(b) The department shall provide appropriate incentives as determined through the qualified allocation plan to reward applicants who agree to equip the property that is the basis of the application with energy saving devices that meet the standards established by the state energy conservation office or [If an applicant meets the department's scoring and underwriting criteria, the department shall add:

[(1) five bonus points to the applicant's score if the applicant agrees] to provide to a qualified nonprofit organization or tenant organization a right of first

refusal to purchase the property [~~to which the tax credit applies~~] at the minimum price provided in, and in accordance with the requirements of, Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7))~~]; and~~

~~[(2) two bonus points to the applicant's score if the application is received within the first 10 days of the application acceptance period].~~

~~(c) On [The department shall provide the score of each application on each criterion to the board and the governor. The results of the scoring shall be available to the public.~~

~~[(d) Upon] awarding tax credit allocations, the board shall document the reasons for each project's selection, including an explanation of:~~

~~(1) all discretionary factors used in making its determination; and~~

~~(2) the reasons for any decision that conflicts with the recommendations of department staff under Section 2306.6731.~~

~~(d) For each scoring criterion, the department shall use a range of points to evaluate the degree to which a proposed project satisfies the criterion. The department may not award a number of points for a scoring criterion that is disproportionate to the degree to which a proposed project complies with that criterion.~~

Sec. 2306.6726 [2306.673]. SALE OF CERTAIN LOW INCOME HOUSING TAX CREDIT PROPERTY. (a) Not later than two years before the expiration of the compliance period, a recipient of a low income housing tax credit who agreed to provide a right of first refusal under Section 2306.6725 [2306.672(b)(1)] and who intends to sell the property shall notify the department of the recipient's intent to sell. The recipient shall notify qualified nonprofit organizations and tenant organizations of the opportunity to purchase the property.

(b) The recipient may:

(1) during the first six-month period after notifying the department, negotiate or enter into a purchase agreement only with a qualified nonprofit organization that is also a community housing development organization as defined by the federal home investment partnership program;

(2) during the second six-month period after notifying the department, negotiate or enter into a purchase agreement with any qualified nonprofit organization or tenant organization; and

(3) during the year before the expiration of the compliance period, negotiate or enter into a purchase agreement with the department or any qualified nonprofit organization or tenant organization approved by the department.

(c) Notwithstanding an agreement under Section 2306.6725 [2306.672(b)(1)], a recipient of a low income housing tax credit may sell property to which the tax credit applies to any purchaser after the expiration of the compliance period if a qualified nonprofit organization or tenant organization does not offer to purchase the property at the minimum price provided by Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)), and the department declines to purchase the property.

(d) In this section, "compliance period" has the meaning assigned by Section 42(i)(1), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(1)).

Sec. 2306.6727 [2306.674]. DEPARTMENT PURCHASE OF LOW INCOME HOUSING TAX CREDIT PROPERTY. The board by rule may develop and implement a program to purchase low income housing tax credit property that is not purchased by a qualified nonprofit organization or tenant organization. The department may not purchase low income housing tax credit property if the board finds that the purchase is not in the best interest of the state.

Sec. 2306.6730. ACCESSIBILITY REQUIRED. A project to which a low income housing tax credit is allocated under this subchapter shall comply with the accessibility standards that are required under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), as amended, and specified under 24 C.F.R. Part 8, Subpart C.

Sec. 2306.6731 [2306.675]. ALLOCATION DECISION; REEVALUATION [OF LOW INCOME HOUSING TAX CREDIT]. (a) Department staff shall provide written, documented recommendations to the board concerning the financial or programmatic viability of each application for a low income housing tax credit before the board makes a decision relating to the allocation of tax credits. The board may not make without good cause an allocation decision that conflicts with the recommendations of department staff.

(b) Regardless of project stage, the board must reevaluate a project that undergoes a substantial change between the time of initial board approval of the project and the time of issuance of a tax credit commitment for the project. The board may revoke any tax credit commitment issued for a project that has been unfavorably reevaluated by the board under this subsection. [Not later than the deadline specified in Section 2306.671(e), the board shall issue a commitment for tax credits available to the department. Concurrently with the issuance of a commitment for initial tax credits, the board shall establish a waiting list of additional applications, ranked in descending order of priority, to be issued a commitment for tax credits if additional credits become available.

[Sec. 2306.676. EQUAL ACCESS TO PROGRAM. The department shall establish procedures through the qualified allocation plan to ensure that each applicant for a low income housing tax credit has a fair and equal opportunity to submit or resubmit an application and submit for consideration any authorized supplementary materials and information:

[Sec. 2306.677. FEES. (a) A fee charged by the department to an applicant for a low income housing tax credit may not be excessive and must reflect the department's actual costs in processing applications and providing copies of documents in connection with the allocation process:

[(b) The department shall refund a fee charged to an applicant if the department does not score the applicant's application, except the department may retain a reasonable portion of the fee to compensate the department for costs associated with the application.]

Sec. 2306.6732 [2306.678]. PUBLIC INFORMATION [AND HEARINGS ON PROGRAM]. [(a)] The department shall provide information regarding the low income housing tax credit program, including notices of public hearings, meetings, and opening and closing dates for applications for a low income housing tax credit, to local housing departments, any appropriate newspapers of general or limited circulation that serve the community in which the proposed project is to be located, nonprofit organizations, on-site property managers of occupied projects that are the subject of tax credit applications for posting in prominent locations at those projects, and any other interested persons and community groups[;] who request the information. The department shall also publish the information on the department's website.

Sec. 2306.6733. REPRESENTATION BY FORMER BOARD MEMBER OR OTHER PERSON. (a) A former board member or a former director, deputy director,

director of housing programs, or low income housing tax credit program manager employed by the department may not:

(1) for compensation, represent an applicant for an allocation of low income housing tax credits or a related party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the department ceases;

(2) represent any applicant or related party or receive compensation for services rendered on behalf of any applicant or related party regarding the consideration of a housing tax credit application in which the former board member, director, or manager participated during the period of service in office or employment with the department, either through personal involvement or because the matter was within the scope of the board member's, director's, or manager's official responsibility; or

(3) for compensation, communicate directly with a member of the legislative branch to influence legislation on behalf of an applicant or related party before the second anniversary of the date that the board member's, director's, or manager's service in office or employment with the department ceases.

(b) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Sec. 2306.6734. MINORITY-OWNED BUSINESSES. (a) The department shall require a person who receives an allocation of housing tax credits to attempt to ensure that at least 30 percent of the construction and management businesses with which the person contracts in connection with the development are minority-owned businesses.

(b) A person who receives an allocation of housing tax credits must report to the department not less than once in each 90-day period following the date of allocation regarding the percentage of businesses with which the person has contracted that qualify as minority-owned businesses.

(c) In this section:

(1) "Minority-owned business" means a business entity at least 51 percent of which is owned by members of a minority group or, in the case of a corporation, at least 51 percent of the shares of which are owned by members of a minority group, and that is managed and controlled by members of a minority group in its daily operations.

(2) "Minority group" includes:

(A) women;

(B) African Americans;

(C) American Indians;

(D) Asian Americans; and

(E) Mexican Americans and other Americans of Hispanic origin.

[(b) The department shall hold at least three public hearings in different regions of the state to receive public comments on low income housing tax credit applications.]

SECTION 8.02. Section 2306.6730, Government Code, as added by this Act, applies only to a project for which an application for a low income housing tax credit is submitted on or after the effective date of this Act.

#### ARTICLE 9

SECTION 9.01. Chapter 2306, Government Code, is amended by adding Subchapter JJ to read as follows:

SUBCHAPTER JJ. TEXAS AFFORDABLE  
HOUSING NEEDS ASSESSMENT

Sec. 2306.881. DEFINITIONS. In this subchapter:

(1) "Border region" means the area composed of the counties of Brewster, Brooks, Cameron, Culberson, Dimmit, Duval, El Paso, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Kenedy, Kinney, La Salle, Maverick, Presidio, Starr, Val Verde, Webb, Willacy, Zapata, and Zavala.

(2) "Public senior college or university" has the meaning assigned by Section 61.003, Education Code.

Sec. 2306.882. TEXAS AFFORDABLE HOUSING NEEDS ASSESSMENT.

(a) In conjunction with the office of the comptroller, the department shall assess the present and future affordable housing needs of the border region and of the uniform state service regions of this state.

(b) The department shall use the following factors in making the assessment required by this subchapter:

(1) the number of extremely low, very low, and low income households in each region;

(2) the number and type of publicly subsidized housing units in each region;

(3) the number and amount of loans provided by the department in each region and the income level of the recipients of the loans;

(4) the number and amount of housing development grants made by the department in each region and a description of each grant;

(5) the number of substandard or inadequate housing units in each region;

(6) cost estimates for correcting substandard and inadequate housing conditions in each region;

(7) the number of extremely low, very low, and low income households in each region that spend more than half of household income on rent or mortgage payments;

(8) cost estimates for relieving housing cost burdens for extremely low, very low, and low income households in each region;

(9) an analysis of the market demand for housing by extremely low, very low, and low income households;

(10) an analysis of the loans and private sector home mortgage lending rates available to extremely low, very low, and low income borrowers in each region;

(11) an analysis of the principal barriers to home mortgage credit faced by extremely low, very low, and low income borrowers; and

(12) the rate of subprime mortgage loan products in home purchase, home repair, and home equity loans in each region.

(c) The assessment must provide a summary and conclusion regarding the adequacy of existing housing and lending programs to meet the affordable housing needs of each region.

(d) In making the assessment required by this subchapter, the department shall use the most current data available from the United States Census Bureau, the United States Department of Housing and Urban Development, and federal and state banking regulatory agencies.

(e) In making the assessment required by this subchapter, the department shall project the affordable housing needs of each region as of the end of each five-year period occurring between September 1, 2001, and September 1, 2021, and as of

September 1, 2031. The projection of affordable housing needs under this subsection must include a projection of the costs and nature of the affordable housing that will be needed in the future, including any special need for single-family or multifamily housing.

Sec. 2306.883. FUNDING. The department may use any available revenue, including legislative appropriations, to make the assessment required by this subchapter.

Sec. 2306.884. CONTRACTUAL AUTHORITY. The department may contract with a research center, a public senior college or university, or a component of a public senior college or university, including the Lyndon B. Johnson School of Public Affairs, to make the assessment required by this subchapter.

Sec. 2306.885. REPORT. Not later than the 180th day after the date the relevant information is released by the United States Census Bureau, the department shall submit a report to the governor, the lieutenant governor, and the legislature detailing the department's findings on the present and future affordable housing needs of the regions of this state.

Sec. 2306.886. EXPIRATION DATE. This subchapter expires October 1, 2004.

#### ARTICLE 10

SECTION 10.01. Section 1372.022, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) If the state ceiling is computed on the basis of \$75 per capita or a greater amount, before August 15 of each year:

(1) 29.6 percent of the state ceiling is available exclusively for reservations by issuers of qualified mortgage bonds;

(2) 8 percent of the state ceiling is available exclusively for reservations by issuers of state-voted issues;

(3) 4.6 percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds;

(4) 23 percent of the state ceiling is available exclusively for reservations by issuers of qualified residential rental project bonds;

(5) 8.8 percent of the state ceiling is available exclusively for reservations by issuers of qualified student loan bonds authorized by Section 53.47, Education Code; and

(6) 26 percent of the state ceiling is available exclusively for reservations by any other issuer of bonds that require an allocation.

(c) On and after August 15 but before September 1, that portion of the state ceiling available for reservations becomes available for qualified residential rental project issues in the manner described by Section 1372.0321. On and after September 1, that portion of the state ceiling available for reservations becomes available to any issuer for any bonds that require an allocation, subject to the provisions of this subchapter.

SECTION 10.02. Subchapter B, Chapter 1372, Government Code, is amended by adding Section 1372.0231 to read as follows:

Sec. 1372.0231. DEDICATION OF PORTION OF STATE CEILING AVAILABLE FOR QUALIFIED RESIDENTIAL RENTAL PROJECT BONDS. (a) Until August 15, of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds:



(1) 25 percent is available exclusively to the Texas Department of Housing and Community Affairs in the manner described by Subsection (b); and

(2) 75 percent is available exclusively to housing finance corporations in the manner described by Subsections (c)-(f).

(b) With respect to the amount of the state ceiling set aside under Subsection (a)(1), the board shall grant reservations:

(1) in the order determined by the board by lot; and

(2) in a manner that ensures that:

(A) the set-aside amount is used for proposed projects that are located throughout the state; and

(B) not more than 50 percent of the set-aside amount is used for proposed projects that are located in qualified census tracts as defined by Section 143(j), Internal Revenue Code of 1986.

(c) With respect to the amount of the state ceiling set aside under Subsection (a)(2), the board shall grant reservations in a manner that ensures that not more than 50 percent of the set-aside amount is used for proposed projects that are located in qualified census tracts as defined by Section 143(j), Internal Revenue Code of 1986.

(d) Before June 1, the board shall apportion the amount of the state ceiling set aside under Subsection (a)(2) among the uniform state service regions according to the percentage of the state's population that resides in each of those regions.

(e) For the uniform state service regions containing Austin, Dallas, and Houston, the board shall additionally apportion the amount of the state ceiling set aside for each of those regions under Subsection (d) within the region according to the percentage of the region's population that resides in a metropolitan statistical area and the percentage of the region's population that resides outside of a metropolitan statistical area.

(f) In each area described by Subsection (d) or (e), the board shall grant reservations based on the priority levels of proposed projects as described by Section 1372.032.

(g) On or after June 1, the board may not grant available reservations to housing finance corporations described by Subsection (a) based on uniform state service regions or any segments of those regions.

SECTION 10.03. Section 1372.026(a), Government Code, is amended to read as follows:

(a) The maximum amount of the state ceiling that may be reserved before August 15 [~~September 1~~] by a housing finance corporation for the issuance of qualified mortgage bonds may not exceed the amount computed as follows [~~by multiplying the local population of the corporation by~~:

(1) [~~\$50;~~] if the local population of the housing finance corporation is 300,000 or more, \$22.5 million plus the product of the amount by which the local population exceeds 300,000 multiplied by \$11.25;

(2) [~~\$75;~~] if the local population of the housing finance corporation is 200,000 or more but less than 300,000, \$20 million plus the product of the amount by which the local population exceeds 200,000 multiplied by \$22.5;

(3) [~~\$100;~~] if the local population of the housing finance corporation is 100,000 or more but less than 200,000, \$15 million plus the product of the amount by which the local population exceeds 100,000 multiplied by \$50; or

(4) [~~\$150;~~] if the local population of the housing finance corporation is less than 100,000, the product of the local population multiplied by \$150.

SECTION 10.04. Subchapter B, Chapter 1372, Government Code, is amended by adding Section 1372.0261 to read as follows:

Sec. 1372.0261. FAILURE OF HOUSING FINANCE CORPORATION TO USE AMOUNT OF STATE CEILING ALLOCATED. (a) In this section, "utilization percentage" means that portion of the amount of the state ceiling allocated to a housing finance corporation with respect to which the corporation issues private activity bonds that result in mortgage loans or mortgage credit certificates. A housing finance corporation's utilization percentage for an allocation of the state ceiling is the quotient of:

(1) the amount of the state ceiling used to purchase mortgages or mortgage-backed securities or the amount of the state ceiling used to issue mortgage credit certificates; divided by

(2) the amount of the state ceiling allocated, minus any amounts of the state ceiling required for debt service reserve funds.

(b) If a housing finance corporation's issue of bonds uses a new allocation of the state ceiling in combination with taxable bond proceeds or with bond proceeds recycled from previous allocations of the state ceiling, the first loans or certificates financed are considered in computing the utilization percentage of the new allocation of the state ceiling.

(c) If a housing finance corporation's utilization percentage is less than 95 percent, the next time the corporation becomes eligible for a reservation of the state ceiling, the maximum amount of the state ceiling that may be reserved for the corporation is equal to the amount for which the corporation would otherwise be eligible under Section 1372.026 multiplied by the utilization percentage of the corporation's last bond issue that used an allocation of the state ceiling.

(d) A housing finance corporation may not be penalized under Subsection (c) if:

(1) the corporation fails to use:

(A) bond proceeds recycled from previous allocations of the state ceiling; or

(B) taxable bond proceeds; or

(2) as the result of an issuance of bonds, the corporation's utilization percentage is 95 percent or greater.

SECTION 10.05. Section 1372.031, Government Code, is amended to read as follows:

Sec. 1372.031. PRIORITIES FOR RESERVATIONS AMONG CERTAIN ISSUERS. If, on or before October 20, more than one issuer in a category described by Section 1372.022(a)(2), (3), [(4);] or (6) applies for a reservation of the state ceiling for the next program year, the board shall grant reservations in that category in the order determined by the board by lot.

SECTION 10.06. The heading to Section 1372.032, Government Code, is amended to read as follows:

Sec. 1372.032. PRIORITIES FOR RESERVATIONS AMONG ISSUERS OF QUALIFIED MORTGAGE BONDS [HOUSING FINANCE CORPORATIONS].

SECTION 10.07. (a) Subchapter B, Chapter 1372, Government Code, is amended to conform to Section 2, Chapter 131, Acts of the 76th Legislature, Regular Session, 1999, by adding Section 1372.0321 and is further amended to read as follows:

Sec. 1372.0321. PRIORITIES FOR RESERVATIONS AMONG ISSUERS OF QUALIFIED RESIDENTIAL RENTAL PROJECT ISSUES. (a) In granting reservations to issuers of qualified residential rental project issues, the board shall:

(1) give first priority to:

(A) projects in which 100 percent of the residential units in the projects are under the restriction that the maximum allowable rents are an amount equal to 30 percent of 50 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(B) on or after June 1, projects that are located in counties, metropolitan statistical areas, or primary metropolitan statistical areas with area median family incomes at or below the statewide median family income established by the United States Department of Housing and Urban Development;

(2) give second priority to projects in which 100 percent of the residential units in the projects are under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(3) give third priority to any other qualified residential rental project.

(b) The board may not reserve a portion of the state ceiling for a first or second priority project described by Subsection (a) unless the board receives evidence that an application has been filed with the Texas Department of Housing and Community Affairs for the low-income housing tax credit that is available for multifamily transactions that are at least 51 percent financed by tax-exempt private activity bonds.

(b) Section 2, Chapter 131, Acts of the 76th Legislature, Regular Session, 1999, is repealed.

SECTION 10.08. Section 1372.042(c), Government Code, is amended to read as follows:

(c) Notwithstanding Subsections (a) and (b), if the 120-day period or the 180-day period, as applicable, expires on or after December 24 of the year in which the reservation was granted, the issuer shall close on the bonds before December 24, except that if the applicable period expires after December 31 of that year, the issuer may notify the board in writing before December 24 of the issuer's election to carry forward the reservation and of the issuer's expected bond closing date. In compliance with the requirements of Section 146(f), Internal Revenue Code of 1986, the board shall file in a timely manner a carryforward election with respect to any bonds expected to close after December 31 to permit the bonds to close by the expected date, except that the board may not file the carryforward election after February 15 of the year following the year in which the reservation was granted. The grant of the reservation for the balance of the 120-day period or the 180-day period, as applicable, is automatically and immediately reinstated on the board's filing of a carryforward election with respect to the reservation [~~the issuer shall close on the bonds before December 24~~].

SECTION 10.09. Sections 1372.061 and 1372.062, Government Code, are amended to read as follows:

Sec. 1372.061. DESIGNATION BY BOARD OF CERTAIN AMOUNTS OF STATE CEILING AS CARRYFORWARD. (a) The board may designate as carryforward:

(1) the amount of the state ceiling that is not reserved before December 15; and

(2) any amount of the state ceiling that:

(A) was reserved before December 15; and

(B) becomes available on or after that date because of the cancellation of a reservation.

(b) The board shall designate as carryforward a reservation amount for which the board receives written notice from an issuer of an election to carry forward the reservation under Section 1372.042(c) if the bonds relating to the reservation are not required to close by December 31 of the year in which the reservation was granted.

Sec. 1372.062. PRIORITY CLASSIFICATIONS OF CARRYFORWARD DESIGNATIONS. (a) The board shall:

(1) designate amounts as carryforward in accordance with the system of priority classifications specified in Sections 1372.063-1372.068; and

(2) in each classification, make the designations in order of the application [applications] for those designations.

(b) Notwithstanding Subsection (a), the board shall designate in compliance with the requirements of Section 146(f), Internal Revenue Code of 1986, a carryforward relating to an issuer's written election under Section 1372.042(c) according to the category of bonds to which the reservation subject to the carryforward relates.

SECTION 10.10. (a) In accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 1372.022(b), Government Code, as set out in this Act, gives effect to changes made by Chapter 131, Acts of the 76th Legislature, Regular Session, 1999.

(b) To the extent of any conflict, the changes in law made by this Act to Chapter 1372, Government Code, prevail over another Act of the 77th Legislature, Regular Session, 2001, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 10.11. Section 1372.0261, Government Code, as added by this Act, applies only to a reservation of the state ceiling granted on or after January 1, 2002.

#### ARTICLE 11

SECTION 11.01. This Act takes effect September 1, 2001.

#### Floor Amendment No. 1

Amend **CSSB 322** as follows:

(1) On page 15, line 21, strike "board" and substitute "department";

(2) On page 63, line 2, between "investigation" and "pending" insert "relating to the administration and enforcement of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes)."

#### Floor Amendment No. 2

Amend **CSSB 322** (House Committee Printing) as follows:

(1) On page 29, line 2, strike the words "administer, as appropriate" and substitute the words, "Provide appropriate information regarding".

#### Floor Amendment No. 3

Amend **CSSB 322** by inserting the following new subsection (17) on page 30, between lines 14 and 15 to read as follows and renumber the following sections appropriately:

"(17) provide in cooperation with the State Energy Conservation Office, the Texas Natural Resource Conservation Commission and other governmental

entities, information on the use of sustainable and energy efficient housing construction products and assist local governments and nonprofits in identifying information on sustainable and energy efficient housing construction and energy efficient resources and techniques."

#### **Floor Amendment No. 4**

Amend **CSSB 322** in Article 1 of the bill by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Section 2306.255(b), Government Code, is amended to read as follows:

(b) The office shall establish a program to guarantee loans made by private lenders to convert a contract for deed into a warranty deed. To the extent possible, the office shall encourage conversion of a contract for deed under the program into a general warranty deed.

(b) The change in law made by this section applies only to a contract for deed that is converted into a warranty deed on or after the effective date of this Act.

#### **Floor Amendment No. 7**

Amend **CSSB 322** by adding the following appropriately numbered SECTION to ARTICLE 10 of the bill and renumbering subsequent SECTIONS in ARTICLE 10 appropriately:

SECTION \_\_\_\_\_. Section 1372.033, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The board shall grant a reservation to an issuer described by Subsection (a) in an amount not to exceed the lesser of:

(1) \$35 million;

(2) the full amount of the state ceiling for qualified student loan bonds for which the issuer applied; or

(3) the amount of the state ceiling for qualified student loan bonds remaining after reservations have been granted to issuers with a higher priority under Subsection (a).

(d) Notwithstanding Subsection (c)(1) or Section 1372.037(5), after each issuer described by Subsection (a) that applies for a reservation has been offered a reservation in the maximum amount available to the issuer, the board shall grant in equal portions, as additional reservations, any remaining amount of the state ceiling for qualified student loan bonds to issuers that:

(1) received and accepted a reservation; and

(2) do not refuse an additional reservation under this subsection.

#### **Floor Amendment No. 8**

Amend **CSSB 322** (House Committee Report) by adding the following sections and by renumbering existing sections of the bill accordingly:

SECTION 1. Section 15.001, Water Code, is amended by adding Subdivision (12) to read as follows:

(12) "Nonborder colonia" means a residential community:

(A) located in an unincorporated area of a county all parts of which are at least 150 miles from the international border of this state;

(B) in which water or wastewater services are inadequate to meet minimal needs of residential users as defined by board rules; and

(C) in which the average household income is less than the average household income for the county in which the community is located.

SECTION 2. Section 15.008, Water Code, is amended to read as follows:

Sec. 15.008. GRANT STANDARDS. Chapter 783, Government Code, [The Uniform Grant and Contract Management Act of 1981 (Article 4413(32g), Vernon's Texas Civil Statutes)] does not apply to a contract under Subchapter F, H, or K or to a contract relating to an economically distressed area or nonborder colonia under Subchapter C [of this chapter].

SECTION 3. Section 15.102(b), Water Code, is amended to read as follows:

(b) The loan fund may also be used by the board to provide grants or loans for projects that include supplying water and wastewater services in economically distressed areas or nonborder colonias as provided by legislative appropriations, this chapter, and board rules, including projects involving retail distribution of those services.

SECTION 4. Section 15.105, Water Code, is amended to read as follows:

Sec. 15.105. CONSIDERATIONS IN PASSING ON APPLICATION. In passing on an application for financial assistance from the loan fund, the board shall consider but is not limited to:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the applicant from all sources for the ultimate repayment of the cost of the project, including all interest;

(3) the relationship of the project to overall statewide needs;

(4) the ability of the applicant to finance the project without state assistance; and

(5) for applications for grants or loans for economically distressed areas or nonborder colonias, the regulatory efforts by the county in which the project is located to control the construction of subdivisions that lack basic utility services.

SECTION 5. Section 775.001, Government Code, is amended by adding Subdivision (3) to read as follows:

(3) "Nonborder colonia" has the meaning assigned by Section 15.01, Water Code.

SECTION 6. Section 775.002(c), Government Code, is amended to read as follows:

(c) The colonia initiatives coordinator may work with the other agencies and local officials involved in colonia projects in the state to:

(1) coordinate efforts to address colonia issues;

(2) identify nonprofit self-help groups to help with colonia initiatives;

(3) set goals for each state fiscal year for colonia initiatives in the state, including goals to:

(A) address easement problems; and

(B) ensure that water and wastewater connections are extended from distribution lines to houses located in colonias; ~~and~~

(4) ensure that the goals set under this subsection are met each state fiscal year; and

(5) coordinate state outreach efforts to nonborder colonias and to political subdivisions capable of providing water and wastewater services to nonborder colonias.

**Floor Amendment No. 9**

Amend **CSSB 322** by adding the following appropriately numbered section to the bill and renumbering the subsequent sections of the bill appropriately:

SECTION \_\_\_\_\_. Subchapter F, Chapter 2306, Government Code, is amended by adding Section 2306.127 to read as follows:

Sec. 2306.127. PRIORITY FOR CERTAIN COMMUNITIES. The department shall give priority in administering department programs and funding to communities that are located wholly or partly in:

- (1) a federally designated urban enterprise community;
- (2) an urban enhanced enterprise community; or
- (3) an economically distressed area or colonia.

**Floor Amendment No. 10**

Amend **CSSB 322** (house committee report) in Article 8 of the bill as follows:

(1) In added Section 2306.6703(1)(B), Government Code (page 110, line 2), between "programs" and the comma, insert ", the director of compliance, the director of underwriting".

(2) In added Section 2306.6733(a), Government Code (page 138, line 11), between "programs" and the comma, insert ", director of compliance, director of underwriting".

**Floor Amendment No. 1 on Third Reading**

Amend **CSSB 322**, on third reading, in Article 1 of the bill, in the SECTION providing that certain complaints or investigations relating to the administration and enforcement of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) are transferred without change in status to the manufactured housing division of the Texas Department of Housing and Community Affairs, as follows:

(1) Between "Statutes)" and "pending", insert "and".

(2) Between "case" and "pending", insert "relating to the administration and enforcement of the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) and".

**Floor Amendment No. 2 on Third Reading**

Amend **CSSB 322**, on third reading, as follows:

(1) In Article 1 of the bill, add an appropriately numbered SECTION to read as follows and renumber existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 2306.092, Government Code, is amended to read as follows:

Sec. 2306.092. DUTIES REGARDING CERTAIN PROGRAMS CREATED UNDER FEDERAL LAW. The department~~[, through the community affairs division, or any other division]~~ shall~~:~~

~~[(1) maintain communication with local governments and act as an advocate for local governments at the state and federal levels;~~

~~[(2) assist local governments with advisory and technical services;~~

~~[(3) provide financial aid to local governments and combinations of local governments for programs that are authorized to receive assistance;~~

~~[(4) provide information about and referrals for state and federal programs and services that affect local governments;~~

~~[(5) administer, conduct, or jointly sponsor educational and training programs for local government officials;~~

~~[(6) conduct research on problems of general concern to local governments;~~

~~[(7) collect, publish, and distribute information useful to local governments, including information on:~~

~~[(A) local government finances and employment;~~

~~[(B) housing;~~

~~[(C) population characteristics; and~~

~~[(D) land-use patterns;~~

~~[(8) encourage cooperation among local governments as appropriate;~~

~~[(9) advise and inform the governor and the legislature about the affairs of local governments and recommend necessary action;~~

~~[(10) assist the governor in coordinating federal and state activities affecting local governments;~~

~~[(11) administer, as appropriate:~~

~~(1) [(A)] state responsibilities for programs created under the federal Economic Opportunity Act of 1964 (42 U.S.C. Section 2701 et seq.);~~

~~(2) [(B)] programs assigned to the department under the Omnibus Budget Reconciliation Act of 1981 (Pub.L. No. 97-35); and~~

~~(3) [(C)] other federal acts creating economic opportunity programs assigned to the department[;]~~

~~[(12) develop a consumer education program to educate consumers on executory contract transactions for conveyance of real property used or to be used as the consumer's residence;~~

~~[(13) adopt rules that are necessary and proper to carry out programs and responsibilities assigned by the legislature or the governor; and~~

~~[(14) perform other duties relating to local government that are assigned by the legislature or the governor].~~

(2) In Article 1 of the bill, in the SECTION that repeals sections of Chapter 2306, Government Code, strike "2306.052(d), and 2306.092" and substitute "and 2306.052(d)".

### **Floor Amendment No. 3 on Third Reading**

Amend **CSSB 322**, on third reading, as follows:

(1) In Section 2306.127, Government Code, as added by the Garcia amendment No. 9 on second reading, strike "The" and substitute "In a manner consistent with the regional allocation formula described by Section 2306.111(d), the".

(2) In Section 2306.127, Government Code, as added by the Garcia amendment No. 9 on second reading, strike "in administering department programs and funding" and substitute "through its housing program scoring criteria".

The amendments were read.

On motion of Senator Lucio, the Senate concurred in the House amendments to **SB 322** by a viva voce vote.



**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1094 ADOPTED**

Senator Moncrief called from the President's table the Conference Committee Report on **HB 1094**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Moncrief, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 393 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **HB 393**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Ellis, the Conference Committee Report was adopted by a viva voce vote.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
May 27, 2001

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 316**, Instructing the enrolling clerk of the house to make technical corrections in H.B. 3038.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**SENATE RESOLUTION 1249**

Senator Fraser offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 House Bill 1203, relating to the purchase of certain insurance and surety coverage by state agencies and to workers' compensation insurance benefits provided by certain state agencies, to consider and take action on the following matters:

(1) Senate Rules 12.03(1) and (3) are suspended to permit the committee to add text changing Section 412.042, Labor Code, as amended by SECTION 1.06, House Bill 1203, by adding Subsection (c) to read as follows:

(c) On an annual basis, not later than September 30 of each year, agencies exempt under Section 412.052 of this article shall provide a written report to the Legislative Budget Board identifying policies purchased under any line of insurance other than life or health insurance. The report should include a description of the policy, coverage limits, deductibles, and losses incurred under that coverage.

Explanation: This change is necessary to ensure that the legislature has sufficient information concerning insurance policies purchased by state agencies.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 312 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 312**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by a viva voce vote.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 915 ADOPTED**

Senator Moncrief called from the President's table the Conference Committee Report on **HB 915**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Moncrief, the Conference Committee Report was adopted by a viva voce vote.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2684 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **HB 2684**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Armbrister, the Conference Committee Report was adopted by a viva voce vote.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2204 ADOPTED**

Senator Moncrief called from the President's table the Conference Committee Report on **HB 2204**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Moncrief, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1831 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **HB 1831**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Harris, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 757 ADOPTED**

Senator Bernsen called from the President's table the Conference Committee Report on **HB 757**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Bernsen, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2890 ADOPTED**

Senator Madla called from the President's table the Conference Committee Report on **HB 2890**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Madla, the Conference Committee Report was adopted by a viva voce vote.

**SENATE RESOLUTION 1250**

Senator Haywood offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 House Bill No. 1317, relating to financial security requirements for certain oil well operators, to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add a new section to the bill to read as follows:

SECTION 1. Section 85.2021(c), Natural Resources Code, is amended to read as follows:

(c) With each application for an extension of time to plug a well pursuant to commission rules, an applicant shall submit to the commission a nonrefundable fee of \$100, unless the applicant has filed a bond, letter of credit, or cash deposit under Section 91.104(b)(1), (2), or (3) [~~under Section 91.1041 or Section 91.1042 of this code~~].

Explanation: This addition is necessary to exempt an applicant for an extension of time to plug a well from the requirement to pay a fee if the applicant has filed a bond, letter of credit, or cash deposit.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add a new section to the bill to read as follows:

SECTION 2. Effective September 1, 2004, Section 89.002(a)(2), Natural Resources Code, is amended to read as follows:

(2) "Operator" means a person who assumes responsibility for the physical operation and control of a well as shown by a form the person files with the commission and the commission approves. The commission may not require a person to assume responsibility for a well as a condition to being permitted to assume responsibility for another well. In the event of a sale or conveyance of an unplugged well or the right to operate an unplugged well, a person ceases being the operator for the purpose of Section 89.011 only if the well was in compliance with commission rules relating to safety or the prevention or control of pollution at the time of sale or conveyance and once the person who acquires the well or right to operate the well:

(A) specifically identifies the well as a well for which the person assumes plugging responsibility on forms required and approved by the commission;

(B) has a commission-approved organization report as required by Section 91.142;

(C) has a commission-approved bond, letter of credit, or cash deposit [~~or other form of financial security~~] under Sections 91.103-91.107 covering the well; and

(D) places the well in compliance with commission rules.

This addition is necessary to conform to the amendment of Sections 91.103 and 91.104, Natural Resources Code, effective September 1, 2004, limiting the permissible forms of financial security to a bond, letter of credit, or cash deposit.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add a new section to the bill to read as follows:

SECTION 3. Effective September 1, 2004, Section 91.103, Natural Resources Code, is amended to read as follows:

Sec. 91.103. PERSONS REQUIRED TO EXECUTE BOND, LETTER OF CREDIT, OR CASH DEPOSIT [~~OR ALTERNATE FORM OF FINANCIAL SECURITY~~]. Any person, including any firm, partnership, joint stock association, corporation, or other organization, required to file an organization report under Section 91.142 of this code shall execute and file with the commission a bond, letter of credit, or cash deposit [~~or alternate form of financial security~~].

This addition is necessary to require as of September 1, 2004, a person who is required to file an organization report to execute and file with the railroad commission a bond, letter of credit, or cash deposit.

(4) Senate Rule 12.03(1) is suspended to permit the committee to change, alter, or amend text that is not in disagreement to read as follows:

SECTION 4. Sections 91.104(b) and (c), Natural Resources Code, are amended to read as follows:

(b) A person required to file a bond or alternate form of financial security under Section 91.103 may choose to file:

(1) an individual bond as provided under Section 91.1041;

(2) a blanket bond as provided under Section 91.1042;

(3) a letter of credit or cash deposit in the same amount as required for an individual bond under Section 91.1041 or a blanket bond under Section 91.1042;

(4) a nonrefundable annual fee of \$1,000 [~~\$100~~], if:

(A) the commission determines that individual and blanket bonds as specified by Subdivisions (1) and (2) are not obtainable at reasonable prices; and

(B) the person can demonstrate to the commission an acceptable record of compliance with all commission rules, orders, licenses, permits, or certificates that relate to safety or the prevention or control of pollution for the previous 48 months and the person and, if a firm, partnership, joint stock association, corporation, or other organization, its officers, directors, general partners, or owners of more than 25 percent ownership interest or any trustee:

(i) ~~[(A)]~~ has no outstanding violations of such commission rules, orders, licenses, permits, or certificates;

(ii) ~~[(B)]~~ has paid all administrative, civil, and criminal penalties, if any, relating to any violation of such commission rules, orders, licenses, permits, or certificates; and

(iii) ~~[(C)]~~ has paid all reimbursements of any costs and expenses incurred by the commission in relation to any violation of such commission rules, orders, licenses, permits, or certificates; or

(5) ~~[(4)]~~ a nonrefundable annual fee equal to 12-1/2 ~~[three]~~ percent of the bond that otherwise would be required~~;~~ or

~~[(5) to give a first lien on tangible personal property associated with oil and gas production whose salvage value equals the value of an individual bond under Section 91.1041 or the value of a blanket bond under Section 91.1042 that otherwise would be required].~~

(c) A person who chooses to file a form of financial security other than a bond, letter of credit, or cash deposit shall also submit a fee of \$100 for each application to extend the time to plug a well in accordance with Section 85.2021 ~~[of this code]~~.

This change is necessary to authorize as of September 1, 2001, a person to satisfy the financial security requirement by filing a bond, letter of credit, cash deposit, nonrefundable annual fee of \$1,000, or nonrefundable annual fee equal to 12-1/2 percent of the bond that would otherwise be required and to require a person who chooses to file a form of financial security other than a bond, letter of credit, or cash deposit to submit a fee for an application for an extension of time to plug a well.

(5) Senate Rule 12.03(1) is suspended to permit the committee to change, alter, or amend text that is not in disagreement to read as follows:

SECTION 5. Effective September 1, 2004, Section 91.104, Natural Resources Code, is amended to read as follows:

Sec. 91.104. BONDS, LETTERS OF CREDIT, AND CASH DEPOSITS ~~[AND ALTERNATE FORMS OF FINANCIAL SECURITY]~~. (a) The commission shall require a bond, letter of credit, or cash deposit ~~[or an alternate form of financial security]~~ to be filed with the commission as provided by Subsection (b) of this section.

(b) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 who is an inactive operator or who operates one or more wells and is not involved in any other activities that require the filing of a bond, letter of credit, or cash deposit must, at the time of filing or renewing an organization report required by Section 91.142, [may choose to] file:

(1) an individual bond as provided under Section 91.1041;

(2) a blanket bond as provided under Section 91.1042; or

(3) a letter of credit or cash deposit in the same amount as required for an individual bond under Section 91.1041 or a blanket bond under Section 91.1042 ~~[nonrefundable annual fee of \$100, if the person can demonstrate to the commission an acceptable record of compliance with all commission rules, orders, licenses,~~

permits, or certificates that relate to safety or the prevention or control of pollution for the previous 48 months and the person and, if a firm, partnership, joint stock association, corporation, or other organization, its officers, directors, general partners, or owners of more than 25 percent ownership interest or any trustee:

~~[(A) has no outstanding violations of such commission rules, orders, licenses, permits, or certificates;~~

~~[(B) has paid all administrative, civil, and criminal penalties, if any, relating to any violation of such commission rules, orders, licenses, permits, or certificates; and~~

~~[(C) has paid all reimbursements of any costs and expenses incurred by the commission in relation to any violation of such commission rules, orders, licenses, permits, or certificates;~~

~~[(4) a nonrefundable annual fee equal to three percent of the bond that otherwise would be required; or~~

~~[(5) to give a first lien on tangible personal property associated with oil and gas production whose salvage value equals the value of an individual bond under Section 91.1041 or the value of a blanket bond under Section 91.1042 that otherwise would be required].~~

~~[(c) A person who chooses to file a form of financial security other than a bond shall also submit a fee of \$100 for each application to extend the time to plug a well in accordance with Section 85.2021 of this code.]~~

This change is necessary to authorize as of September 1, 2004, a person to satisfy the financial security requirement by filing a bond, letter of credit, or cash deposit.

(6) Senate Rule 12.03(4) is suspended to permit the committee to add new sections to the bill to read as follows:

SECTION 6. Section 91.1041, Natural Resources Code, is amended to read as follows:

Sec. 91.1041. INDIVIDUAL BOND. (a) A person required to file a bond or alternate form of financial security under Section 91.103 who operates one or more wells may file a bond in an amount equal to \$2 for each foot of well depth for each well.

(b) Notwithstanding Subsection (a), the commission by rule shall set the amount of the bond for an operator of one or more bay or offshore wells at a reasonable amount that exceeds the amount provided by Subsection (a).

SECTION 7. Effective September 1, 2004, Section 91.1041, Natural Resources Code, is amended to read as follows:

Sec. 91.1041. INDIVIDUAL BOND. (a) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 who operates one or more wells may file a bond in an amount equal to \$2 for each foot of well depth for each well.

(b) Notwithstanding Subsection (a), the commission by rule shall set the amount of the bond for an operator of one or more bay or offshore wells at a reasonable amount that exceeds the amount provided by Subsection (a).

SECTION 8. Section 91.1042, Natural Resources Code, is amended to read as follows:

Sec. 91.1042. BLANKET BOND. (a) A person required to file a bond or alternate form of financial security under Section 91.103 may file a blanket bond to cover all wells and operations for which a bond or alternate form of financial security is required as follows:

(1) a person who operates 10 or fewer wells or performs other operations shall file a \$25,000 blanket bond;

(2) a person who operates more than 10 but fewer than 100 wells shall file a \$50,000 blanket bond; and

(3) a person who operates 100 or more wells shall file a \$250,000 blanket bond.

(b) Notwithstanding Subsection (a), the commission by rule shall set the amount of the bond for an operator of bay or offshore wells at a reasonable amount that exceeds the amount provided by Subsection (a)(1), (2), or (3), as applicable.

SECTION 9. Effective September 1, 2004, Section 91.1042, Natural Resources Code, is amended to read as follows:

Sec. 91.1042. BLANKET BOND. (a) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 may file a blanket bond to cover all wells [~~and operations~~] for which a bond, letter of credit, or cash deposit is required as follows:

(1) a person who operates 10 or fewer wells [~~or performs other operations~~] shall file a \$25,000 blanket bond;

(2) a person who operates more than 10 but fewer than 100 wells shall file a \$50,000 blanket bond; and

(3) a person who operates 100 or more wells shall file a \$250,000 blanket bond.

(b) Notwithstanding Subsection (a), the commission by rule shall set the amount of the bond for an operator of bay or offshore wells at a reasonable amount that exceeds the amount provided by Subsection (a)(1), (2), or (3), as applicable.

These additions are necessary to require the railroad commission by rule to set the amount of the individual or blanket bond for an operator of one or more bay or offshore wells at a reasonable amount that exceeds the amount provided by law for land wells.

(7) Senate Rule 12.03(4) is suspended to permit the committee to add new sections to the bill to read as follows:

SECTION 10. Effective immediately, Section 91.107, Natural Resources Code, is amended to read as follows:

Sec. 91.107. NEW BOND [~~OR ALTERNATE FORM OF FINANCIAL SECURITY~~]. Notwithstanding Section 91.104, if an active or inactive [H a] well [covered by a bond or alternate form of financial security] is transferred, sold, or assigned by its operator, the commission shall require the party acquiring the well to file a new bond [or alternate form of financial security] as provided by Section 91.104(b)(1) or (2) [this subchapter], and the [bond or alternate form of] financial security of the prior operator shall continue to be required and to remain in effect, and the commission may not approve the transfer of operatorship, until the new bond [or alternate form of financial security] is provided or the commission determines that the bond [financial security] previously submitted to the commission by the person acquiring the well complies with this subchapter. A transfer of a well from one entity to another entity under common ownership is a transfer for purposes of this section.

SECTION 11. Effective September 1, 2001, Section 91.107, Natural Resources Code, is amended to read as follows:

Sec. 91.107. NEW BOND, LETTER OF CREDIT, OR CASH DEPOSIT [~~OR ALTERNATE FORM OF FINANCIAL SECURITY~~]. Notwithstanding

Section 91.104, if an active or inactive [~~if a~~] well [~~covered by a bond or alternate form of financial security~~] is transferred, sold, or assigned by its operator, the commission shall require the party acquiring the well to file a new bond, letter of credit, or cash deposit [~~or alternate form of financial security~~] as provided by Section 91.104(b)(1), (2), or (3) [~~this subchapter~~], and the [~~bond or alternate form of~~] financial security of the prior operator shall continue to be required and to remain in effect, and the commission may not approve the transfer of operatorship, until the new bond, letter of credit, or cash deposit [~~or alternate form of financial security~~] is provided or the commission determines that the bond, letter of credit, or cash deposit [~~financial security~~] previously submitted to the commission by the person acquiring the well complies with this subchapter. A transfer of a well from one entity to another entity under common ownership is a transfer for purposes of this section.

SECTION 12. Effective September 1, 2004, Section 91.107, Natural Resources Code, is amended to read as follows:

Sec. 91.107. NEW BOND, LETTER OF CREDIT, OR CASH DEPOSIT [~~OR ALTERNATE FORM OF FINANCIAL SECURITY~~]. If an active or inactive [~~a~~] well [~~covered by a bond or alternate form of financial security~~] is transferred, sold, or assigned by its operator, the commission shall require the party acquiring the well to file a new bond, letter of credit, or cash deposit [~~or alternate form of financial security~~] as provided by Section 91.104(b) [~~this subchapter~~], and the [~~bond or alternate form of~~] financial security of the prior operator shall continue to be required and to remain in effect, and the commission may not approve the transfer of operatorship, until the new bond, letter of credit, or cash deposit [~~or alternate form of financial security~~] is provided or the commission determines that the bond, letter of credit, or cash deposit [~~financial security~~] previously submitted to the commission by the person acquiring the well complies with this subchapter. A transfer of a well from one entity to another entity under common ownership is a transfer for purposes of this section.

These additions are necessary to require a person to whom a well is transferred to provide a bond if the transfer is made before September 1, 2001, or to provide a bond, letter of credit, or cash deposit if the transfer is made after that date, before the commission approves the transfer and to treat transfers of a well from one entity to another entity under common ownership as a transfer for purposes of that requirement.

(8) Senate Rule 12.03(4) is suspended to permit the committee to add a new section to the bill to read as follows:

SECTION 13. Section 91.108, Natural Resources Code, is amended to read as follows:

Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the refund provisions of Section 91.1091 [~~of this code~~], proceeds from bonds and other financial security required pursuant to this chapter shall be deposited in the oil-field cleanup fund and, notwithstanding Sections 91.112 and 91.113, may be used only for actual well plugging and surface remediation.

This addition is necessary to provide that although proceeds from bonds and other financial security required under Chapter 91, Natural Resources Code, are required to be deposited in the oil-field cleanup fund, they may be used only for actual well plugging and surface remediation.

(9) Senate Rule 12.03(1) is suspended to permit the committee to change, alter, or amend text that is not in disagreement to read as follows:



SECTION 14. Effective September 1, 2004, Section 91.109, Natural Resources Code, is amended to read as follows:

Sec. 91.109. FINANCIAL SECURITY FOR PERSONS INVOLVED IN ACTIVITIES OTHER THAN OPERATION OF WELLS ~~[DISPOSAL SITE BOND]~~.

(a) A person applying for or acting under a commission permit to store, handle, treat, reclaim, or dispose of oil and gas waste may be required by the commission to maintain a performance bond or other form of financial security conditioned that the permittee will operate and close the storage, handling, treatment, reclamation, or disposal site in accordance with state law, commission rules, and the permit to operate the site. However, this section does not authorize the commission to require a bond or other form of financial security for saltwater disposal pits, emergency saltwater storage pits (including blow-down pits), collecting pits, or skimming pits provided that such pits are used in conjunction with the operation of an individual oil or gas lease. Subject to the refund provisions of Section 91.1091 of this code, proceeds from any bond or other form of financial security required by this section shall be placed in the oil-field cleanup fund. Each bond or other form of financial security shall be renewed and continued in effect until the conditions have been met or release is authorized by the commission.

(b) In addition to the financial security requirements of Subsection (a) and Section 91.104(b), a person required to file a bond, letter of credit, or cash deposit under Section 91.103 who is involved in activities other than the operation of wells must file the bond, letter of credit, or cash deposit at the time of filing or renewing an organization report required by Section 91.142 in an amount equal to:

(1) \$250,000; or

(2) a lesser amount determined by the commission if the person is able to demonstrate that the risk associated with an operation or group of operations warrants a lesser amount.

This change is necessary to conform to the limitation of the permissible forms of financial security after September 1, 2004, to a bond, letter of credit, or cash deposit.

(10) Senate Rule 12.03(4) is suspended to permit the committee to add a new section to the bill to read as follows:

SECTION 15. Effective September 1, 2004, Section 85.2021(c), Natural Resources Code, is repealed.

This change is necessary to conform to the amendment of Sections 91.103 and 91.104, Natural Resources Code, effective September 1, 2004, limiting the permissible forms of financial security to a bond, letter of credit, or cash deposit. Since a person is required to pay a fee in connection with an application for an extension of time to plug a well unless the person has filed a bond, letter of credit, or cash deposit and by that date those are the only permissible forms of financial security, the provision imposing the requirement to pay the fee may be repealed.

(11) Senate Rule 12.03(1) is suspended to permit the committee to change, alter, or amend text that is not in disagreement to read as follows:

SECTION 16. (a) Except as otherwise provided by this Act, this Act takes effect September 1, 2001.

(b) Section 10 of this Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, that section does not take effect.

(c) The changes in law made by Sections 91.104, 91.107, and 91.109, Natural Resources Code, as amended by this Act, apply only to a person required on or after the effective date of the applicable amendment to file a bond or alternate form of financial security. A person required to file a bond or alternate form of financial security before that date is governed by the law in effect on the date the bond or other security is required to be filed, and the former law is continued in effect for that purpose.

This change is necessary to provide that if the Act does not receive the vote necessary for immediate effect, the provision regarding transfer of a well that by its terms takes effect immediately does not take effect and to clarify the effect of the provisions governing bonds and alternate forms of financial security on a person required to file financial security before or after the effective dates of those provisions.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 27, 2001

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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:**

**HB 154** (non-record vote)

**HB 393** (non-record vote)

**HB 606** (non-record vote)

**HB 695** (non-record vote)

**HB 981** (non-record vote)

**THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:**

**SB 1815**

Rules suspended and final passage reconsidered without objection. Rules suspended and adoption of 3rd reading amendment reconsidered without objection. Amendment withdrawn and again finally passed without amendment by a non-record vote.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 730 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **SB 730**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Harris, the Conference Committee Report was adopted by a viva voce vote.

**RECORD OF VOTE**

Senator Staples asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report on **SB 730**.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3572 ADOPTED**

Senator Lindsay called from the President's table the Conference Committee Report on **HB 3572**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Lindsay, the Conference Committee Report was adopted by a viva voce vote.

**(Senator Bivins in Chair)**

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 510 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **SB 510**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Armbrister, the Conference Committee Report was adopted by a viva voce vote.

**RECORD OF VOTE**

Senator Brown asked to be recorded as "Present-not voting" on the adoption of the Conference Committee Report on **SB 510**.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1148 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **HB 1148**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Armbrister, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 173 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **SB 173**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**HOUSE CONCURRENT RESOLUTION 206**

On motion of Senator Jackson and by unanimous consent, all necessary rules were suspended to take up for consideration:

**HCR 206**, Granting Darcie R. Barclay permission to sue the State of Texas, The University of Texas Medical Branch, and The University of Texas System.

The Presiding Officer laid before the Senate **HCR 206**.

The resolution was read.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1763 ADOPTED**

Senator Sibley called from the President's table the Conference Committee Report on **HB 1763**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Sibley, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**(President in Chair)**

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2585 ADOPTED**

Senator Shapleigh called from the President's table the Conference Committee Report on **HB 2585**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Shapleigh, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1458 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 1458**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1432 ADOPTED**

Senator West called from the President's table the Conference Committee Report on **SB 1432**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator West, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1925 ADOPTED**

Senator Staples called from the President's table the Conference Committee Report on **HB 1925**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Staples, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 695 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **HB 695**. The Conference Committee Report was again filed with the Senate on Friday, May 25, 2001.

On motion of Senator Wentworth, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 732 ADOPTED**

Senator Barrientos called from the President's table the Conference Committee Report on **SB 732**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Barrientos, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 886 ADOPTED**

Senator Ogden called from the President's table the Conference Committee Report on **SB 886**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Ogden, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 515 ADOPTED**

Senator Madla called from the President's table the Conference Committee Report on **SB 515**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Madla, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3305 ADOPTED**

Senator Van de Putte called from the President's table the Conference Committee Report on **HB 3305**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Van de Putte, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 409 ADOPTED**

Senator Cain called from the President's table the Conference Committee Report on **SB 409**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Cain, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3016 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 3016**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Shapiro, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 310 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **SB 310**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Harris, the Conference Committee Report was adopted by a viva voce vote.

**MESSAGE FROM THE HOUSE****HOUSE CHAMBER**

Austin, Texas

May 27, 2001

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:**

**SB 826**, Relating to the location of public education schools, programs, and classes.  
(Amended)

**THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:**

**HB 1831** (144 Ayes, 0 Nays, 1 Present Not Voting)

**HB 2005** (viva-voce vote)

**HB 2255** (viva-voce vote)

**HB 2530** (viva-voce vote)

**HB 2684** (viva-voce vote)

**HB 3305** (viva-voce vote)

**HB 3572** (viva-voce vote)

**SB 11** (viva-voce vote)

**SB 45** (viva-voce vote)

**SB 1432** (viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2572 ADOPTED**

Senator Staples called from the President's table the Conference Committee Report on **HB 2572**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Staples, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1573 ADOPTED**

Senator Lindsay called from the President's table the Conference Committee Report on **SB 1573**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Lindsay, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

## CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2912 ADOPTED

Senator Harris called from the President's table the Conference Committee Report on **HB 2912**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Harris, the Conference Committee Report was adopted by a viva voce vote.

### SENATE RESOLUTION 1254

Senator Van de Putte offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 House Bill No. 1862, relating to the regulation and prompt payment of health care providers under certain health benefit plans and providing penalties, to consider and take action on the following matters:

1. Senate Rule 12.03(1) is suspended to permit the committee to change text that is not in disagreement in amended Section 3A(b), Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, so that the subsection reads as follows:

(b) A physician or [preferred] provider must submit a claim to an insurer not later than the 95th day after the date the physician or provider provides the medical care or health care services for which the claim is made. An insurer shall accept as proof of timely filing a claim filed in compliance with Subsection (c) of this section or information from another insurer showing that the physician or provider submitted the claim to the insurer in compliance with Subsection (c) of this section. If a physician or provider fails to submit a claim in compliance with this subsection, the physician or provider forfeits the right to payment unless the failure to submit the claim in compliance with this subsection is a result of a catastrophic event that substantially interferes with the normal business operations of the physician or provider. The period for submitting a claim under this subsection may be extended by contract. A physician or provider may not submit a duplicate claim for payment before the 46th day after the date the original claim was submitted. The commissioner shall adopt rules under which an insurer may determine whether a claim is a duplicate claim [for medical care or health care services under a health insurance policy may obtain acknowledgment of receipt of a claim for medical care or health care services under a health care plan by submitting the claim by United States mail, return receipt requested. An insurer or the contracted clearinghouse of an insurer that receives a claim electronically shall acknowledge receipt of the claim by an electronic transmission to the preferred provider and is not required to acknowledge receipt of the claim by the insurer in writing].

Explanation: This change is necessary to prevent a physician or provider from forfeiting payment of a claim if a catastrophic event prevents the physician or provider from submitting the claim in the required time.

2. Senate Rule 12.03(1) is suspended to permit the committee to change text that is not in disagreement in added Section 3A(d), Article 3.70-3C, Insurance Code, so that the subsection reads as follows:



(d) If a claim for medical care or health care services provided to a patient is mailed, the claim is presumed to have been received by the insurer on the third day after the date the claim is mailed or, if the claim is mailed using overnight service or return receipt requested, on the date the delivery receipt is signed. If the claim is submitted electronically, the claim is presumed to have been received on the date of the electronic verification of receipt by the insurer or the insurer's clearinghouse. If the insurer or the insurer's clearinghouse does not provide a confirmation within 24 hours of submission by the physician or provider, the physician's or provider's clearinghouse shall provide the confirmation. The physician's or provider's clearinghouse must be able to verify that the filing contained the correct payor identification of the entity to receive the filing. If the claim is faxed, the claim is presumed to have been received on the date of the transmission acknowledgment. If the claim is hand delivered, the claim is presumed to have been received on the date the delivery receipt is signed. The commissioner shall promulgate a form to be submitted by the physician or provider that easily identifies all claims included in each filing and that can be used by a physician or provider as the physician's or provider's log.

Explanation: This change is necessary to require that a physician's or provider's clearinghouse be able to verify that a filed claim contains the correct "payor identification" of the entity to receive the filing, rather than the "correct address" of the entity.

3. Senate Rules 12.03(1) and (2) are suspended to permit the committee to change and omit text that is not in disagreement in added Section 3A(g), Article 3.70-3C, Insurance Code, so that the subsection reads as follows:

(g) An insurer that determines under Subsection (e) of this section that a claim is eligible for payment and does not pay the claim on or before the 45th day after the date the insurer receives a clean claim shall pay the physician or provider making the claim the lesser of the full amount of billed charges submitted on the claim and interest on the billed charges at a rate of 15 percent annually or two times the contracted rate and interest on that amount at a rate of 15 percent annually. If the provider submits the claim using a form described by Section 3B(a) of this article, billed charges shall be established under a fee schedule provided by the preferred provider to the insurer on or before the 30th day after the date the physician or provider enters into a preferred provider contract with the insurer. The preferred provider may modify the fee schedule if the provider notifies the insurer of the modification on or before the 90th day before the date the modification takes effect.

Explanation: This change is necessary to omit language relating to payment of certain claims and change the consequences of failing to pay certain claims as required.

4. Senate Rule 12.03(1) is suspended to permit the committee to change text that is not in disagreement in added Section 3B(a), Article 3.70-3C, Insurance Code, to add the phrase "in the manner prescribed".

Explanation: This change is necessary to specify that for a claim by certain physicians or providers to be a "clean claim" information must be entered into the required form "in the manner prescribed".

5. Senate Rule 12.03(1) is suspended to allow the committee to change text that is not in disagreement in amended Section 18B(b), Texas Health Maintenance Organization Act (Article 20A.18B, Vernon's Texas Insurance Code), so that the subsection reads as follows:

(b) A physician or provider must submit a claim under this section to a health maintenance organization not later than the 95th day after the date the physician or provider provides the medical care or health care services for which the claim is made. A health maintenance organization shall accept as proof of timely filing a claim filed in compliance with Subsection (c) of this section or information from another health maintenance organization showing that the physician or provider submitted the claim to the health maintenance organization in compliance with Subsection (c) of this section. If a physician or provider fails to submit a claim in compliance with this subsection, the physician or provider forfeits the right to payment unless the failure to submit the claim in compliance with this subsection is a result of a catastrophic event that substantially interferes with the normal business operations of the physician or provider. The period for submitting a claim under this subsection may be extended by contract. A physician or provider may not submit a duplicate claim for payment before the 46th day after the date the original claim was submitted. The commissioner shall adopt rules under which a health maintenance organization may determine whether a claim is a duplicate claim. [A physician or provider for medical care or health care services under a health care plan may obtain acknowledgment of receipt of a claim for medical care or health care services under a health care plan by submitting the claim by United States mail, return receipt requested. A health maintenance organization or the contracted clearinghouse of the health maintenance organization that receives a claim electronically shall acknowledge receipt of the claim by an electronic transmission to the physician or provider and is not required to acknowledge receipt of the claim by the health maintenance organization in writing.]

Explanation: This change is necessary to prevent a physician or provider from forfeiting payment of a claim if a catastrophic event prevents the physician or provider from submitting the claim in the required time.

6. Senate Rule 12.03(1) is suspended to allow the committee to change text that is not in disagreement in added Section 18B(d), Texas Health Maintenance Organization Act (Article 20A.18B, Vernon's Texas Insurance Code), so that the subsection reads as follows:

(d) If a claim for medical care or health care services provided to a patient is mailed, the claim is presumed to have been received by the health maintenance organization on the third day after the date the claim is mailed or, if the claim is mailed using overnight service or return receipt requested, on the date the delivery receipt is signed. If the claim is submitted electronically, the claim is presumed to have been received on the date of the electronic verification of receipt by the health maintenance organization or the health maintenance organization's clearinghouse. If the health maintenance organization or the health maintenance organization's clearinghouse does not provide a confirmation within 24 hours of submission by the physician or provider, the physician's or provider's clearinghouse shall provide the confirmation. The physician's or provider's clearinghouse must be able to verify that the filing contained the correct payor identification of the entity to receive the filing. If the claim is faxed, the claim is presumed to have been received on the date of the transmission acknowledgment. If the claim is hand delivered, the claim is presumed to have been received on the date the delivery receipt is signed. The commissioner shall promulgate a form to be submitted by the physician or provider which easily identifies all claims included in each filing which can be utilized by the physician or provider as their log.

Explanation: This change is necessary to require that a physician's or provider's clearinghouse be able to verify that a filed claim contains the correct "payor identification" of the entity to receive the filing, rather than the "correct address" of the entity.

7. Senate Rules 12.03(1) and (2) are suspended to allow the committee to change and omit text that is not in disagreement in added Section 18B(g), Texas Health Maintenance Organization Act (Article 20A.18B, Vernon's Texas Insurance Code), so that the subsection reads as follows:

(g) A health maintenance organization that determines under Subsection (e) of this section that a claim is eligible for payment and does not pay the claim on or before the 45th day after the date the health maintenance organization receives a clean claim shall pay the physician or provider making the claim the lesser of the full amount of billed charges submitted on the claim and interest on the billed charges at a rate of 15 percent annually or two times the contracted rate and interest on that amount at a rate of 15 percent annually. If the physician or provider submits the claim using a form described by Section 18D(a) of this Act, billed charges shall be established under a fee schedule provided by the physician or provider to the health maintenance organization on or before the 30th day after the date the physician or provider enters into the contract with the health maintenance organization. The physician or provider may modify the fee schedule if the physician or provider notifies the health maintenance organization of the modification on or before the 90th day before the date the modification takes effect.

Explanation: This change is necessary to omit language relating to payment of certain claims and change the consequences of failing to pay certain claims as required.

8. Senate Rule 12.03(1) is suspended to allow the committee to change text that is not in disagreement in added Section 18D(a), Texas Health Maintenance Organization Act, to add the phrase "in the manner prescribed".

Explanation: This change is necessary to specify that for a claim by certain physicians or providers to be a "clean claim" information must be entered into the required form "in the manner prescribed".

9. Senate Rule 12.03(1) is suspended to allow the committee to change text that is not in disagreement in added Section 18H(c), Texas Health Maintenance Organization Act, to substitute the phrase "health maintenance organization" for "insurer".

Explanation: This change is necessary to make a technical correction that changes "insurer" to "health maintenance organization".

10. Senate Rule 12.03(1) is suspended to allow the committee to change text that is not in disagreement in added Section 18I, Texas Health Maintenance Organization Act, to change the term "preauthorization" to "verification".

Explanation: This change is necessary to apply the provisions of the Texas Health Maintenance Organization Act relating to "verification" of certain services, rather than provisions relating to "preauthorization" of those services, to certain physicians or providers.

11. Senate Rule 12.03(4) is suspended to allow the committee to add a new section to the bill to read as follows:

SECTION 8. (a) Section 3, Article 21.53Q, Insurance Code, as added by House Bill 1676, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 3. TRAINING FOR CERTAIN PERSONNEL REQUIRED. (a) In this section, "preauthorization" means a determination by [~~the provision of a reliable representation to a physician or health care provider of whether~~] the issuer of a health benefit plan that the [~~will pay the physician or provider for proposed~~] medical or health care services proposed to be provided [~~if the physician or provider renders those services~~] to a [~~the~~] patient are medically necessary and appropriate [~~for whom the services are proposed~~]. The term includes precertification, certification, recertification, or any other activity that involves providing a reliable representation by the issuer of a health benefit plan to a physician or health care provider.

(b) The commissioner by rule shall require the issuer of a health benefit plan to provide adequate training to appropriate personnel responsible for preauthorization of coverage, if required under the plan, or utilization review under the plan to prevent wrongful denial of coverage required under this article and to avoid confusion of medical benefits with mental health benefits.

(b) This section takes effect only if House Bill 1676, Acts of the 77th Legislature, Regular Session, 2001, becomes law. If House Bill 1676 does not become law, this section has no effect.

Explanation: This change is necessary to conform the definition of "preauthorization" in Section 3, Article 21.53Q, Insurance Code, to the definitions of "preauthorization" in House Bill No. 1862 and clarify the preauthorization personnel to which the training requirement in that section applies.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 8 ADOPTED**

Senator Cain called from the President's table the Conference Committee Report on **SB 8**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Cain, the Conference Committee Report was adopted by a viva voce vote.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2404 ADOPTED**

Senator Brown called from the President's table the Conference Committee Report on **HB 2404**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Brown, the Conference Committee Report was adopted by a viva voce vote.

### **SENATE RESOLUTION 1258**

Senator Ogden offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 House Bill No. 1784, relating to the ratification, creation, administration, powers, duties, operation, and financing of groundwater conservation districts for the management of groundwater resources in the central Carrizo-Wilcox area, to consider and take action on the following matter:

Senate Rule 12.03(4) is suspended to permit the committee to add a new subsection to Section 6.01 of the bill to read as follows:

(d) To the extent of any conflicts, this Act prevails over any provision of Senate Bill No. 2, Acts of the 77th Legislature, Regular Session, 2001.

Explanation: This subsection is needed to clarify which Act of the 77th Legislature, Regular Session, 2001, prevails in case of conflicting provisions in H.B. No. 1784 and S.B. No. 2.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1784 ADOPTED**

Senator Ogden called from the President's table the Conference Committee Report on **HB 1784**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Ogden, the Conference Committee Report was adopted by a viva voce vote.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 2 ADOPTED**

Senator Brown called from the President's table the Conference Committee Report on **SB 2**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Brown, the Conference Committee Report was adopted by a viva voce vote.

#### **RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report on **SB 2**.

#### **REASON FOR VOTE**

Senator Ogden submitted the following reason for vote on the adoption of the Conference Committee Report on **SB 2**:

I opposed the adoption of the Conference Committee Report for **SB 2** because new drafts of groundwater conservation districts, that affect my Senate District, were inserted in the House in Section 3, Parts 5 (Lost Pines Groundwater Conservation District), 13 (Brazos Valley Groundwater Conservation District), 14

(Post Oak Savannah Groundwater Conservation District), and 15 (Mid-East Texas Groundwater Conservation District) without my knowledge, my input, or a public hearing.

OGDEN

### GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate his wife, Karla, and his son, Jason.

The Senate welcomed its guests.

### MESSAGE FROM THE HOUSE

#### HOUSE CHAMBER

Austin, Texas

May 27, 2001

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 325**, Instructing the enrolling clerk of the house to make a technical correction in H.B. 900.

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 915** (viva-voce vote)

**HB 1094** (viva-voce vote)

**HB 2204** (viva-voce vote)

**HB 2404** (viva-voce vote)

**HB 2572** (144 Ayes, 0 Nays, 2 Present Not Voting)

**HB 2890** (viva-voce vote)

**SB 312** (viva-voce vote)

**SB 342** (viva-voce vote)

**SB 510** (viva-voce vote)

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

**HB 900** (viva-voce vote)

**HB 3313** (143 Ayes, 0 Nays, 1 Present Not Voting)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

(Senator Armbrister in Chair)

### SENATE BILL 826 WITH HOUSE AMENDMENTS

Senator Truan called **SB 826** 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 826** by inserting the following language after line 17 of the bill:

Sec. 11.167. OPERATION OUTSIDE DISTRICT BOUNDARIES. The board of trustees of a school district may operate a school or program, including an extracurricular program, or hold a class outside the boundaries of the district.

#### Floor Amendment No. 2

Amend **SB 826** by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 29, Education Code, is amended by adding Subchapter J to read as follows:

##### SUBCHAPTER J. VIRTUAL CLASSROOM PROGRAM

Sec. 29.351. DEFINITIONS. In this subchapter:

(1) "Interactive multimedia communications" means real-time, interactive voice, video, and data communications conducted over networks that link geographically dispersed locations.

(2) "Program" means a virtual classroom program described by this subchapter.

Sec. 29.352. AUTHORITY. A school district may implement a program for students enrolled in grade levels 6 through 12.

Sec. 29.353. ELIGIBILITY CRITERIA. A student is eligible to participate in a program if the student:

(1) is eligible to attend school under Section 25.001; and

(2) has successfully completed fifth grade.

Sec. 29.354. ATTENDANCE AND FUNDING. (a) Sections 25.081(a), 25.082(a), 25.085(a), and 25.092(a) do not apply to a school district offering a program or to a student enrolled in a program, provided that a student successfully completes each program course not later than the end of the grading period for that course, as determined by the district.

(b) Subject to rules adopted by the commissioner, a student enrolled in a program may be counted for attendance purposes in the same manner as a student enrolled in regular classes in the district.

Sec. 29.355. EXTENDED-YEAR PROGRAM. A school district offering a program may operate the program on an extended-year basis for a period not to exceed 45 additional instructional days. The district's average daily attendance shall be computed for the regular school year plus the extended period.

Sec. 29.356. PROGRAM REQUIREMENTS. Notwithstanding any other provision of this code, a school district that offers a program must:

(1) ensure that the program curriculum complies with Section 28.002;

(2) use accredited Internet courses, as determined by the district;

(3) for each course in the program, provide students with interactive multimedia communications between the student and the course instructor;

(4) require that each student enrolled in a program course successfully complete the course not later than the end of the grading period for that course, as determined by the district;

(5) administer each assessment instrument required under Subchapter B, Chapter 39, to students enrolled in the program;

(6) establish graduation requirements for students enrolled in the program that are consistent with rules adopted under Section 28.025; and

(7) assess student competency in the program.

Sec. 29.357. AGENCY OVERSIGHT. Using state funds appropriated for that purpose, the agency shall monitor, evaluate, and assess the development and implementation of each program adopted under this subchapter.

### **Floor Amendment No. 1 on Third Reading**

Amend **SB 826** on third reading, in Floor Amendment No. 2 by King, by striking added Section 29.355, Education Code, and renumbering the subsequent sections accordingly.

### **Floor Amendment No. 2 on Third Reading**

Amend **SB 826** on third reading by adding the following to Subchapter J, Chapter 29, Education Code, as added by the second reading Phil King amendment:

Sec. 29.358. EXEMPTION. This subchapter does not apply to an open-enrollment charter school.

### **Amendment No. 3 on Third Reading**

Amend **SB 826** on third reading by striking the text of second reading amendment No. 2 by Phil King.

The amendments were read.

Senator Truan moved to concur in the House amendments to **SB 826**.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### **STATEMENT OF LEGISLATIVE INTENT**

Senator Truan submitted the following statement of legislative intent for **SB 826**:

**Senator Shapleigh:** I would like to ask you some questions to establish the legislative intent of this bill. Is it correct to state that the intent of **SB 826**, including the House amendment by Representative Chavez, which creates a new Section 11.166 in the Education Code, as follows: In January, Attorney General Cornyn issued an advisory opinion that called into question a long-standing practice of school districts. For many years school districts across the state have operated some facilities and programs outside their geographic boundaries. These can include everything from a sports stadium to a class conducted at a nearby university to a dropout recovery program or a school bus barn. The advisory



opinion from Attorney General Cornyn raised a new doubt about this practice, claiming that no specific provision of law authorizes it. As I understand **SB 826**, it merely responds to that Attorney General Opinion by specifically stating that school districts still have authority to do what they already have been doing under the general powers granted to them by the Education Code—namely, operating some facilities and programs outside their geographic boundaries. Have I correctly stated the intent of **SB 826**?

**Senator Truan:** Yes, Senator, you have precisely stated the legislative intent behind **SB 826**, including the amendment added by Representative Chavez that creates a new Section 11.166 in the Education Code. Senator, you may remember that in 1995, the Legislature gave school boards plenary powers—in other words, anything that the law does not specifically forbid for them to do, is permitted. The Attorney General ignored that law in rendering his opinion JC-332, and created the need for this bill.

TRUAN

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1156 ADOPTED

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 1156**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by a viva voce vote.

### SENATE RESOLUTION 1255

Senator Bivins offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 House Bill No. 3343, relating to the operation and funding of certain group coverage programs for certain school and educational employees and their dependents, to consider and take action on the following matters:

(1) Senate Rules 12.03(1) and (4) are suspended to permit the committee to add text changing Section 2, Article 3.50-7, Insurance Code, as added by SECTION 1.01, House Bill No. 3343, to read as follows:

Sec. 2. DEFINITIONS. In this article:

(1) "Administering firm" means any entity designated by the trustee to administer any coverages, services, benefits, or requirements under this article and the trustee's rules adopted under this article.

(2) "Charter school" means an open-enrollment charter school established under Subchapter D, Chapter 12, Education Code.

(3) "Dependent" means:

(A) a spouse of a full-time employee or part-time employee;

(B) a full-time or part-time employee's unmarried child who is younger than 25 years of age, including:

(i) an adopted child;  
(ii) a foster child, stepchild, or other child who is in a regular parent-child relationship; and

(iii) a recognized natural child;

(C) a full-time or part-time employee's recognized natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship and who lives with or whose care is provided by the employee or the surviving spouse on a regular basis, regardless of the child's age, if the child is mentally retarded or physically incapacitated to such an extent as to be dependent on the employee or surviving spouse for care or support, as determined by the trustee; and

(D) notwithstanding any other provision of this code, any other dependent of a full-time or part-time employee specified by rules adopted by the trustee.

(4) "Employee" means a participating member of the Teacher Retirement System of Texas who is employed by a participating entity and who is not receiving coverage from a uniform group insurance program under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) or the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code) or from the Texas Public School Retired Employees Group Insurance Program established under Article 3.50-4 of this code. The term does not include an individual performing personal services as an independent contractor.

(5) "Health coverage plan" means any group policy or contract, hospital service agreement, health maintenance organization agreement, preferred provider arrangement, or any similar group arrangement or any combination of those policies, contracts, agreements, or arrangements that provides for, pays for, or reimburses expenses for health care services.

(6) "Participating entity" means an entity participating in the uniform group coverage program established under this article. The term includes:

(A) a school district;

(B) another educational district whose employees are members of the Teacher Retirement System of Texas;

(C) a regional education service center; and

(D) a charter school that meets the requirements of Section 6 of this article.

(7) "Program" means the uniform group coverage program established under this article.

(8) "Regional education service center" means a regional education service center established under Chapter 8, Education Code.

(9) "Trustee" means the Teacher Retirement System of Texas.

Explanation: This change is necessary to clarify who is a dependent eligible for coverage under the new group coverage program and to clarify that certain educational districts whose employees are members of the Teacher Retirement System of Texas are also eligible to participate in the program.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Sections 4(d) and (e), Article 3.50-7, Insurance Code, as added by SECTION 1.01, House Bill No. 3343, to read as follows:

(d) During the initial period of eligibility, coverage provided under the program may not be made subject to a preexisting condition limitation.

(e) The trustee may offer optional coverages to employees participating in the program. The trustee by rule may define the types of optional coverages offered under this subsection.

Explanation: These changes are necessary to clarify that preexisting condition limitations may not be imposed during the initial eligibility, and to authorize the provision of certain optional coverages to participating employees.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 5, Article 3.50-7, Insurance Code, as added by SECTION 1.01, House Bill No. 3343, to read as follows:

Sec. 5. PARTICIPATION IN PROGRAM BY SCHOOL DISTRICTS, OTHER EDUCATIONAL DISTRICTS, AND REGIONAL EDUCATION SERVICE CENTERS. (a) Effective September 1, 2002, each school district with 500 or fewer employees and each regional education service center is required to participate in the program.

(a-1) Effective September 1, 2002, a school district that, on January 1, 2001, had more than 500 employees but not more than 1,000 employees may elect to participate in the program. A school district that elects to participate in the program under this subsection must notify the trustee of the election, in the manner prescribed by the trustee, not later than September 30, 2001. This subsection expires January 1, 2002.

(b) Effective September 1, 2005, a school district with more than 500 employees may elect to participate in the program. A school district that elects to participate under this subsection shall apply for participation in the manner prescribed by the trustee by rule.

(b-1) Notwithstanding Subsection (b) of this section, a school district with more than 500 employees may elect to participate in the program before September 1, 2005, if the trustee determines that participation by districts in that category would be administratively feasible and cost-effective. This subsection expires September 1, 2005.

(c) In determining the number of employees of a school district for purposes of Subsections (a) and (b) of this section, school districts that, on January 1, 2001, were members of a risk pool established under the authority of Chapter 172, Local Government Code, as provided by Section 22.004, Education Code, may elect to be treated as a single unit. A school district shall elect whether to be considered as a member of a risk pool under this section by notifying the trustee not later than September 1, 2001.

(d) A risk pool in existence on January 1, 2001, that, as of that date, provided group health coverage to 500 or fewer school district employees may elect to participate in the program.

(e) A school district with 500 or fewer employees that is a member of a risk pool described by Subsection (c) of this section that provides group health coverage to more than 500 school district employees must elect, not later than September 1, 2001, whether to be treated as a school district with 500 or fewer employees or as part of a unit with more than 500 employees. The school district must notify the trustee of the election, in the manner prescribed by the trustee, not later than September 1, 2001.

(f) For purposes of this section, participation in the program by school districts covered by a risk pool is limited to school districts covered by the risk pool as of January 1, 2001.

(g) Notwithstanding Subsection (a) of this section, a school district otherwise subject to Subsection (a) of this section that, on January 1, 2001, was individually self-funded for the provision of health coverage to its employees may elect to not participate in the program.

(h) Notwithstanding Subsection (a) of this section, a school district otherwise subject to Subsection (a) of this section that is a party to a contract for the provision of insurance coverage to the employees of the district that is in effect on September 1, 2002, is not required to participate in the program until the expiration of the contract period. A school district subject to this subsection shall notify the trustee in the manner prescribed by the trustee. This subsection expires March 1, 2004.

(i) An educational district described by Section 2(6)(B) of this article that, on January 1, 2001, has 500 or fewer employees may elect not to participate in the program.

Explanation: This change is necessary to clarify the participation in the group coverage program of educational districts that are not school districts but whose employees are members of the Teacher Retirement System of Texas, to add a January 1, 2001, date for determination of the size of a school district or risk pool, and to authorize larger districts to participate before September 1, 2005, if the Teacher Retirement System of Texas authorizes that early participation.

(4) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Sections 7(c) and (e), Article 3.50-7, Insurance Code, as added by SECTION 1.01, House Bill No. 3343, to read as follows:

(c) A participating employee may select coverage in any coverage plan offered by the trustee. The employee is not required to continue participation in the coverage plan initially selected and may select a higher or lower tier coverage plan than the plan initially selected by the employee in the manner provided by trustee rule. If the combined contributions received from the state and the employing participating entity under Section 9 of this article exceed the cost of a coverage plan selected by the employee, the employee may use the excess amount of contributions to obtain coverage under a higher tier coverage plan, or to pay all or part of the cost of coverage for the employee's dependents. A married couple, both of whom are eligible for coverage under the program, may pool the amount of contributions to which the couple are entitled under the program to obtain coverage for themselves and dependent coverage.

(e) Notwithstanding Subsection (d) of this section, a participating entity may pay any portion of what otherwise would be the employee share of premiums and other costs associated with the coverage selected by the employee.

Explanation: These changes are necessary to specify that an employee participating in the group coverage program may elect higher or lower coverage plans, clarifies the use of contributions for dependent coverage, and expands the authority to pay for part of an employee's premiums to all participating entities.

(5) Senate Rules 12.03(1) and (4) are suspended to permit the committee to add text changing Section 9, Article 3.50-7, Insurance Code, as added by SECTION 1.01, House Bill No. 3343, to read as follows:

Sec. 9. PAYMENT OF CONTRIBUTIONS FOR PROGRAM. (a) The state shall assist employees of participating school districts and charter schools in the purchase of group health coverage under this article by providing for each covered employee the amount of \$900 each state fiscal year or a greater amount as provided by

the General Appropriations Act. The state contribution shall be distributed through the school finance formulas under Chapters 41 and 42, Education Code, and used by school districts and charter schools as provided by Sections 42.2514 and 42.260, Education Code.

(b) The state shall assist employees of participating regional education service centers and educational districts described by Section 2(6)(B) of this article in the purchase of group health coverage under this article by providing to the employing service center for each covered employee the amount of \$900 each state fiscal year or a greater amount as provided by the General Appropriations Act.

(c) A participating entity shall make contributions for the program as provided by Article 3.50-9 of this code.

(d) An employee covered by the program shall pay that portion of the cost of coverage selected by the employee that exceeds the amount of the state contribution under Subsection (a) or (b) of this section and the participating entity contribution under Subsection (c) of this section. The employee may pay the employee's contribution under this subsection from the amount distributed to the employee under Article 3.50-8 of this code.

(e) Notwithstanding Subsection (d) of this section, a participating entity may pay any portion of what otherwise would be the employee share of premiums and other costs associated with the coverage selected by the employee.

Explanation: This change is necessary to clarify how the state contributions for the group coverage program will be made, and to specify that educational districts that are not school districts but whose employees are members of the Teacher Retirement System of Texas are eligible for state contributions.

(6) Senate Rule 12.03, Sections 9(a)(4), is suspended to permit the committee to add text changing Section 1, Article 3.50-8, Insurance Code, as added by SECTION 1.02, House Bill No. 3343, by adding a new definition of "cafeteria plan" to read as follows:

(1) "Cafeteria plan" means a plan as defined and authorized by Section 125, Internal Revenue Code of 1986, and its subsequent amendments.

Explanation: This change is necessary to clarify that the reference in the bill to the use of cafeteria plans means a plan as prescribed by federal law.

(7) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 2, Article 3.50-8, Insurance Code, as added by SECTION 1.02, House Bill No. 3343, to read as follows:

Sec. 2. ACTIVE EMPLOYEE HEALTH COVERAGE OR COMPENSATION SUPPLEMENTATION. (a) Each year, the trustee shall deliver to each school district, including a school district that is ineligible for state aid under Chapter 42, Education Code, each other educational district that is a member of the Teacher Retirement System of Texas, each eligible charter school, and each regional education service center state funds in an amount, as determined by the trustee, equal to the product of the number of employees employed by the district, school, or service center multiplied by \$1,000 or a greater amount as provided by the General Appropriations Act for purposes of this article.

(b) All funds received by a school district, other educational district, eligible charter school, or regional education service center under this article are held in trust for the benefit of the employee on whose behalf the district, school, or service center received the funds.

(c) The trustee shall distribute funds under this article in equal monthly installments. The trustee is entitled to recover from a school district, other educational district, eligible charter school, or regional education service center any amount distributed under this article to which the district, school, or service center was not entitled.

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

Explanation: This change is necessary to clarify how the state contributions for the group coverage program will be paid and allocated, and to specify that educational districts that are not school districts but whose employees are members of the Teacher Retirement System of Texas are eligible for state contributions.

(8) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 3, Article 3.50-8, Insurance Code, as added by SECTION 1.02, House Bill No. 3343, to read as follows:

Sec. 3. EMPLOYEE ELECTION. (a) If an employee is covered by a cafeteria plan of a school district, other educational district, eligible charter school, or regional education service center, the state contribution under this article shall be deposited in the cafeteria plan, and the employee may elect among the options provided by the cafeteria plan. A cafeteria plan receiving state contributions under this article may include a medical savings account option and must include, at a minimum, the following options:

(1) a health care reimbursement account;

(2) a benefit or coverage other than that provided under Article 3.50-7 of this code, or any employee coverage or dependent coverage available under Article 3.50-7 of this code but not otherwise fully funded by the state or the employer contributions, any of which must be a "qualified benefit" under Section 125, Internal Revenue Code of 1986, and its subsequent amendments;

(3) an option for the employee to receive the state contribution as supplemental compensation; or

(4) an option to divide the state contribution among two or more of the other options provided under this subsection.

(b) If an employee is not covered by a cafeteria plan of a school district, other educational district, eligible charter school, or regional education service center, the state contribution under this article shall be paid to the employee as supplemental compensation.

(c) Supplemental compensation under this section must be in addition to the rate of compensation that:

(1) the school district, other educational district, eligible charter school, or regional education service center paid the employee in the preceding school year; or

(2) the district, school, or service center would have paid the employee in the preceding school year if the employee had been employed by the district, school, or service center in the same capacity in the preceding school year.

(d) For each state fiscal year, an election under this section must be made before the later of:

(1) August 1 of the preceding state fiscal year; or

(2) the 31st day after the date the employee is hired.

(e) The trustee shall prescribe and distribute to each school district, other educational district, eligible charter school, and regional education service center:

(1) a model explanation written in English and Spanish of the options employees may elect under this section and the effect of electing each option; and

(2) an election form to be completed by employees.

(f) Each state fiscal year, a school district, other educational district, eligible charter school, or regional education service center shall prepare and distribute to each employee a written explanation in English and Spanish, as appropriate, of the options the employee may elect under this section. The explanation must be based on the model explanation prepared by the trustee under Subsection (e) of this section and must reflect all available health coverage options available to the employee. The explanation must be distributed to an employee before the later of:

(1) July 1 of the preceding state fiscal year; or

(2) the fifth day after the date the employee is hired.

(g) The written explanation under Subsection (f) of this section must be accompanied by a copy of the election form prescribed under Subsection (e)(2) of this section.

(h) Any unencumbered funds that are returned to the school district from accounts established under Subsection (a) of this section may be used only to provide employee compensation, benefits, or both.

Explanation: This change is necessary to clarify the options available to employees and to clarify the requirements for employee elections.

(9) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 4, Article 3.50-8, Insurance Code, as added by SECTION 1.02, House Bill No. 3343, by adding a new Subsection (b) to read as follows:

(b) The trustee may enter into interagency contracts with any agency of this state for the purpose of assistance in implementing this article.

Explanation: This change is necessary to clarify that the contract authority of the Teacher Retirement System of Texas applies to contracts under Article 3.50-8, Insurance Code, as added by the bill.

(9) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Sections 1 and 2, Article 3.50-10, Insurance Code, as added by SECTION 1.04, House Bill No. 3343 (corresponding to Article 3.50-9, Insurance Code, in conference committee report), to read as follows:

Sec. 1. DEFINITIONS. In this article:

(1) "Participating employee" means an employee of a school district, other educational district whose employees are members of the Teacher Retirement System of Texas, participating charter school, or regional education service center who participates in a group health coverage plan provided by or through the district, school, or service center.

(2) "Participating charter school" means an open-enrollment charter school established under Subchapter D, Chapter 12, Education Code, that participates in the uniform group coverage program established under Article 3.50-7 of this code.

(3) "Regional education service center" means a regional education service center established under Chapter 8, Education Code.

Sec. 2. MAINTENANCE OF EFFORT FOR 2000-2001 SCHOOL YEAR.

(a) Subject to Section 3 of this article, and except as provided by Section 5 of this article, a school district, other educational district whose employees are members of the Teacher Retirement System of Texas, participating charter school, or regional education service center that, for the 2000-2001 school year, paid amounts to share

with employees the cost of coverage under a group health coverage plan shall, for each fiscal year, use to provide health coverage an amount for each participating employee at least equal to the amount computed as provided by this section.

(b) The school district, other educational district, participating charter school, or regional education service center shall divide the amount that the district, school, or service center paid during the 2000-2001 school year for the prior group health coverage plan by the total number of full-time employees of the district, school, or service center in the 2000-2001 school year and multiply the result by the number of full-time employees of the district, school, or service center in the fiscal year for which the computation is made. If, for the 2000-2001 school year, a school district, other educational district, participating charter school, or regional education service center provided group health coverage to its employees through a self-funded insurance plan, the amount the district, school, or service center paid during that school year for the plan includes only the amount of regular contributions made by the district, school, or service center to the plan.

(c) Amounts used as required by this section shall be deposited, as applicable, in:

(1) the Texas school employees uniform group coverage trust fund established under Section 8, Article 3.50-7, of this code; or

(2) another fund established for the payment of employee health coverage that meets requirements for those funds prescribed by the Texas Education Agency.

Explanation: This change is necessary to clarify that certain educational districts whose employees are members of the Teacher Retirement System of Texas, open-enrollment charter schools that participate in the statewide group health coverage program, and regional education service centers are required to maintain current spending efforts for employee health coverage.

(10) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 3, Article 3.50-10, Insurance Code, as added by SECTION 1.04, House Bill No. 3343 (corresponding to Article 3.50-9, Insurance Code, in conference committee report), to read as follows:

Sec. 3. MINIMUM EFFORT. (a) A school district, other educational district, participating charter school, or regional education service center shall, for each fiscal year, use to provide health coverage an amount equal to the number of participating employees of the district, school, or service center multiplied by \$1,800. Amounts used as required by this section shall be deposited in a fund described by Section 2(c) of this article.

(b) To comply with this section, a school district or participating charter school may use state funds received under Chapter 42, Education Code, other than funds that may be used under that chapter only for a specific purpose, except that amounts a district or school is required to use to pay contributions under a group health coverage plan for district or school employees under Section 42.2514 or 42.260, Education Code, other than amounts described by Section 42.260(c)(2)(B), are not used in computing whether the district or school complies with this section.

Explanation: This change is necessary to clarify that certain educational districts whose employees are members of the Teacher Retirement System of Texas, open-enrollment charter schools that participate in the statewide group health coverage program, and regional education service centers are required to meet the same minimum spending effort applicable to school districts, and to clarify that certain state funds school districts and participating charter schools are required to use in meeting the minimum spending effort count against the minimum effort.



(11) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Sections 4(a)-(a-7), Article 3.50-10, Insurance Code (corresponding to Article 3.50-9, Insurance Code, in conference committee report), as added by SECTION 1.04, House Bill No. 3343, to read as follows:

(a) For any state fiscal year beginning with the fiscal year ending August 31, 2003, except as provided by Subsection (b) of this section, a school district that imposes maintenance and operations taxes at the maximum rate permitted under Section 45.003(d), Education Code, is entitled to state funds in an amount equal to the difference, if any, between:

(1) an amount equal to the number of participating employees of the district multiplied by \$1,800; and

(2) if the following amount is less than the amount specified by Subdivision (1) of this subsection, the sum of:

(A) the amount the district is required to use to provide health coverage under Section 2 of this article for that fiscal year; and

(B) the difference, if any, between:

(i) the amount determined under Section 42.2514(b)(2), Education Code; and

(ii) the amount determined under Section 42.2514(b)(1), Education Code, if that amount is less than the amount specified by Subparagraph (i) of this paragraph.

(a-1) For the state fiscal year beginning September 1, 2002, a school district or participating entity is entitled to state funds in an amount equal to the difference, if any, between:

(1) an amount equal to the number of participating employees of the district or entity multiplied by \$1,800; and

(2) if the following amount is less than the amount specified by Subdivision (1) of this subsection, the sum of:

(A) the amount the district or entity is required to use to provide health coverage under Section 2 of this article for that fiscal year; and

(B) the difference, if any, between:

(i) the amount determined under Section 42.2514(b)(2), Education Code; and

(ii) the amount determined under Section 42.2514(b)(1), Education Code, if that amount is less than the amount specified by Subparagraph (i) of this paragraph.

(a-2) For the state fiscal year beginning September 1, 2003, a school district or participating entity is entitled to state funds in an amount equal to the difference, if any, between:

(1) an amount equal to the number of participating employees of the district or entity multiplied by \$1,500; and

(2) if the following amount is less than the amount specified by Subdivision (1) of this subsection, the sum of:

(A) the amount the district or entity is required to use to provide health coverage under Section 2 of this article for that fiscal year; and

(B) the difference, if any, between:

(i) the amount determined under Section 42.2514(b)(2), Education Code; and

(ii) the amount determined under Section 42.2514(b)(1), Education Code, if that amount is less than the amount specified by Subparagraph (i) of this paragraph.

(a-3) For the state fiscal year beginning September 1, 2004, a school district or participating entity is entitled to state funds in an amount equal to the difference, if any, between:

(1) an amount equal to the number of participating employees of the district or entity multiplied by \$1,200; and

(2) if the following amount is less than the amount specified by Subdivision (1) of this subsection, the sum of:

(A) the amount the district or entity is required to use to provide health coverage under Section 2 of this article for that fiscal year; and

(B) the difference, if any, between:

(i) the amount determined under Section 42.2514(b)(2), Education Code; and

(ii) the amount determined under Section 42.2514(b)(1), Education Code, if that amount is less than the amount specified by Subparagraph (i) of this paragraph.

(a-4) For the state fiscal year beginning September 1, 2005, a school district or participating entity is entitled to state funds in an amount equal to the difference, if any, between:

(1) an amount equal to the number of participating employees of the district or entity multiplied by \$900; and

(2) if the following amount is less than the amount specified by Subdivision (1) of this subsection, the sum of:

(A) the amount the district or entity is required to use to provide health coverage under Section 2 of this article for that fiscal year; and

(B) the difference, if any, between:

(i) the amount determined under Section 42.2514(b)(2), Education Code; and

(ii) the amount determined under Section 42.2514(b)(1), Education Code, if that amount is less than the amount specified by Subparagraph (i) of this paragraph.

(a-5) For the state fiscal year beginning September 1, 2006, a school district or participating entity is entitled to state funds in an amount equal to the difference, if any, between:

(1) an amount equal to the number of participating employees of the district or entity multiplied by \$600; and

(2) if the following amount is less than the amount specified by Subdivision (1) of this subsection, the sum of:

(A) the amount the district or entity is required to use to provide health coverage under Section 2 of this article for that fiscal year; and

(B) the difference, if any, between:

(i) the amount determined under Section 42.2514(b)(2), Education Code; and

(ii) the amount determined under Section 42.2514(b)(1), Education Code, if that amount is less than the amount specified by Subparagraph (i) of this paragraph.

(a-6) For the state fiscal year beginning September 1, 2007, a school district or participating entity is entitled to state funds in an amount equal to the difference, if any, between:

(1) an amount equal to the number of participating employees of the district or entity multiplied by \$300; and

(2) if the following amount is less than the amount specified by Subdivision (1) of this subsection, the sum of:

(A) the amount the district or entity is required to use to provide health coverage under Section 2 of this article for that fiscal year; and

(B) the difference, if any, between:

(i) the amount determined under Section 42.2514(b)(2), Education Code; and

(ii) the amount determined under Section 42.2514(b)(1), Education Code, if that amount is less than the amount specified by Subparagraph (i) of this paragraph.

(a-7) A school district that receives state funds under Subsection (a) of this section for a state fiscal year is not entitled to state funds under Subsection (a-1), (a-2), (a-3), (a-4), (a-5), or (a-6) of this section.

Explanation: This change is necessary to require school districts and participating charter schools for whom 75 percent of the increased funding through the foundation school program funding elements exceeds the level of \$900 per employee per year to use that excess towards meeting the minimum spending effort.

(12) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 4(c), Article 3.50-10, Insurance Code (corresponding to Article 3.50-9, Insurance Code, in conference committee report), as added by SECTION 1.04, House Bill No. 3343, to read as follows:

(c) The Teacher Retirement System of Texas shall distribute state funds to school districts and participating entities under this section in equal monthly installments. State funds received under this section shall be deposited in a fund described by Section 2(c) of this article. The Texas Education Agency shall provide to the retirement system information necessary for the retirement system to determine a school district's or participating entity's eligibility for state funds under this section. The trustee may enter into interagency contracts with any agency of this state for the purpose of assistance in distributing funds under this article.

Explanation: This change is necessary to permit the Teacher Retirement System of Texas to enter into interagency contracts relating to the distribution of state assistance towards meeting the minimum spending effort.

(13) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 41.002(a), Education Code, as amended by SECTIONS 2.02 and 2.03, senate committee report, House Bill No. 3343, to read as follows:

SECTION 2.02. Effective September 1, 2001, Section 41.002(a), Education Code, is amended to read as follows:

(a) A school district may not have a wealth per student that exceeds \$300,000 [~~\$295,000~~].

SECTION 2.03. Effective September 1, 2002, Section 41.002(a), Education Code, is amended to read as follows:

(a) A school district may not have a wealth per student that exceeds \$305,000 [~~\$295,000~~].

Explanation: This change is necessary to increase the equalized wealth level under the school finance system.

(14) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 42.2514, Education Code, as added by SECTION 2.06, senate committee report, House Bill No. 3343, to read as follows:

SECTION 2.05. Effective September 1, 2002, Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2514 to read as follows:

Sec. 42.2514. ADDITIONAL STATE AID FOR SCHOOL EMPLOYEE BENEFITS. (a) In this section, "participating charter school" means an open-enrollment charter school that participates in the uniform group coverage program established under Article 3.50-7, Insurance Code.

(b) For each school year, a school district, including a school district that is otherwise ineligible for state aid under this chapter, or a participating charter school is entitled to state aid in an amount, as determined by the commissioner, equal to the difference, if any, between:

(1) the amount determined by multiplying the amount of \$900 or the amount specified in the General Appropriations Act for that year for purposes of the state contribution under Section 9, Article 3.50-7, Insurance Code, by the number of district or school employees who participate in a group health coverage plan provided by or through the district or school; and

(2) an amount equal to 75 percent of the amount of:

(A) additional funds to which the district or school is entitled due to the increase made by H.B. No. 3343, Acts of the 77th Legislature, Regular Session, 2001, to:

(i) the equalized wealth level under Section 41.002; and

(ii) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302; or

(B) additional state aid to which the district is entitled under Section 42.2513.

(c) A school district or participating charter school may use state aid received under this section only to pay contributions under a group health coverage plan for district or school employees.

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

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

Explanation: This change is necessary to permit open-enrollment charter schools that participate in the uniform group coverage plan to receive additional state funding if the increased funding the school receives through the foundation school program funding elements does not reach the level of \$900 per employee per year.

(15) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 42.260, Education Code, as added by SECTION 2.10, senate committee report, House Bill No. 3343, to read as follows:

SECTION 2.08. Effective September 1, 2002, Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.260 to read as follows:

Sec. 42.260. USE OF CERTAIN FUNDS. (a) In this section, "participating charter school" has the meaning assigned by Section 42.2514.

(b) For each year, the commissioner shall certify to each school district or participating charter school the amount of:

(1) additional funds to which the district or school is entitled due to the increase made by H.B. No. 3343, Acts of the 77th Legislature, Regular Session, 2001, to:

(A) the equalized wealth level under Section 41.002; or

(B) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302; or

(2) additional state aid to which the district or school is entitled under Section 42.2513.

(c) Notwithstanding any other provision of this code, a school district or participating charter school may use the following amount of funds only to pay contributions under a group health coverage plan for district or school employees:

(1) an amount equal to 75 percent of the amount certified for the district or school under Subsection (b); or

(2) if the following amount is less than the amount specified by Subdivision (1), the sum of:

(A) the amount determined by multiplying the amount of \$900 or the amount specified in the General Appropriations Act for that year for purposes of the state contribution under Section 9, Article 3.50-7, Insurance Code, by the number of district or school employees who participate in a group health coverage plan provided by or through the district or school; and

(B) the difference between the amount necessary for the district or school to comply with Section 3, Article 3.50-9, Insurance Code, for the school year and the amount the district or school is required to use to provide health coverage under Section 2 of that article for that year.

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

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

Explanation: This change is necessary to require open-enrollment charter schools that participate in the uniform group coverage plan to use a portion of state funding received through the increases in the foundation school program funding elements to provide employee health coverage.

(16) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 42.302(a), Education Code, as amended by SECTIONs 2.11 and 2.12, senate committee report, House Bill No. 3343, to read as follows:

SECTION 2.09. Effective September 1, 2001, Section 42.302(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is \$25.81 [~~\$24.99~~] or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100.

SECTION 2.10. Effective September 1, 2002, Section 42.302(a), Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is \$27.14 [~~\$24.99~~] or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of maintenance and operations taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100.

Explanation: This change is necessary to increase the guaranteed level of state and local funding per weighted student per penny of tax effort.

(17) Senate Rule 12.03(4) is suspended to permit the committee to add text adding Subsection (l) to Section 26.08, Tax Code, as amended by SECTION 1.06, House Bill No. 3343, to read as follows:

(l) For purposes of Subsection (k), the amount of state funds that would have been available to a school district in the preceding year is computed using the maximum tax rate for the current year under Section 42.253(e), Education Code.

Explanation: This change is necessary to clarify that school district rollback tax rates that are adjusted for tax increases in connection with the minimum spending effort are computed in the same manner as other school district rollback tax rates.

(18) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 62.1015, Health and Safety Code, as added by SECTION 1.07, House Bill No. 3343, to read as follows:

SECTION 1.04. Subchapter C, Chapter 62, Health and Safety Code, is amended by adding Section 62.1015 to read as follows:

Sec. 62.1015. ELIGIBILITY OF CERTAIN CHILDREN; DISALLOWANCE OF MATCHING FUNDS. (a) In this section, "charter school," "employee," and "regional education service center" have the meanings assigned by Section 2, Article 3.50-7, Insurance Code.

(b) A child of an employee of a charter school, school district, other educational district whose employees are members of the Teacher Retirement System of Texas, or regional education service center may be enrolled in health benefits coverage under the child health plan. A child enrolled in the child health plan under this section participates in the same manner as any other child enrolled in the child health plan.

(c) The cost of health benefits coverage for children enrolled in the child health plan under this section shall be paid as provided in the General Appropriations Act. Expenditures made to provide health benefits coverage under this section may not be included for the purpose of determining the state children's health insurance expenditures, as that term is defined by 42 U.S.C. Section 1397ee(d)(2)(B), as amended, unless the Health and Human Services Commission, after consultation with the appropriate federal agencies, determines that the expenditures may be included without adversely affecting federal matching funding for the child health plan provided under this chapter.

Explanation: This change is necessary to provide for coverage under the child health program for children of employees of all entities eligible to participate in the new group coverage plan and to clarify the Health and Human Services Commission's authority to determine whether resulting expenditures affect federal matching funds for the child health program.

(19) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 3, Article 3.51, Insurance Code, as amended by SECTION 3.16, House Bill No. 3343, by adding a new Subsection (b) to read as follows:

(b) This section does not preclude an entity described by Subsection (a) of this section from procuring contracts under this article for the provision of optional insurance coverages to the employees of the entity.

Explanation: This change is necessary to clarify that a participating entity retains the authority to purchase optional coverages for its employees.

(20) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Article 26.036(c), Insurance Code, as added by SECTION 3.17, House Bill No. 3343, to read as follows:

(c) An independent school district that is participating in the uniform group coverage program established under Article 3.50-7 of this code may not participate in the small employer market under this article for health insurance coverage and may not

renew a health insurance contract obtained in accordance with this article after the date on which the program of coverages provided under Article 3.50-7 of this code is implemented. This subsection does not affect a contract for the provision of optional coverages not included in a health benefits plan under this chapter.

Explanation: This change is necessary to clarify that an independent school district retains the authority to purchase optional coverages for its employees through the small employer program under Chapter 26, Insurance Code.

(21) Senate Rule 12.03(4) is suspended to permit the committee to add text changing Section 22.004, Education Code, as amended by SECTION 3.18, House Bill No. 3343, to read as follows:

Sec. 22.004. GROUP HEALTH BENEFITS FOR SCHOOL EMPLOYEES.

(a) A [Each] district shall participate in the uniform group coverage program established under Article 3.50-7, Insurance Code, as provided by Section 5 of that article.

(b) A district that does not participate in the program described by Subsection (a) shall make available to its employees group health coverage provided by a risk pool established by one or more school districts under Chapter 172, Local Government Code, or under a policy of insurance or group contract issued by an insurer, a company subject to Chapter 20, Insurance Code, or a health maintenance organization under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code). The coverage must meet the substantive coverage requirements of Article 3.51-6, Insurance Code, and any other law applicable to group health insurance policies or contracts issued in this state. The coverage must include major medical treatment but may exclude experimental procedures. In this subsection, "major medical treatment" means a medical, surgical, or diagnostic procedure for illness or injury. The coverage may include managed care or preventive care and must be comparable to the basic health coverage provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code). The board of trustees of the Teacher Retirement System of Texas shall adopt rules to determine whether a school district's group health coverage is comparable to the basic health coverage specified by this subsection. The rules must provide for consideration of the following factors concerning the district's coverage in determining whether the district's coverage is comparable to the basic health coverage specified by this subsection:

(1) the deductible amount for service provided inside and outside of the network;

(2) the coinsurance percentages for service provided inside and outside of the network;

(3) the maximum amount of coinsurance payments a covered person is required to pay;

(4) the amount of the copayment for an office visit;

(5) the schedule of benefits and the scope of coverage;

(6) the lifetime maximum benefit amount; and

(7) verification that the coverage is issued by a provider licensed to do business in this state by the Texas Department of Insurance or is provided by a risk pool authorized under Chapter 172, Local Government Code, or that a district is capable of covering the assumed liabilities in the case of coverage provided through district self-insurance.



(c) ~~(b)~~ The cost of the coverage provided under the program described by Subsection (a) shall be paid by the state, the district, and the employees in the manner provided by Article 3.50-7, Insurance Code. The cost of coverage provided under a plan adopted under Subsection (b) shall ~~may~~ be shared by the employees and the district using the contributions by the state described by Section 9, Article 3.50-7, Insurance Code, and Article 3.50-8, Insurance Code.

(d) ~~(e)~~ Each district shall report the district's compliance with this section ~~subsection~~ to the executive director of the Teacher Retirement System of Texas not later than March 1 of each even-numbered year in the manner required by the board of trustees of the Teacher Retirement System of Texas. For a district that does not participate in the program described by Subsection (a), the ~~The~~ report must be based on the district group health coverage plan in effect during the current plan year and must include:

(1) appropriate documentation of:

(A) the district's contract for group health coverage with a provider licensed to do business in this state by the Texas Department of Insurance or a risk pool authorized under Chapter 172, Local Government Code; or

(B) a resolution of the board of trustees of the district authorizing a self-insurance plan for district employees and of the district's review of district ability to cover the liability assumed;

(2) the schedule of benefits;

(3) the premium rate sheet, including the amount paid by the district and employee;

(4) the number of employees covered by the ~~each~~ health coverage plan offered by the district; and

(5) any other information considered appropriate by the executive director of the Teacher Retirement System of Texas.

(e) ~~(d)~~ Based on the criteria prescribed by Subsection (b) ~~(a)~~, the executive director of the Teacher Retirement System of Texas shall, for each district that does not participate in the program described by Subsection (a), certify whether a district's coverage is comparable to the basic health coverage provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code). If the executive director of the Teacher Retirement System of Texas determines that the group health coverage offered by a district is not comparable, the executive director shall report that information to the district and to the Legislative Budget Board. The executive director shall submit a report to the legislature not later than September 1 of each even-numbered year describing the status of each district's group health coverage program based on the information contained in the report required by Subsection (d) ~~(e)~~ and the certification required by this subsection.

(f) ~~(e)~~ A school district that does not participate in the program described by Subsection (a) may not contract with an insurer, a company subject to Chapter 20, Insurance Code, or a health maintenance organization to issue a policy or contract under this section, or with any person to assist the school district in obtaining or managing the policy or contract unless, before the contract is entered into, the insurer, company, organization, or person provides the district with an audited financial statement showing the financial condition of the insurer, company, organization, or person.

(g) [(f)] An insurer, a company subject to Chapter 20, Insurance Code, or a health maintenance organization that issues a policy or contract under this section and any person that assists the school district in obtaining or managing the policy or contract for compensation shall provide an annual audited financial statement to the school district showing the financial condition of the insurer, company, organization, or person.

(h) [(g)] An audited financial statement provided under this section must be made in accordance with rules adopted by the commissioner of insurance or state auditor, as applicable.

(i) Notwithstanding any other provision of this section, a district participating in the uniform group coverage program established under Article 3.50-7, Insurance Code, may not make group health coverage available to its employees under this section after the date on which the program of coverages provided under Article 3.50-7, Insurance Code, is implemented.

(j) This section does not preclude a district that is participating in the uniform group coverage program established under Article 3.50-7, Insurance Code, from entering into contracts to provide optional insurance coverages for the employees of the district.

Explanation: This change is necessary to clarify that a school district that does not participate in the group coverage program retains the responsibility to offer coverage comparable to the plan provided to state employees through the Employees Retirement System of Texas, and also retains the authority to purchase optional coverages for its employees.

(22) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 4.01 to read as follows:

SECTION 4.01. On September 1, 2002, the comptroller shall transfer the amount of \$42 million from the retired school employees group insurance fund created under Section 15, Article 3.50-4, Insurance Code, as amended by this Act, to the Texas school employees uniform group coverage trust fund created under Section 8, Article 3.50-7, Insurance Code, as added by this Act. The Teacher Retirement System of Texas shall use the amount transferred under this section to establish and implement the uniform group coverage program for school employees established under Article 3.50-7, Insurance Code, as added by this Act.

Explanation: This change is necessary to use a portion of the current balance in the fund for the TRS-Care program to implement the group coverage program for active school employees.

(23) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 4.02 to read as follows:

SECTION 4.02. A portion of the amounts appropriated in Article III, S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, to the Texas Education Agency is allocated as provided by this section:

(1) for the fiscal year ending August 31, 2002, the amount appropriated under Strategy A.2.1.: FSP-Equalized Operations is reduced by the sum of \$3 million and the amount appropriated to the Teacher Retirement System of Texas is increased by that amount for the establishment and implementation of the uniform group coverage program for school employees established under Article 3.50-7, Insurance Code, as added by this Act;

(2) for the fiscal year ending August 31, 2003, the amount appropriated under Strategy A.2.1.: FSP-Equalized Operations is reduced by the sum of \$691,100,000 and the amount appropriated to the Teacher Retirement System of Texas is increased by that amount for payment of:

(A) school employee health coverage or compensation supplementation under Article 3.50-8, Insurance Code, as added by this Act; and

(B) state assistance in meeting the minimum effort regarding school employee health coverage under Article 3.50-9, Insurance Code, as added by this Act;

(3) for the fiscal year ending August 31, 2003, the amount appropriated under Strategy A.2.1.: FSP-Equalized Operations is reduced by the sum of \$1,361,000 and the amount appropriated to the Teacher Retirement System of Texas is increased by that amount for assistance to school districts in paying social security taxes on amounts of supplemental compensation received by district employees under Article 3.50-8, Insurance Code, as added by this Act, as provided by Section 6, Article 3.50-9, Insurance Code, as added by this Act; and

(4) for the fiscal year ending August 31, 2003, the amount appropriated under Strategy A.2.1.: FSP-Equalized Operations is reduced by the sum of \$4.2 million and the amount appropriated to the Health and Human Services Commission is increased by that amount for payment of the costs of health benefits coverage for children enrolled in the child health plan under Section 62.1015, Health and Safety Code, as added by this Act.

Explanation: This change is necessary to reallocate money previously appropriated in Senate Bill No. 1 for the foundation school program to the Teacher Retirement System of Texas for establishing and implementing the group coverage program for active school employees, for paying school employee health coverage or compensation supplementation, state assistance in meeting the minimum effort requirement, and assistance to certain school districts for paying additional social security taxes, and to the Health and Human Services Commission for paying costs of health benefits coverage for children of school employees enrolled in the child health plan.

(24) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 4.03 to read as follows:

SECTION 4.03. The Legislative Budget Board shall increase the number of full-time-equivalent positions authorized for the Teacher Retirement System of Texas by S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, by 25 for each fiscal year of the biennium ending August 31, 2003.

Explanation: This change is necessary to allow the Teacher Retirement System of Texas to employ additional employees to establish and implement the group coverage program for active school employees.

(25) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 4.04 to read as follows:

SECTION 4.04. The Legislative Budget Board shall increase the number of full-time-equivalent positions authorized for the Texas Education Agency by S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, by three for each fiscal year of the biennium ending August 31, 2003.

Explanation: This change is necessary to allow the Texas Education Agency to employ additional employees to implement the group coverage program for active school employees and the system for making associated payments to school districts.

(26) Senate Rule 12.03(4) is suspended to permit the committee to add text to the transitional material in the bill, as added by SECTIONS 5.02 through 5.06, House Bill No. 3343, to read as follows:

SECTION 5.02. The Teacher Retirement System of Texas shall transfer to the fund established under Section 8, Article 3.50-7, Insurance Code, as added by this Act, any outstanding balance held by the Teacher Retirement System of Texas as of December 31, 2001, in the school employees group insurance fund established under Section 15, Article 3.50-4, Insurance Code, that was designated for use in programs relating to active school district employees.

SECTION 5.03. Not later than July 31, 2001, the Teacher Retirement System of Texas shall provide written information to school districts subject to Section 5(a-1), Article 3.50-7, Insurance Code, as added by this Act, that provides a general description of the uniform group coverage program established under Article 3.50-7, Insurance Code, as added by this Act.

SECTION 5.04. A school district that becomes eligible to participate in the uniform group coverage program established under Article 3.50-7, Insurance Code, as added by this Act, as provided by Section 5(b) of that article and that elects to participate in the program beginning September 1, 2005, must notify the Teacher Retirement System of Texas of the election not later than January 1, 2005.

SECTION 5.05. During the initial implementation of Article 3.50-7, Insurance Code, as added by this Act, and notwithstanding any bidding requirements or other requirements set forth in Article 3.50-4, Insurance Code, or Article 3.50-7, Insurance Code, as added by this Act, the Teacher Retirement System of Texas may amend any agreement in effect on September 1, 2001, that it has entered into under Article 3.50-4, Insurance Code, for benefits or administration to extend application of that agreement to include participants and programs under Article 3.50-7, Insurance Code, as added by this Act, and may, as necessary, extend the periods of contracts for benefits or administration in effect on September 1, 2001, under Article 3.50-4, Insurance Code.

SECTION 5.06. As soon as practicable after September 1, 2001, the Health and Human Services Commission shall consult with the appropriate federal agencies and make the determination required by Section 62.1015, Health and Safety Code, as added by this Act.

Explanation: These changes are necessary to modify the transitional material to accurately reflect the changes made to the bill.

(27) Senate Rule 12.03(4) is suspended to permit the committee to add text to the transitional material in the bill, as added by SECTION 5.07, House Bill No. 3343, to read as follows:

SECTION 5.07. Notwithstanding any applicable state law relating to competitive bidding requirements for school districts, a school district that is required as of September 1, 2002, to participate in the uniform group coverage program established under Article 3.50-7, Insurance Code, as added by this Act, is exempt from any requirement that the district request bids for health insurance coverage before the renewal date of the district's contract for health insurance coverage for the 2001-2002 school year.

Explanation: This change is necessary to grant school districts that will be required to participate in the uniform group coverage plan additional flexibility in negotiating health insurance coverage contracts for the 2001-2002 school year.

(28) Senate Rule 12.03(4) is suspended to permit the committee to add text to the transitional material in the bill, as added by SECTION 5.08, House Bill No. 3343, to read as follows:

SECTION 5.08. (a) Except as otherwise provided by this Act, this Act takes effect September 1, 2001.

(b) Sections 5.03 and 5.07 of this Act take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Sections 5.03 and 5.07 of this Act take effect September 1, 2001.

Explanation: This change is necessary to allow certain transitional provisions to have immediate effect.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### SENATE RESOLUTION 1256

Senator Bivins offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 H.B. 6, relating to open-enrollment charter schools, to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add new provisions to the bill to read as follows:

SECTION 2. Section 12.101(b), Education Code, is amended to read as follows:

(b) The State Board of Education may grant a charter for an open-enrollment charter school only to an applicant that meets any financial, governing, and operational standards adopted by the commissioner under this subchapter. The State Board of Education may not grant a total of more than 215 [20] charters for an open-enrollment charter school.

Explanation: This addition is necessary to require that a charter granted for an open-enrollment charter school must comply with standards adopted by the commissioner of education and to raise the limit on the number of charters that may be granted.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add new provisions to the bill to read as follows:

SECTION 4. Section 12.103, Education Code, is amended to read as follows:

Sec. 12.103. GENERAL APPLICABILITY OF LAWS, [AND] RULES, AND ORDINANCES TO OPEN-ENROLLMENT CHARTER SCHOOL. (a) Except as provided by Subsection (b) or (c), an [An] open-enrollment charter school is subject to federal and state laws and rules governing public schools and to municipal zoning ordinances governing public schools.

(b) An[, except that an] open-enrollment charter school is subject to this code and rules adopted under this code only to the extent the applicability to an open-enrollment charter school of a provision of this code or a rule adopted under this code is specifically provided.

(c) Notwithstanding Subsection (a), a campus of an open-enrollment charter school located in whole or in part in a municipality with a population of 20,000 or less is not subject to a municipal zoning ordinance governing public schools.

Explanation: These additions are necessary to subject certain open-enrollment charter schools to municipal zoning ordinances governing public schools.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add a new subsection to Section 12.104, Education Code, as amended by the bill, to read as follows:

(d) The commissioner may by rule permit an open-enrollment charter school to voluntarily participate in any state program available to school districts, including a purchasing program, if the school complies with all terms of the program.

Explanation: This addition is necessary to authorize the commissioner of education by rule to permit open-enrollment charter schools to participate in state programs available to school districts.

(4) Senate Rule 12.03(4) is suspended to permit the committee to add new provisions to the bill to read as follows:

Sec. 12.1054. APPLICABILITY OF LAWS RELATING TO CONFLICT OF INTEREST. (a) A member of the governing body of a charter holder, a member of the governing body of an open-enrollment charter school, or an officer of an open-enrollment charter school is considered to be a local public official for purposes of Chapter 171, Local Government Code. For purposes of that chapter:

(1) a member of the governing body of a charter holder or a member of the governing body or officer of an open-enrollment charter school is considered to have a substantial interest in a business entity if a person related to the member or officer in the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest in the business entity under Section 171.002, Local Government Code;

(2) a member of the governing body or officer of a charter school rated as academically acceptable or higher under Chapter 39 for at least two of the preceding three school years, or a member of the governing body of the charter holder of such a school, is not subject to the restrictions of Section 171.009, Local Government Code; and

(3) notwithstanding any provision of that chapter, an employee of an open-enrollment charter school rated as academically acceptable or higher under Chapter 39 for at least two of the preceding three school years may serve as a member of the governing body of the charter holder or the governing body of the school if the employees do not constitute a quorum of the governing body or any committee of the governing body.

(b) To the extent consistent with this section, a requirement in a law listed in this section that applies to a school district or the board of trustees of a school district applies to an open-enrollment charter school, the governing body of a charter holder, or the governing body of an open-enrollment charter school.

Explanation: This addition is necessary to provide an exception from the requirements of certain laws relating to conflicts of interest for certain open-enrollment charter schools rated as academically acceptable or higher for a specified period.

(5) Senate Rule 12.03(4) is suspended to permit the committee to add a new subsection to Section 12.106, Education Code, as amended by the bill, to read as follows:

(c) The commissioner may adopt rules to provide and account for state funding of open-enrollment charter schools under this section. A rule adopted under this section may be similar to a provision of this code that is not similar to Section 12.104(b) if the commissioner determines that the rule is related to financing of open-enrollment charter schools and is necessary or prudent to provide or account for state funds.

Explanation: This addition is necessary to authorize the commissioner of education to adopt rules related to the financing of open-enrollment charter schools and necessary or prudent in accounting for state funds received by the schools.

(6) Senate Rule 12.03(4) is suspended to permit the committee to add new provisions to the bill to read as follows:

SECTION 10. Sections 12.114-12.116, Education Code, are amended to read as follows:

Sec. 12.114. REVISION. A revision of a charter of an open-enrollment charter school may be made only with the approval of the commissioner [~~State Board of Education~~].

Sec. 12.115. BASIS FOR MODIFICATION, PLACEMENT ON PROBATION, REVOCATION, OR DENIAL OF RENEWAL. (a) The commissioner [~~State Board of Education~~] may modify, place on probation, revoke, or deny renewal of the charter of an open-enrollment charter school if the commissioner [~~board~~] determines that the charter holder [~~person operating the school~~]:

(1) committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) failed to satisfy generally accepted accounting standards of fiscal management;

(3) failed to protect the health, safety, or welfare of the students enrolled at the school; or

(4) [~~(3)~~] failed to comply with this subchapter or another applicable law or rule.

(b) The action the commissioner [~~board~~] takes under Subsection (a) shall be based on the best interest of the school's students, the severity of the violation, and any previous violation the school has committed.

Sec. 12.116. PROCEDURE FOR MODIFICATION, PLACEMENT ON PROBATION, REVOCATION, OR DENIAL OF RENEWAL. (a) The commissioner [~~State Board of Education~~] shall adopt a procedure to be used for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school.

(b) The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the charter holder [~~person operating the open-enrollment charter school~~] and to parents and guardians of students in the school. A hearing under this subsection must be held at the facility at which the program is operated.

(c) Chapter 2001, Government Code, does not apply to a hearing that is related to a modification, placement on probation, revocation, or denial of renewal under this subchapter.

Explanation: These additions are necessary to authorize the commissioner of education to modify, place on probation, revoke, or deny the renewal of an open-enrollment charter school's charter and to require the commissioner to adopt a procedure to be used for taking such action.

(7) Senate Rule 12.03(4) is suspended to permit the committee to add new provisions to the bill to read as follows:

SECTION 13. Sections 12.118(a) and (c), Education Code, are amended to read as follows:

(a) The commissioner [~~board~~] shall designate an impartial organization with experience in evaluating school choice programs to conduct an annual evaluation of open-enrollment charter schools.

(c) The evaluation of open-enrollment charter schools must also include an evaluation of:

(1) the costs of instruction, administration, and transportation incurred by open-enrollment charter schools; [~~and~~]

(2) the effect of open-enrollment charter schools on school districts and on teachers, students, and parents in those districts; and

(3) other issues, as determined by the commissioner.

Explanation: These additions are necessary to authorize the commissioner to designate an organization to evaluate open-enrollment charter schools on issues determined by the commissioner.

(8) Senate Rule 12.03(4) is suspended to permit the committee to add a new provision to the bill to read as follows:

Sec. 12.130. NOTICE OF TEACHER QUALIFICATIONS. Each open-enrollment charter school shall provide to the parent or guardian of each student enrolled in the school written notice of the qualifications of each teacher employed by the school.

Explanation: This addition is necessary to require open-enrollment charter schools to provide students' parents with notice of teacher qualifications.

(9) Senate Rule 12.03(4) is suspended to permit the committee to add new provisions to the bill to read as follows:

SECTION 24. Section 39.073(a), Education Code, is amended to read as follows:

(a) The agency shall annually review the performance of each district and campus on the indicators adopted under Sections 39.051(b)(1) through (7) and determine if a change in the accreditation status of the district is warranted. The commissioner may determine how all indicators adopted under Section 39.051(b) may be used to determine accountability ratings and to select districts and campuses for acknowledgment.

SECTION 25. Subchapter D, Chapter 39, Education Code, is amended by adding Section 39.0731 to read as follows:

Sec. 39.0731. ALTERNATIVE ACCREDITATION STATUS PILOT PROGRAM FOR CERTAIN DISTRICTS, CAMPUSES, AND OPEN-ENROLLMENT CHARTER SCHOOLS. (a) The commissioner may by rule develop an alternative accreditation status pilot program for the 2001-2002 school



year that is designed to reflect the academic performance and improvement of students enrolled at a district, campus, or open-enrollment charter school that:

(1) primarily serves at-risk students, as defined in Section 29.081, as determined by the commissioner; or

(2) is not required to administer assessment instruments under Section 39.023.

(b) The pilot program:

(1) must include an analysis of student performance and improvement on indicators determined by the commissioner under Section 39.073(a); and

(2) may include an analysis of student performance on an assessment instrument authorized under Section 28.006.

(c) Notwithstanding participation in the pilot program, a district, campus, or open-enrollment charter school that participates in the pilot program also continues to receive the accountability rating that the district, campus, or school would otherwise receive under this chapter and is subject to any applicable sanctions under this chapter based on that rating.

(d) Not later than December 1, 2002, the commissioner shall compile the results of the pilot program and any recommendations in a report and submit the report to the governor, lieutenant governor, speaker of the house of representatives, and the presiding officer of each standing committee of the senate and house of representatives having primary jurisdiction over public education.

(e) This section expires January 1, 2003.

Explanation: These additions are necessary to authorize the commissioner of education to consider additional performance indicators for accountability purposes and to develop an alternative accreditation status pilot program for school districts, campuses, and open-enrollment charter schools.

The resolution was read and was adopted by the following vote: Yeas 27, Nays 3, Present-not voting 1.

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

Nays: Barrientos, Gallegos, Truan.

Present-not voting: Mr. President.

### **SENATE RESOLUTION 1257**

Senator Bivins offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 House Bill No. 2879, relating to public school finance, to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to amend Section 21.402(c), Education Code, to read as follows:

(c) The salary factors per step are as follows:

Years Experience	0	1	2	3	4
Salary Factor	<u>.5656</u> [:5596]	<u>.5790</u> [:5728]	<u>.5924</u> [:5861]	<u>.6058</u> [:5993]	<u>.6340</u> [:6272]
Years Experience	5	6	7	8	9
Salary Factor	<u>.6623</u> [:6552]	<u>.6906</u> [:6831]	<u>.7168</u> [:7091]	<u>.7416</u> [:7336]	<u>.7651</u> [:7569]
Years Experience	10	11	12	13	14
Salary Factor	<u>.7872</u> [:7787]	<u>.8082</u> [:7996]	<u>.8281</u> [:8192]	<u>.8467</u> [:8376]	<u>.8645</u> [:8552]
Years Experience	15	16	17	18	19
Salary Factor	<u>.8811</u> [:8717]	<u>.8970</u> [:8874]	<u>.9119</u> [:9021]	<u>.9260</u> [:9160]	<u>.9394</u> [:9293]
Years Experience	20 and over				
Salary Factor	<u>.9520</u> [:9418]				

Explanation: This change is necessary to permit setting the salary factors for the minimum salary schedule for teachers, librarians, counselors, and nurses to reflect the higher guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302, Education Code, as amended by House Bill No. 3343, and to reflect the repeal of Section 42.152(t), Education Code, by House Bill No. 2879, which requires the commissioner of education to adjust the guaranteed level to compensate for additional state costs because of the computation of weighted students in average daily attendance under Section 42.152(s), Education Code.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text adding Subsection (f) to Section 42.005, Education Code, to read as follows:

(f) An open-enrollment charter school is not entitled to funding based on an adjustment under Subsection (b)(2).

Explanation: This change is necessary to provide that open-enrollment charter schools whose attendance declines from one year to the next for reasons other than the closing or reduction in personnel of a military base do not have their attendance adjusted to receive funding based on the preceding year's attendance.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add Section 42.2531, Education Code, to read as follows:

Sec. 42.2531. ADJUSTMENT BY COMMISSIONER. (a) The commissioner may make adjustments to amounts due to a school district under this chapter or Chapter 46, or to amounts necessary for a district to comply with the requirements of Chapter 41, as provided by this section.

(b) A school district that has a major taxpayer, as determined by the commissioner, that because of a protest of the valuation of the taxpayer's property fails to pay all or a portion of the ad valorem taxes due to the district may apply to the commissioner to have the district's taxable value of property or ad valorem tax collections adjusted for purposes of this chapter or Chapter 41 or 46. The commissioner may make the adjustment only to the extent the commissioner determines that making the adjustment will not:

(1) in the fiscal year in which the adjustment is made, cause the amount to which school districts are entitled under this chapter to exceed the amount appropriated for purposes of the Foundation School Program for that year; and

(2) if the adjustment is made in the first year of a state fiscal biennium, cause the amount to which school districts are entitled under this chapter for the second year of the biennium to exceed the amount appropriated for purposes of the Foundation School Program for that year.

(c) The commissioner shall recover the benefit of any adjustment made under this section by making offsetting adjustments in the school district's taxable value of property or ad valorem tax collections for purposes of this chapter or Chapter 41 or 46 on a final determination of the taxable value of property that was the basis of the original adjustment, or in the second school year following the year in which the adjustment is made, whichever is earlier.

(d) This section does not require the commissioner to make any requested adjustment. A determination by the commissioner under this section is final and may not be appealed.

Explanation: This change is necessary to provide additional state aid to school districts in which a major property taxpayer protests the valuation of the taxpayer's property and to require the school district to repay that additional state aid within two years or when the appraisal protest is resolved, whichever is earlier.

(4) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 13 to read as follows:

SECTION 13. Section 46.003(d), Education Code, as amended by this Act, and Section 46.032(c), Education Code, as added by this Act, apply only to taxes collected by a school district in the 1999-2000 school year or a later school year.

Explanation: This change is necessary to specify that school districts may not use fund balances created before the 1999-2000 school year to pay the district's local share under the instructional facilities allotment and the existing debt allotment.

(5) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 14 to read as follows:

SECTION 14. (a) Notwithstanding Section 46.034(a), Education Code, as amended by this Act, for the 2002-2003 school year, except as provided by this section, a school district may not receive assistance under Subchapter B, Chapter 46, Education Code, for an existing debt tax rate greater than \$0.12 per \$100 of valuation.

(b) As soon as practicable, the commissioner of education shall determine whether funds are available from amounts appropriated for purposes of the Foundation School Program for the 2001-2002 or 2002-2003 school year in excess of the amount of payments required to be made under Chapters 42 and 46, Education Code. In making a determination under this subsection, the commissioner may:

(1) notwithstanding Section 42.253(b), Education Code, reduce the entitlement under Chapters 42 and 46, Education Code, of a school district whose final taxable value of property is higher than the estimate under Section 42.254, Education Code; and

(2) make payments to school districts accordingly.

(c) For the 2001-2002 school year, to the extent excess funds are available under Subsection (b) of this section, and notwithstanding Section 42.2522, Education Code, the commissioner of education shall apply the funds in the following order:

(1) subject to any limitations in S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, to adjusting the taxable value of property of school districts that experience a rapid decline in taxable value, as provided by Section 42.2521, Education Code;

(2) to funding school districts based on an adjustment for an optional homestead exemption, as provided by Section 42.2522, Education Code; and

(3) to funding school districts based on an adjustment for ad valorem taxes subject to a protest of the valuation of a major taxpayer's property, as provided by Section 42.2531, Education Code, as added by this Act.

(d) For the 2002-2003 school year, to the extent excess funds are available under Subsection (b) of this section, and notwithstanding Section 42.2522, Education Code, the commissioner of education shall apply the funds in the following order:

(1) to authorizing additional assistance to school districts under Subchapter A, Chapter 46, Education Code, in an amount not to exceed \$50 million;

(2) to increasing the limit on the existing debt tax rate under Subsection (a) of this section to a rate not to exceed \$0.29 per \$100 of valuation;

(3) subject to any limitations in S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, to adjusting the taxable value of property of school districts that experience a rapid decline in taxable value, as provided by Section 42.2521, Education Code;

(4) to funding school districts based on an adjustment for an optional homestead exemption, as provided by Section 42.2522, Education Code; and

(5) to funding school districts based on an adjustment for ad valorem taxes subject to a protest of the valuation of a major taxpayer's property, as provided by Section 42.2531, Education Code, as added by this Act.

(e) The commissioner of education must provide full funding for a priority listed in Subsection (c) or (d) of this section before providing funding for the next lower priority.

(f) A decision of the commissioner of education under this section is final and may not be appealed.

Explanation: This change is necessary to establish priorities for spending any Foundation School Program appropriations that, because of property valuation increases, exceed the amount to which school districts are entitled in the biennium ending August 31, 2003.

(6) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 15 to read as follows:

SECTION 15. From funds appropriated to the Texas Education Agency that may be used for the purpose, the commissioner of education shall as necessary assist regional education service centers in providing financial management or planning assistance to school districts and open-enrollment charter schools.

Explanation: This change is necessary to permit the commissioner of education to assist regional education service centers in providing financial management or planning assistance to school districts and open-enrollment charter schools.

(7) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 16 to read as follows:

SECTION 16. (a) The Communities in Schools advisory committee is created. The governor, lieutenant governor, and speaker of the house of representatives shall each appoint three members to the advisory committee.

(b) The advisory committee shall advise and provide guidance to programs operated under the auspices of the Communities in Schools.

(c) In accordance with Section 2110.004, Government Code, reimbursement of the expenses of advisory committee members may be paid from amounts appropriated

in S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, to the Texas Education Agency and the Department of Protective and Regulatory Services.

(d) The Texas Education Agency and the Department of Protective and Regulatory Services shall:

- (1) coordinate with the advisory committee;
- (2) share equally the cost of reimbursement of the expenses of advisory committee members; and
- (3) each assign an employee to assist the advisory committee in its duties and act as a liaison between the advisory committee and the employee's employing agency.

Explanation: This change is necessary to create an advisory committee for the Communities in Schools youth dropout prevention program, to provide for the committee members' expenses, and to require the Texas Education Agency and Department of Protective and Regulatory Services to support the committee.

(8) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 17 to read as follows:

SECTION 17. Notwithstanding Subsection (a) of Rider 55 under the appropriations to the Texas Education Agency in S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, the funds allocated by that rider shall be allocated in the following manner:

(1) The funds shall be distributed by the commissioner of education for reading diagnostic instruments and on a competitive grant basis to be used by schools for the implementation of scientific, research-based reading and mathematics programs, the purchase of additional instructional or diagnostic materials, necessary materials for libraries, instructional staff, or related professional staff development for educators with the goal of as much direct intervention with students as possible. To be eligible for funding, schools must perform a diagnostic assessment for below-grade-level reading skills and submit a plan for parental involvement in the program.

(2) The commissioner of education shall use not less than \$15 million of the funds allocated by Rider 55 to implement scientific-based content development for training materials, professional development institutes in mathematics and related research, as provided by Sections 7.058, 21.454, 21.455, Education Code, as added by H.B. No. 1144, Acts of the 77th Legislature, Regular Session, 2001.

(3) The commissioner of education may use a portion of the funds allocated by Rider 55 to implement the master mathematics teacher program as provided by Sections 21.0482 and 21.411, Education Code, as added by H.B. No. 1144, Acts of the 77th Legislature, Regular Session, 2001, and shall transfer funds to the State Board for Educator Certification for creation of the master mathematics teacher certification as provided by Section 21.0482, Education Code, as added by H.B. No. 1144, Acts of the 77th Legislature, Regular Session, 2001.

Explanation: This change is necessary to allocate funds appropriated by Senate Bill No. 1 for purposes of the governor's reading and mathematics initiatives.

(9) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 18 to read as follows:

SECTION 18. Of the amounts appropriated in Article III, S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, to the Texas Education Agency under Strategy A.3.3.: Improving Educator Performance, the commissioner of education:

- (1) shall allocate \$8 million for the fiscal year ending August 31, 2002, and \$12 million for the fiscal year ending August 31, 2003, for purposes of funding

stipends for master reading and mathematics teachers as provided by Section 21.410, Education Code, and 21.411, Education Code, as added by H.B. No. 1144, Acts of the 77th Legislature, Regular Session, 2001; and

(2) may transfer funds to the State Board for Educator Certification for creation of the master mathematics teacher certification as provided by Section 21.0482, Education Code, as added by H.B. No. 1144, Acts of the 77th Legislature, Regular Session, 2001.

Explanation: This change is necessary to allocate funds appropriated by Senate Bill No. 1 for purposes of the certified master reading teachers and the certified master mathematics teachers portions of the governor's reading and mathematics initiatives.

(10) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 19 to read as follows:

SECTION 19. The Legislative Budget Board shall increase the number of full-time-equivalent positions authorized for the Texas Education Agency by S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, by two for the fiscal year ending August 31, 2003, for purposes of the mathematics initiative proposed by H.B. No. 1144, Acts of the 77th Legislature, Regular Session, 2001.

Explanation: This change is necessary to permit the Texas Education Agency to employ two additional full-time equivalent employees for purposes of the governor's mathematics initiative.

(11) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 20 to read as follows:

SECTION 20. A portion of the amounts appropriated in Article III, S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, to the Texas Education Agency is allocated as provided by this section:

(1) for the fiscal biennium ending August 31, 2003, the amount allocated under Strategy A.2.1.: FSP-Equalized Operations is reduced by \$100 million, and the amount allocated under Strategy A.2.2.: FSP-Equalized Facilities is increased by that amount to assist school districts under the provisions of Subchapter A, Chapter 46, Education Code;

(2) for the fiscal biennium ending August 31, 2003, the amount allocated under Strategy A.2.1.: FSP-Equalized Operations is reduced by \$205 million, and the amount allocated under Strategy A.2.2.: FSP-Equalized Facilities is increased by that amount to assist school districts under the provisions of Subchapter B, Chapter 46, Education Code;

(3) for the fiscal biennium ending August 31, 2003, the amount allocated under Strategy A.2.1.: FSP-Equalized Operations is reduced by \$57 million, and the amount allocated under Strategy B.1.2.: Student Success is increased by that amount;

(4) for the fiscal biennium ending August 31, 2003, the amount allocated under Strategy A.2.1.: FSP-Equalized Operations is reduced by \$30 million, and the amount allocated under Strategy B.1.2.: Student Success is increased by that amount for mathematics and reading programs;

(5) for the fiscal biennium ending August 31, 2003, the amount allocated under Strategy A.2.1.: FSP-Equalized Operations is reduced by \$11 million, and the amount allocated to the Texas Higher Education Coordinating Board under Strategy C.1.18.: Teach for Texas Conditional Grants is increased by that amount for purposes of the Teach for Texas grant program under Section 56.309, Education Code;

(6) for the fiscal biennium ending August 31, 2003, the amount allocated under Strategy A.2.1.: FSP-Equalized Operations is reduced by \$9 million, and:

(A) an amount of \$4 million is allocated to the Texas Higher Education Coordinating Board under Article III, Special Provisions, for purposes of the Joint

Admission Medical Program under Subchapter V, Chapter 51, Education Code, as added by S.B. No. 940, Acts of the 77th Legislature, Regular Session, 2001; and

(B) the amount allocated to the Texas Higher Education Coordinating Board under Strategy A.1.1.: Information and Planning is increased by \$5 million for purposes of the Public Awareness Campaign Promoting Higher Education under Section 61.951, Education Code, as added by S.B. No. 573, Acts of the 77th Legislature, Regular Session, 2001;

(7) for the fiscal biennium ending August 31, 2003, the amount allocated under Strategy A.2.1.: FSP-Equalized Operations is reduced by \$2 million, and the amount allocated to Strategy B.3.1., Regional Training and Development, is increased by that amount and shall be allocated at the discretion of the commissioner of education, for purposes including the provision of assistance to The University of Texas at Austin for the Technology Charter School; and

(8) for the fiscal biennium ending August 31, 2003, the amount allocated under Strategy A.2.1.: FSP-Equalized Operations is reduced by \$300,000, and the amount allocated to Strategy C.1.2., School Finance System Operations, is increased by that amount to make changes to the Texas Education Agency's school finance payment system as are necessary to efficiently implement the provisions of this legislation or H.B. No. 3343, Acts of the 77th Legislature, Regular Session, 2001.

Explanation: This change is necessary to allocate funds appropriated by Senate Bill No. 1 for purposes of providing funding for the instructional facilities allotment, the existing debt allotment, programs intended to improve student success, the Teach for Texas Conditional Grant Program, the Joint Admission Medical Program, the Public Awareness Campaign Promoting Higher Education, increasing the commissioner of education's discretionary funds, and improving the Texas Education Agency's school finance payment system.

(12) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 21 to read as follows:

SECTION 21. Of the funds allocated by Rider 2 under the appropriations to the Texas Education Agency in S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, not more than \$22 million may be used for the fiscal biennium ending August 31, 2003, for adjusting the attendance of school districts that experience a decline in average daily attendance, as provided by Section 42.005(b)(2), Education Code, as added by this Act.

Explanation: This change is necessary to allocate funds appropriated by Senate Bill No. 1 for purposes of the attendance adjustment for school districts with declining attendance that is not caused by the closing or reduction in personnel of a military base.

(13) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 22 to read as follows:

SECTION 22. For the fiscal biennium ending August 31, 2003, the amount appropriated in Article III, S.B. No. 1, Acts of the 77th Legislature, Regular Session, 2001, to the Texas Education Agency and allocated for Successful Schools Awards under Strategy A.1.2.: Accountability System is reduced by \$2.5 million.

Explanation: This change is necessary to permit funding of other programs to which funds are allocated under House Bill No. 2879.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1317 ADOPTED**

Senator Haywood called from the President's table the Conference Committee Report on **HB 1317**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Haywood, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3348 ADOPTED**

Senator Haywood called from the President's table the Conference Committee Report on **HB 3348**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Haywood, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 6 ADOPTED**

Senator Bivins called from the President's table the Conference Committee Report on **HB 6**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Bivins, the Conference Committee Report was adopted by a viva voce vote.

**RECORD OF VOTES**

Senators Barrientos, Gallegos, and Truan asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report on **HB 6**.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 27, 2 001

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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 152** (viva-voce vote)

**HB 1148** (viva-voce vote)

**HB 1925** (viva-voce vote)

**HB 2146** (viva-voce vote)



**HB 2585** (viva-voce vote)  
**HB 2809** (143 Ayes, 2 Nays, 2 Present Not Voting)  
**HB 3016** (viva-voce vote)  
**HB 3244** (144 Ayes, 0 Nays, 2 Present Not Voting)  
**HB 3348** (viva-voce vote)  
**HB 3507** (viva-voce vote)  
**HB 3578** (viva-voce vote)  
**SB 248** (viva-voce vote)  
**SB 310** (145 Ayes, 0 Nays, 1 Present Not Voting)  
**SB 317** (viva-voce vote)  
**SB 732** (viva-voce vote)  
**SB 1128** (viva-voce vote)  
**SB 1573** (144 Ayes, 0 Nays, 1 Present Not Voting)

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

**HB 1323** (viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**(President in Chair)**

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3343 ADOPTED**

Senator Bivins called from the President's table the Conference Committee Report on **HB 3343**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Bivins, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE ON  
SENATE BILL 292 DISCHARGED**

On motion of Senator Armbrister and by unanimous consent, the Senate conferees on **SB 292** were discharged.

Question—Shall the Senate concur in the House amendments to **SB 292**?

On motion of Senator Armbrister, the Senate concurred in the House amendments to **SB 292** by a viva voce vote.

**(Senator Brown in Chair)**

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 273 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **SB 273**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Armbrister, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief,

Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins.

Present-not voting: Mr. President.

### **BILLS AND RESOLUTIONS SIGNED**

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

**HB 236, HB 1168, HB 1641, HB 1922, HB 2310, HB 2379, HB 2439, HB 2446, HB 2544, HB 2601, HB 2810, HB 2847, HB 2877, HB 3323, HB 3473, HB 3586, HCR 321, HCR 322, HJR 85.**

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2879 ADOPTED**

Senator Bivins called from the President's table the Conference Committee Report on **HB 2879**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Bivins, the Conference Committee Report was adopted by a viva voce vote.

### **SENATE RESOLUTION 1259**

Senator Moncrief offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 77th Legislature, Regular Session, 2001, 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 Senate Bill No. 1839, relating to certain long-term care facilities, to consider and take action on the following matter:

Senate Rule 12.03(4) is suspended to permit the committee to add a new subsection to added Section 242.037, Health and Safety Code, to read as follows:

(d) For an institution that is owned and operated by a governmental unit, as that term is defined by Section 101.001, Civil Practice and Remedies Code, the insurance coverage maintained by the institution must provide coverage only to the extent of the governmental unit's liability under Section 101.023, Civil Practice and Remedies Code.

Explanation: This change is necessary to clarify the amount of coverage to be maintained by institutions owned and operated by certain governmental units.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1839 ADOPTED**

Senator Moncrief called from the President's table the Conference Committee Report on **SB 1839**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Moncrief, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 27, 2001

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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:**

**HB 1763** (viva-voce vote)

**HB 2879** (viva-voce vote)

**HB 2912** (100 Ayes, 42 Nays, 2 Present Not Voting)

**HB 3343** (viva-voce vote)

**SB 409** (144 Ayes, 0 Nays, 1 Present Not Voting)

**SB 896** (viva-voce vote)

**SB 1156** (viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2146 ADOPTED**

Senator Bivins called from the President's table the Conference Committee Report on **HB 2146**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Bivins, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 305 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **SB 305**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Harris, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE ON  
SENATE BILL 309 DISCHARGED**

On motion of Senator Harris and by unanimous consent, the Senate conferees on **SB 309** were discharged.

Question—Shall the Senate concur in the House amendments to **SB 309**?

On motion of Senator Harris, the Senate concurred in the House amendments to **SB 309** by a viva voce vote.

(President in Chair)

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 311 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 311**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 527 ADOPTED**

Senator Moncrief called from the President's table the Conference Committee Report on **SB 527**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Moncrief, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1203 ADOPTED**

Senator Fraser called from the President's table the Conference Committee Report on **HB 1203**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Fraser, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1210 ADOPTED**

Senator West called from the President's table the Conference Committee Report on **SB 1210**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator West, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 896 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **SB 896**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Shapiro, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2164 ADOPTED**

Senator Cain called from the President's table the Conference Committee Report on **HB 2164**. The Conference Committee Report was filed with the Senate on Friday, May 25, 2001.

On motion of Senator Cain, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 248 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **SB 248**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Carona, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 189 ADOPTED**

Senator Lindsay called from the President's table the Conference Committee Report on **SB 189**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Lindsay, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1173 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **SB 1173**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Wentworth, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3244 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **HB 3244**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 152 ADOPTED**

Senator Ogden called from the President's table the Conference Committee Report on **HB 152**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Ogden, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 259 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **HB 259**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Armbrister, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 660 ADOPTED**

Senator Van de Putte called from the President's table the Conference Committee Report on **HB 660**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Van de Putte, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2061 ADOPTED**

Senator Cain called from the President's table the Conference Committee Report on **HB 2061**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Cain, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 588 ADOPTED**

Senator Jackson called from the President's table the Conference Committee Report on **HB 588**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Jackson, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 27, 2001

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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:**

**HB 1784** (non-record vote)

**HB 1862** (non-record vote)

**SB 2** (non-record vote)

**SB 273** (145 Ayes, 0 Nays, 1 Present Not Voting)

**SB 305** (non-record vote)

**SB 311** (non-record vote)

**SB 1173** (144 Ayes, 0 Nays, 1 Present Not Voting)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1862 ADOPTED**

Senator Van de Putte called from the President's table the Conference Committee Report on **HB 1862**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Van de Putte, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1320 ADOPTED**

Senator Staples called from the President's table the Conference Committee Report on **SB 1320**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Staples, the Conference Committee Report was adopted by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3578 ADOPTED**

Senator Shapleigh called from the President's table the Conference Committee Report on **HB 3578**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Shapleigh, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**SENATE BILL 749 WITH HOUSE AMENDMENT**

Senator Shapleigh called **SB 749** 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.

**Floor Amendment No. 1 on Third Reading**

Amend **SB 749** on third reading by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. **BRICK-MAKING PROCESSES STUDY.** (a) The commission, in cooperation with the Joint Advisory Committee for improvement of Air Quality, shall conduct a study of the brick-making processes of brick production facilities near both sides of the border between this state and Mexico.

(b) The commission shall survey current fuel sources for kilns, including the use of scrap wood and sawdust, tires, and other inefficient or highly polluting fuels.

(c) In conducting the study, the commission shall solicit the advice of experts from institutions of higher education, government, and industry of the United States and Mexico on efficient processes and fuels for maintaining proper temperatures for brick production while minimizing emissions of air pollutants.

(d) The commission shall consider the information collected in the study and make recommendations on efficient processes to decrease air pollutant emissions from brick-making kilns.

(e) The commission shall issue a report to the governor, lieutenant governor, and speaker of the house of representatives that summarizes the information gathered in and conclusions of the study and that highlights the recommendations. The report must be issued not later than January 1, 2003.

(f) This section expires January 1, 2003.

The amendment was read.

On motion of Senator Shapleigh, the Senate concurred in the House amendment to **SB 749** by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 317 ADOPTED**

Senator Sibley called from the President's table the Conference Committee Report on **SB 317**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Sibley, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.



**SENATE BILL 985 WITH HOUSE AMENDMENTS**

Senator Duncan called **SB 985** 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 985** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to authorizing the governing body of a municipality to enter into a tax abatement agreement with the owner of a leasehold interest in real property that is located in a reinvestment zone.

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

SECTION 1. Section 312.204(a), Tax Code, is amended to read as follows:

(a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 10 years, [~~subject to the rights of holders of outstanding bonds of the municipality,~~] on the condition that the owner of the property make specific improvements or repairs to the property. The governing body of an eligible municipality may agree in writing with the owner of a leasehold interest in real property that is located in a reinvestment zone to exempt a portion of the value of the leasehold interest, if taxable, or of improvements or tangible personal property located on the real property subject to the leasehold interest, for a period not to exceed 10 years, on the condition that the owner of the leasehold interest make specific improvements or repairs to the real property. A tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. An agreement exempting taxable real property may provide for the exemption of the real property in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed. An agreement exempting tangible personal property located on real property may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality, and other than inventory or supplies. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

**Floor Amendment No. 1 on Third Reading**

Amend **CSSB 985** on third reading by amending SECTION 1, on page 2, line 16, by inserting the following after the period:

Section 25.07(a), Tax Code, does not apply to a leasehold or other possessory interest in real property granted by an authority that is created pursuant to Chapter 378, Local Government Code, by a municipality eligible to enter into tax abatement agreements under Section 312.002.

The amendments were read.

### POINT OF ORDER

Senator Duncan raised a point of order that the House amendments to **SB 985** were not germane to the body of the bill.

### POINT OF ORDER RULING

The President ruled that the point of order was well-taken and sustained and ordered **SB 985** returned to the House of Representatives for further consideration.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2809 ADOPTED

Senator Cain called from the President's table the Conference Committee Report on **HB 2809**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

On motion of Senator Cain, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER  
Austin, Texas  
May 27, 2001

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:

**SB 985**, Relating to authorizing the governing body of a municipality to enter into a tax abatement agreement with the owner of a leasehold interest in real property that is located in a reinvestment zone.

(Committee Substitute)

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 6** (non-record vote)

**HB 259** (non-record vote)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 507 ADOPTED**

Senator Carona called from the President's table the Conference Committee Report on **SB 507**. The Conference Committee Report was filed with the Senate on Saturday, May 26, 2001.

Senator Carona moved to adopt the Conference Committee Report on **SB 507**.

Senator Lindsay at 8:05 p.m. was recognized to speak against the motion to adopt the Conference Committee Report.

Question—Shall the Conference Committee Report on **SB 507** be adopted?

**(Senator Armbrister in Chair)**

**(Senator Ogden in Chair)**

**(President in Chair)**

Senator Lindsay at 10:20 p.m. yielded the Senate floor.

Question—Shall the Conference Committee Report on **SB 507** be adopted?

On motion of Senator Carona, the Conference Committee Report was adopted by the following vote: Yeas 17, Nays 1, Present-not voting 1.

Yeas: Armbrister, Brown, Carona, Duncan, Ellis, Fraser, Jackson, Lucio, Madla, Moncrief, Ogden, Shapiro, Sibley, Staples, Van de Putte, Wentworth, Zaffirini.

Nays: Lindsay.

Present-not voting: Mr. President.

Absent: Barrientos, Bernsen, Bivins, Cain, Gallegos, Harris, Haywood, Nelson, Shapleigh, Truan, West, Whitmire.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 27, 2001

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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 588** (non-record vote)

**HB 660** (139 Ayes, 2 Nays, 1 Present Not Voting)

**HB 1203** (non-record vote)

**HB 2061** (non-record vote)

**HB 2932** (non-record vote)

**SB 8** (non-record vote)

**SB 189** (139 Ayes, 0 Nays, 1 Present Not Voting)

**SB 507** (non-record vote)

**SB 515** (non-record vote)

**SB 527** (non-record vote)

**SB 730** (non-record vote)

**SB 886** (non-record vote)

**SB 1210** (non-record vote)

**SB 1320** (non-record vote)

**SB 1839** (111 Ayes, 28 Nays, 1 Present Not Voting)

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

**HB 3452**

Refuse to discharge conferees and concur in Senate amendments by a record vote (0 Ayes, 144 Nays, 1 Present Not Voting)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

### **SENATE BILL 985 WITH HOUSE AMENDMENTS**

Senator Duncan again called **SB 985** from the President's table for consideration of the House amendments to the bill.

The President again laid the bill and the House amendments before the Senate.

#### **Amendment**

Amend **SB 985** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to authorizing the governing body of a municipality to enter into a tax abatement agreement with the owner of a leasehold interest in real property that is located in a reinvestment zone.

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

SECTION 1. Section 312.204(a), Tax Code, is amended to read as follows:

(a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 10 years, ~~[subject to the rights of holders of outstanding bonds of the municipality,]~~ on the condition that the owner of the property make specific improvements or repairs to the property. The governing body of an eligible municipality may agree in writing with the owner of a leasehold interest in real property that is located in a reinvestment zone to exempt a portion of the value of the leasehold interest, if taxable, or of improvements or tangible personal property located on the real property subject to the leasehold interest, for a period not to exceed 10 years, on the condition that the owner of the leasehold interest make specific

improvements or repairs to the real property. A tax abatement agreement under this section is subject to the rights of holders of outstanding bonds of the municipality. An agreement exempting taxable real property may provide for the exemption of the real property in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed. An agreement exempting tangible personal property located on real property may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality, and other than inventory or supplies. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **Floor Amendment No. 1 on Third Reading**

Amend **CSSB 985** on third reading by amending SECTION 1, on page 2, line 16, by inserting the following after the period:

Section 25.07(a), Tax Code, does not apply to a leasehold (a) or other possessory interest in real property granted by an authority that is created pursuant to Chapter 378, Local Government Code, by a municipality eligible to enter into tax abatement agreements under Section 312.002.

The amendments were again read.

Senator Duncan moved to concur in the House amendments to **SB 985**.

The motion prevailed by the following vote: Yeas 18, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent: Barrientos, Bernsen, Bivins, Cain, Gallegos, Harris, Haywood, Nelson, Shapleigh, Truan, West, Whitmire.

### **GUEST PRESENTED**

The President acknowledged the presence of Speaker of the House of Representatives James E. "Pete" Laney.

The Senate welcomed Speaker Laney.

### **VOTE RECONSIDERED ON SENATE BILL 173**

On motion of Senator Carona and by unanimous consent, the vote by which the Conference Committee Report on **SB 173** was adopted was reconsidered.

Question—Shall the Conference Committee Report on **SB 173** be adopted?

On motion of Senator Carona and by unanimous consent, the Senate conferees on **SB 173** were discharged.

Question—Shall the Senate concur in the House amendment to **SB 173**?

On motion of Senator Carona, the Senate concurred in the House amendment to **SB 173** by a viva voce vote.

### **RECORD OF VOTE**

Senator Van de Putte asked to be recorded as voting "Nay" on the concurrence in the House amendment to **SB 173**.

### **MESSAGE FROM THE HOUSE**

#### **HOUSE CHAMBER**

Austin, Texas

May 27, 2001

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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:**

**SB 1458** (144 Ayes, 0 Nays, 1 Present Not Voting)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

### **MOMENT OF SILENCE OBSERVED**

The President requested that the Senate observe a moment of silence for Senator Haywood's son, Thomas Noel Haywood, who died today.

The Senate then observed a moment of silence.

### **RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

#### **Memorial Resolutions**

**SR 1260** by Truan, Paying tribute to the life of Alfredo Gonzalez.

**HCR 121** (President Ratliff), In memory of William C. "Billy" Wooldridge of Longview.

**HCR 232** (President Ratliff), Paying tribute to the late Thomas D. "Tom" Wells of Paris for his public service.

**Congratulatory Resolutions**

**SR 1251** by Staples, Congratulating James I. Perkins of Rusk.

**SR 1252** by Staples, Congratulating Susan Diane Presley.

**SR 1253** by Staples, Congratulating Kelley Stripling.

**HCR 215** (Duncan), Honoring the Natural Resources Institute for its many contributions to the state.

**HCR 308** (Armbrister), Honoring Wayne Scott of Huntsville on his impending retirement as executive director of the Texas Department of Criminal Justice.

**HCR 311** (Cain), Honoring W. Carl McEachern on his retirement as superintendent of the Bonham Independent School District.

**ADJOURNMENT**

On motion of Senator Brown, the Senate at 10:50 p.m. adjourned, in memory of Thomas Noel Haywood, son of Senator Haywood, until 10:00 a.m. tomorrow.